11 November 2022

Proposals to the Portfolio Committee on Police on the refinement of certain clauses in the

Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Bill, 2022

**BOLD** AND YELLOW AND STRIKE THROUGH = DELETIONS

GREEN = INSERTIONS

| **Clause** | **Existing in Bill** | **Proposed refinement** |
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| 1(f) | “' **'entity'**, with reference to sections 3, 4, and 14 (in so far as it relates to the aforementioned sections), 22**[,]** and 23 **[and 25]**, means a natural person, or a group of two or more natural persons (whether acting in the furtherance of a common purpose or conspiracy or not), or a syndicate, gang, agency, trust, partnership, fund or other unincorporated association or organisation, or any incorporated association or organisation or other legal person, and includes, where appropriate, a cell, unit, section, subgroup or branch thereof or any combination thereof, and also any entity referred to in a Resolution of the United Nations Security Council and announced in a notice by the Minister of Finance under section 26A(1) of the Financial Intelligence Centre Act, or in a notice given under section 26A(3) by the Director referred to in section 1 of the Financial Intelligence Centre Act;'' | [[1]](#footnote-1)“**'entity'**, with reference to sections 3, 4, and 14 (in so far as it relates to the aforementioned sections), 22**[,]** and 23 **[and 25]**, means a natural person, or a group of two or more natural persons (whether acting in the furtherance of a common purpose or conspiracy or not), or a syndicate, gang, agency, trust, partnership, fund or other unincorporated association or organisation, or any incorporated association or organisation or other legal person, and includes, where appropriate, a cell, unit, section, subgroup or branch thereof or any combination thereof, and also any entity referred to in a Resolution of the United Nations Security Council and announced in a notice referred to in **~~by the Minister of Finance under section 26A(1) of the Financial Intelligence Centre Act, or in a notice given under~~** section 26A(3) **~~by the Director referred to in section 1~~** of the Financial Intelligence Centre Act;'' |
| 1(n) | ‘‘**‘property’** means money or any other movable, immovable, corporeal or incorporeal thing, and includes any rights, privileges, claims and securities and any interest therein and all proceeds thereof, or any digital  representation of perceived value, such as a crypto-currency, that can be traded or transferred electronically within a community of users of the internet who consider it as a medium of exchange, unit of account, or store of value and use it for payment or investment purposes, but does not include a digital representation of a fiat currency or a security as defined in the Financial Markets Act, 2012 (Act No. 19 of 2012);” | [[2]](#footnote-2)"**'property'** means any-   1. money **[or any other]**; 2. movable property**[,]**; 3. immovable property**[,]**; 4. corporeal thing**[or]**; 5. incorporeal thing**[,]** or 6. crypto asset,   and includes any rights, privileges, claims and securities and any interest therein and all proceeds thereof **~~[, or any digital representation of perceived value, such as a crypto-currency, that can be traded or transferred electronically within a community of users of the internet who consider it as a medium of exchange, unit of account, or store of value and use it for payment or investment purposes, but does not include a digital representation of a fiat currency or a security as defined in the Financial Markets Act, 2012 (Act No. 19 of 2012)]~~**;” |
| 1(d) | New clause | **[[3]](#footnote-3)“crypto asset”** means a digital representation of perceived value that can be traded or transferred electronically within a community of users of the internet who consider it as a medium of exchange, unit of account or store of value and use it for payment or investment purposes, but does not include a digital representation of a fiat currency or a security as defined in the Financial Markets Act, 2012 (Act 19 of 2012);” |
| 2(f)(3) and  (4) | “Section 3 of the principal Act is hereby amended—  *…*  *(f)* by the addition of the following subsections:  ‘‘(3) For the purposes of this section, training includes, but is not limited to, training in any of the following skills:  *(a)* The making, handling or use of any explosive or other lethal device, or any poisonous or noxious substance, including any substance, mixture of substance, product or material contemplated in section  2(1) of the Hazardous Substances Act;  *(b)* the use of any method or technique for doing anything else that is capable of being done—  (i) for the purposes of terrorism; or  (ii) in connection with the commission or preparation of a terrorist activity or a Convention offence; or  *(c)* the design or adaptation for the purposes of terrorism of any method or technique for doing anything in connection with the commission or preparation of a terrorist activity or Convention offence.  (4) A person commits an offence if he or she receives training and is aware that such training is, wholly or partly, provided for purposes connected with the commission or preparation of terrorist activities or  Convention offences.  (5) It is an offence to—  *(a)* establish any entity engaging in or planning to engage in a terrorist activity, or to support such an entity; or  *(b)* belong to or become a member of an entity contemplated in paragraph *(a)*.” | “Section 3 of the principal Act is hereby amended—  *…*  *(f)* by the addition of the following subsections:  “(3) For the purposes of this section, training includes, but is not limited to, training in any of the following skills, whether online or in any other manner:  *(a)* The making, handling or use of any explosive or other lethal device, or any poisonous or noxious substance, including any substance, mixture of substance, product or material contemplated in section 2(1) of the Hazardous Substances Act;  *(b)* the use of any method or technique for doing anything else that is capable of being done—  (i) for the purposes of terrorism; or  (ii) in connection with the commission or preparation of a terrorist activity or a Convention offence; or  *(c)*the design or adaptation for the purposes of terrorism of any method or technique for doing anything in connection with the commission or preparation of a terrorist activity or Convention offence.  (4) A person commits an offence if he or she provides or receives training and is aware that such training is, wholly or partly, provided for purposes connected with the commission or preparation of terrorist activities or Convention offences.  (5) It is an offence to—  *(a)* establish any entity engaging in or planning to engage in a terrorist activity, or to support such an entity; or  *(b)* belong to or become a member of an entity contemplated in paragraph *(a)*.” |
| 3 | The following section is hereby inserted in the principal Act after section 3:  "**Prohibition of publication with unlawful terrorism related content**  **3A.**(1) For the purposes of this section and section 24B, ''unlawful terrorism related content'' means content which—  *(a)* is intended to directly or indirectly encourage or otherwise induce the commission, preparation or instigation of any offence under this Act;  *(b)* is intended to provide assistance in the commission or preparation of any offence under this Act; or  *(c)* when contained in a statement, article or record—  (i) at the time it was published or caused to be published, is intended to be understood by any person to whom it has or may become available, as a direct or indirect inducement to commit, prepare or instigate any offence under this Act;  (ii) is reckless as to whether any person will be directly or indirectly induced to commit, prepare or instigate any offence under this Act; or  (iii) contains information which—  *(aa)* is intended to be useful to any one or more of those persons in the commission or preparation of an offence under this Act; and  *(bb)* is in a form or context which is likely to be perceived by any person as being wholly or mainly for the purpose referred to in item *(aa)*.  (2) A person commits an offence if he or she, in respect of a publication with unlawful terrorism related content—  *(a)* publishes, distributes or circulates such a publication;  *(b)* gives, sells or lends such a publication;  *(c)* offers such a publication for sale or loan;  *(d)* provides a service to others that enables them to obtain, read, listen to, or look at such a publication, or to acquire it by means of a gift, sale or loan;  *(e)* transmits the contents of such a publication electronically; or  *(f)* has such a publication in his or her possession for any purpose contemplated in paragraphs *(a)* to *(e)*.  (3) It is an offence to publish a statement which has unlawful terrorism related content where that statement is published or caused to be published in the course of, or in connection with, the provision or use of a service provided electronically.  (4) For the purposes of subsections (2) and (3), references to the electronic publication with unlawful terrorism related content includes such publication on the internet and social media platforms.  (5) A person charged with committing an offence under this section and section 3(2)*(e)* may raise as a defence—  *(a)* the fact that at the time of the person's action or possession, the person did not know, and had no reason to believe, that the document or record in question contained, or was likely to contain, information of a kind likely to be useful to a person preparing to engage in a terrorist activity; or  *(b)* the person's action or possession was for the purposes of—  (i) carrying out work as a journalist; or  (ii) academic research.". | **~~PROPOSE DELETION OF CLAUSE 3A~~** |
| 4(d)(iii)  (bb) | *(d)* by the substitution in subsection (1)*(i)* for subparagraph (iii) of the following subparagraph:  "(iii)for the benefit of a specific entity identified **[in a notice issued by the President under section 25]** pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—  *(aa)* that commit, or attempt to commit, any terrorist and related activity or participate in or facilitates the commission of any terrorist and related activity; or  *(bb)* against which Member States of the United Nations must take the actions specified in that Resolution in order to combat or prevent terrorist and related activities, and which are announced by the Minister of Finance, under section 26A(1) of the Financial Intelligence Centre Act, or in a notice given by the Director of the Financial Intelligence Centre under section 26A(3) of the Financial Intelligence Centre Act,"; | *[[4]](#footnote-4)(d)* by the substitution in subsection (1)*(i)* for subparagraph (iii) of the following subparagraph:  "(iii)for the benefit of a specific entity identified **[in a notice issued by the President under section 25]** pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—  *(aa)* that commit, or attempt to commit, any terrorist and related activity or participate in or facilitates the commission of any terrorist and related activity; or  *(bb)* against which Member States of the United Nations must take the actions specified in that Resolution in order to combat or prevent terrorist and related activities, and which are announced **~~by the Minister of Finance, under section 26A(1) of the Financial Intelligence Centre Act, or~~** in a notice **~~given by the Director of the Financial Intelligence Centre under~~** referred to in section 26A(3) of the Financial Intelligence Centre Act,"; |
| 4(g)(iii)  (bb) | *(g)* by the substitution in subsection (2)*(a)* for subparagraph (iii) of the following subparagraph:  ‘‘(iii) for the benefit of a specific entity identified **[in a notice issued by the President under section 25]** pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—  *(aa)* that commit, or attempt to commit, any terrorist and related activity or participate in or facilitates the commission of any terrorist and related activity; or  *(bb)* against which Member States of the United Nations must take the actions specified in that Resolution in order to combat or prevent terrorist and related activities,  and which are announced by the Minister of Finance, under section 26A(1) of the Financial Intelligence Centre Act, or in a notice given by the Director of the Financial Intelligence Centre under section 26A(3) of the Financial Intelligence Centre Act; or” | *[[5]](#footnote-5)(g)* by the substitution in subsection (2)*(a)* for subparagraph (iii) of the following subparagraph:  ‘‘(iii) for the benefit of a specific entity identified **[in a notice issued by the President under section 25]** pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—  *(aa)* that commit, or attempt to commit, any terrorist and related activity or participate in or facilitates the commission of any terrorist and related activity; or  *(bb)* against which Member States of the United Nations must take the actions specified in that Resolution in order to combat or prevent terrorist and related activities, and which are announced **~~by the Minister of Finance, under section 26A(1) of the Financial Intelligence Centre Act, or~~** in a notice given by the Director of the Financial Intelligence Centre under referred to in section 26A(3) of the Financial Intelligence Centre Act; or” |
| 4(h)*(a)*(ii)  *(bb)* | *“(h)* by the substitution in subsection (3) for paragraph *(a)* of the following paragraph:  ‘‘*(a)* facilitating the retention or control of such property by or on behalf of, or for the benefit of—  (i) an entity which commits or attempts to commit or facilitates the commission of a specified offence; **[or]**  (iA) a specific entity identified in an order made under section 23; or  (ii) a specific entity identified **[in a notice issued by the**  **President under section 25]** pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—  *(aa)* that commit, or attempt to commit, any terrorist and  related activity or participate in or facilitates the  commission of any terrorist and related activity; or  *(bb)* against which Member States of the United Nations  must take the actions specified in that Resolution in  order to combat or prevent terrorist and related  activities, and announced by the Minister of Finance, under section 26A(1) of the Financial Intelligence Centre Act, or in a notice given by the Director of the Financial Intelligence Centre under section 26A(3) of the Financial Intelligence Centre Act;’’ | *[[6]](#footnote-6)“(h)* by the substitution in subsection (3) for paragraph *(a)* of the following paragraph:  ‘‘*(a)* facilitating the retention or control of such property by or on behalf of, or for the benefit of—  (i) an entity which commits or attempts to commit or facilitates the commission of a specified offence; **[or]**  (iA) a specific entity identified in an order made under section 23; or  (ii) a specific entity identified **[in a notice issued by the**  **President under section 25]** pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—  *(aa)* that commit, or attempt to commit, any terrorist and  related activity or participate in or facilitates the  commission of any terrorist and related activity; or  *(bb)* against which Member States of the United Nations must take the actions specified in that Resolution in order to combat or prevent terrorist and related activities, and announced **~~by the Minister of Finance, under section 26A(1) of the Financial Intelligence Centre Act, or~~** in a notice **~~given by the Director of the Financial Intelligence Centre under~~** referred to in section 26A(3) of the Financial Intelligence Centre Act;” |
| 18 (2)*(b)*  (ii) | The following section is hereby substituted for section 23 of the principal Act:  "**Freezing order**  **…**  (2) An order referred to in subsection (1) may be made in respect of—  *(a)* any entity, where there are reasonable grounds to believe that the entity has committed, or attempted to commit, participated in or facilitated the commission of a specified offence; or  *(b)* a specific entity identified in a notice pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—  (i) that has committed, or attempted to commit, any terrorist and related activity, or participates in or facilitates the commission of any terrorist and related activity; or  (ii) against which Member States of the United Nations must take the actions specified in the Resolution in order to combat or prevent terrorist and related activities,  and that are announced by the Minister of Finance, under section 26A(1) of the Financial Intelligence Centre Act, or in a notice given by the Director of the Financial Intelligence Centre under referred to in section 26A(3) of the Financial Intelligence Centre Act.” | [[7]](#footnote-7)The following section is hereby substituted for section 23 of the principal Act:  "**Freezing order**  **…**  (2) An order referred to in subsection (1) may be made in respect of—  *(a)* any entity, where there are reasonable grounds to believe that the entity has committed, or attempted to commit, participated in or facilitated the commission of a specified offence; or  *(b)* a specific entity identified in a notice pursuant to a Resolution of the United Nations Security Council relating to the identification of entities—  (i) that has committed, or attempted to commit, any terrorist and related activity, or participates in or facilitates the commission of any terrorist and related activity; or  (ii) against which Member States of the United Nations must take the actions specified in the Resolution in order to combat or prevent terrorist and related activities,  and that are announced **~~by the Minister of Finance, under section 26A(1) of the Financial Intelligence Centre Act, or~~** in a notice **~~given by the Director of the Financial Intelligence Centre under~~** referred to in section 26A(3) of the Financial Intelligence Centre Act.” |
| 20 | The following sections are hereby inserted in the principal Act after section 24:  ''**Application for decryption direction**  **24A.** An officer in the Directorate, who is commissioned as an officer in terms of section 33 of the South African Police Service Act, who by means of the lawful exercise in terms of and in accordance with a statutory power, seizes, detains, inspects, searches or otherwise comes into the possession of any information, document, computer software, hardware or electronic storage instrument or equipment which requires a decryption key, as defined in section 1 of the Regulation of Interception of Communications and Provision of Communication-related Information Act—  *(a)* in order to decrypt the contents thereof and to gain access thereto; and  *(b)* such decryption key is in the possession of any person, such an officer may, if the imposition of a decryption direction is required for the purpose of preventing or detecting any crime committed under this Act, apply for a decryption direction in terms of section 21 of the Regulation of Interception and Provision of Communication-related Information Act.  **Order to disable access to internet or social media site**  **24B.** (1) A member of the Directorate, of or above the rank of Brigadier, may apply to a High Court, by way of an *ex parte* application to a judge in chambers, for an order against an electronic communications service provider to remove or disable access to a publication on an internet or social media site with unlawful terrorism related content, within the period determined in the order from the date that such order is served upon the electronic communications service provider.  (2) An application brought in terms of subsection (1) must be in writing and must—  *(a)* comprise the following:  (i) The identity of the applicant;  (ii) the details of the electronic communications service provider which provides or hosts the internet service or social media site on which the publication with unlawful terrorism related content had been posted; and  (iii) an electronic copy of or description of the publication with the alleged unlawful terrorism related content;  *(b)* specify why the publication is regarded as a publication with unlawful terrorism related content as defined in section 3A(1); and  *(c)* set out the possible offences which may result from providing access to a publication with unlawful terrorism related content.  (3)The court must, as soon as reasonably possible, consider an application submitted to it in terms of subsection (1) and may, for that purpose, consider any additional evidence it deems ﬁt, including oral evidence or evidence by affidavit, which must form part of the record of proceedings.  (4) If the court is satisﬁed that there is *prima facie* evidence that an electronic communications service provider provides access to an internet or social media site with unlawful terrorism related content which may constitute an offence as contemplated in section 3A(3), the court may issue the order applied for in terms of subsection (1).  (5) An order issued under subsection (4) must—  *(a)* indicate that, in the opinion of the court, the relevant publication constitutes unlawful terrorism related content;  *(b)* require the relevant electronic communications service provider to secure that the publication with unlawful terrorism related content, so far as it is so related, is not available to the public or is modified so as to no longer be so related;  *(c)* warn the relevant electronic communications service provider that a failure to comply with the order within the period specified therein will result in the relevant publication being regarded as having its endorsement; and  *(d)* explain how, under section 3A(3), the relevant electronic communications service provider may become criminally liable by virtue of its failure to comply with the order.  (6) Except in a case where the court determines otherwise, an order under subsection (1) may be served upon an electronic communications service provider by a law enforcement officer in accordance with the applicable rules of court.  (7) Where the court is satisfied that service cannot be effected in any manner prescribed in the rules of court, the court may make an order allowing service to be effected in a manner specified in such order.  (8) An order under subsection (1) is of force and effect from the time it is issued by the court and has been served upon the relevant electronic communications service provider.  (9) An electronic communications service provider may, within 30 calendar days after the order has been served, apply to the relevant court for the setting aside or amendment of the order referred to in subsection (1).  (10) The court must, as soon as is reasonably possible, consider an application submitted to it in terms of subsection (9) and may, for that purpose, consider such additional evidence as it deems ﬁt, including oral evidence or evidence by affidavit, which shall form part of the record of the proceedings.  (11) The court may, for purposes of subsection (10), subpoena, or cause to be subpoenaed, any person as a witness at such proceedings, or to provide any book, document or object, if the evidence of that person, or book, document or object, appears to the court essential to the just decision of the case.  (12) Any electronic communications service provider who fails to comply with an order referred to in subsection (1), is guilty of an offence.  (13) Any person who is subpoenaed in terms of subsection (11) to attend proceedings and who fails to—  *(a)* attend or to remain in attendance;  *(b)* appear at the place and on the date and at the time to which the proceedings in question may be adjourned;  *(c)* remain in attendance at those proceedings as so adjourned; or  *(d)* produce any book, document or object speciﬁed in the subpoena, is guilty of an offence.  (14) The provisions in respect of appeal and review as provided for in the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and the Superior Courts Act, 2013 (Act No. 10 of 2013), apply to proceedings in terms of this section.". | Section 24A will be revisited to specifically deal with decryption assistance and passwords or other access technology restrictions on electronic communications devices.  A new clause is currently being drafted to also take into account the provisions of sections 29, 34, 35 and 37(2) of the Cybercrimes Act.  **Order to take-down or disable access to ~~internet or social media site~~ terrorism publications**  **24B.** (1) A member of the Directorate, of or above the rank of Brigadier, may apply *ex parte* to a judge High Court**~~, by way of an~~ *~~ex parte~~* ~~application to a judge in chambers,~~** for the issuing of an order in terms of which **~~against~~** an electronic communications service provider whose electronic communications service is used to host a terrorism publication to **~~remove~~** take-down or disable access to **~~a~~** such a publication. **~~on an internet or social media site with unlawful terrorism related content, within the period determined in the order from the date that such order is served upon the electronic communications service provider.~~**  (2) An application **~~brought in terms of~~** referred to in subsection (1)——  **~~must be in writing and must—~~**  ***~~(a)~~* ~~comprise the following:~~**  **~~(i) The identity of the applicant;~~**  **~~(ii) the details of the electronic communications service provider which provides or hosts the internet service or social media site on which the publication with unlawful terrorism related content had been posted; and~~**  **~~(iii) an electronic copy of or description of the publication with the alleged unlawful terrorism related content;~~**  ***~~(b)~~* ~~specify why the publication is regarded as a publication with unlawful terrorism related content as defined in section 3A(1); and~~**  ***~~(c)~~* ~~set out the possible offences which may result from providing access to a publication with unlawful terrorism related content.~~**  *(a)* must be in writing;  *(b)* must—  (i)identify the applicant;  (ii) identify the electronic communications service provider to whom the order is to be addressed;  (iii) identify the electronic communications service of the electronic communications service provider that is used to host the terrorism publication;  (iv) accompanied by an electronic copy of the terrorism publication;  (v)provide a description of the terrorism publication, which must, where the publication in question is in the form of text, video or other visual representation, include a printed copy of the relevant content that will be relied upon to motivate that the publication is a terrorism publication;  (vi) indicate the reasons why the publication must be considered a terrorism publication;  (vii)contain full particulars of all the facts and circumstances alleged in support of the application; and  *(c)* may be accompanied by—  (i) affidavits of persons who have knowledge of the matter concerned; or  (ii) other information relevant to the application.  (3)The court must, as soon as reasonably possible, consider an application submitted to it in terms of subsection (1) and may, for that purpose, consider any such additional evidence it deems ﬁt, including oral evidence or evidence by affidavit, which must form part of the record of proceedings.  (4) If the court is satisﬁed that **~~there is~~ *~~prima facie evidence~~*** the electronic communications service of the electronic communications service provider is used to host **~~provides access to an internet or social media site with unlawful terrorism related content which may constitute an offence as contemplated in section 3A(3),~~** a terrorism publication the court may, subject to such conditions as the court may deem fit to impose, issue the order applied for in terms of subsection (1).  (5) An order issued under subsection (4) must—  *(a)* identify the electronic communications service provider to whom the order must be addressed;  *(b)* identify the applicant;  *(c)* identify and describe the terrorism publication;  *(d)* identify the electronic communications service of the electronic communications service provider that is used to host the terrorism publication;  *(e)*  give reasons for the decision or finding of the court that the publication is a terrorism publication;  *(f)* order the electronic communications service provider to take-down or disable access to, the terrorism publication within the period determined in the order from the date of service upon the electronic communications service provider; and  *(g)* specify any condition which the court imposed.  **~~(a) indicate that, in the opinion of the court, the relevant publication constitutes unlawful terrorism related content;~~**  ***~~(b)~~* ~~require the relevant electronic communications service provider to secure that the publication with unlawful terrorism related content, so far as it is so related, is not available to the public or is modified so as to no longer be so related;~~**  ***~~(c)~~* ~~warn the relevant electronic communications service provider that a failure to comply with the order within the period specified therein will result in the relevant publication being regarded as having its endorsement; and~~**  ***~~(d)~~* ~~explain how, under section 3A(3), the relevant electronic communications service provider may become criminally liable by virtue of its failure to comply with the order.~~**  (6) *(a)* Except in a case where the court determines otherwise, an order under subsection (1) and a copy of written application of the applicant, **~~may~~** must be served upon an electronic communications service provider by a **~~law enforcement officer in accordance with the applicable rules of court~~** peace officer in terms of the provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977), relating to the service of subpoenas.  *(b)* Where the court is satisfied that service cannot be effected in any manner **~~prescribed in the rules of court,~~** referred to in paragraph *(a)*, the court may make an order allowing service to be effected in a manner specified in such order.  (**~~8) An order under subsection (1) is of force and effect from the time it is issued by the court and has been served upon the relevant electronic communications service provider.~~**  (8) An electronic communications service provider may, within **~~30~~** 14 calendar days after the order has been served, apply to the relevant court for the setting aside or amendment of the order referred to in subsection (1).  (9) The court must, as soon as is reasonably possible, consider an application submitted to it in terms of subsection (8) and may, for that purpose, consider such additional evidence as it deems ﬁt, including oral evidence or evidence by affidavit, which shall form part of the record of the proceedings.  (10) The court may, for purposes of subsections (3) or **~~(10)~~**, subpoena, or cause to be subpoenaed, any person as a witness at such proceedings, or to provide any book, document or object, if the evidence of that person, or book, document or object, appears to the court essential to the just decision of the case.  (11) Any electronic communications service provider who fails to comply with an order referred to in subsection (1), is guilty of an offence.  (12) Any person who is subpoenaed in terms of subsection (10) to attend proceedings and who fails to—  *(a)* attend or to remain in attendance;  *(b)* appear at the place and on the date and at the time to which the proceedings in question may be adjourned;  *(c)* remain in attendance at those proceedings as so adjourned; or  *(d)* produce any book, document or object speciﬁed in the subpoena,  is guilty of an offence.  (13) The provisions in respect of appeal and review as provided for **~~Magistrates’ Courts Act, 1944 (Act No.32 of 1944), and~~** the Superior Courts Act, 2013 (Act No. 10 of 2013), apply to proceedings in terms of this section.  (14) For purposes of this section—  *(a)* **"host a terrorism publication"** means—  (i) to store a terrorism publication on the electronic communications network of an electronic communications service provider as part of providing an electronic communications service where it can be viewed, listened to, copied or downloaded; or  (ii) to provide a link to the terrorism publication that has been stored on an electronic communication network of an electronic communications service provider, where the it can be viewed, copied or downloaded;  *(b)* **"take-down"** means to delete or otherwise remove a terrorism publication a stored on an electronic communications network; and  *(c)* **"terrorism publication"** means an electronic communication in the form of speech text, video or other visual representation that―  (i) threatens the public or segments of the public with the conduct in paragraph (a) of the definition of "terrorist activity" or threatens the commission of an offence in sections 5, 6, 7, 8, 9 or 10; or  (ii) incites others to commit the offences referred to in subparagraph (i). |
| 22 | Section 27 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsections:  "(1A) Any Proclamation issued under section 25(1), before the commencement of the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2021, remains valid and has the same force and effect as a notice announced by the Minister of Finance under section 26A(1) of the Financial Intelligence Centre Act, or in a notice given by the Director of the Financial Intelligence Centre under referred to in section 26A(3) of the Financial Intelligence Centre Act.” | [[8]](#footnote-8)Section 27 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsections:  "(1A) Any Proclamation issued under section 25(1), before the commencement of the Protection of Constitutional Democracy against Terrorist and Related Activities Amendment Act, 2021, remains valid and has the same force and effect as a notice **~~announced by the Minister of Finance under section 26A(1) of the Financial Intelligence Centre Act, or in a notice given by the Director of the Financial Intelligence Centre under~~** referred to in section 26A(3) of the Financial Intelligence Centre Act.” |

1. Amendment necessary to deal with conflict created by the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill [Clause 25 amending section 26A(3)]. [↑](#footnote-ref-1)
2. “Crypto asset” has been inserted in the definition of “property” in clause 19(n) in its redefinition. [↑](#footnote-ref-2)
3. New definition inserted after definition of “Critical Infrastructure Protection Act” of definition of “crypto asset”. “Crypto asset” has been inserted in the definition of “property” in clause 19(n) in its redefinition. [↑](#footnote-ref-3)
4. Amendment necessary to deal with conflict created by the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill [Clause 25 amending section 26A(3)]. [↑](#footnote-ref-4)
5. Amendment necessary to deal with conflict created by the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill [Clause 25 amending section 26A(3)]. [↑](#footnote-ref-5)
6. Amendment necessary to deal with conflict created by the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill [Clause 25 amending section 26A(3)]. [↑](#footnote-ref-6)
7. Amendment necessary to deal with conflict created by the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill [Clause 25 amending section 26A(3)]. [↑](#footnote-ref-7)
8. Amendment necessary to deal with conflict created by the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill [Clause 25 amending section 26A(3)]. [↑](#footnote-ref-8)