



UNODC

United Nations Office on Drugs and Crime



**User's Guide to the Terrorism
(Prevention) Act, 2011 (TPA)
as amended by
the Terrorism (Prevention)
(Amendment) Act, 2013 (TPAA)**

2021



EUROPEAN UNION



UNITED NATIONS SECURITY COUNCIL
COUNTER-TERRORISM COMMITTEE
EXECUTIVE DIRECTORATE (CTED)





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The User's Guide is a technical tool developed for training purposes to support national practitioners by enhancing their skills and knowledge about the effective investigation, prosecution, defence and adjudication of terrorism-related cases in Nigeria.

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Foreword

Message from the Director General of the Nigerian Institute of Advanced Legal Studies

Although terrorism and insurgency are relatively new crimes in Nigeria, they have caused unprecedented damage in unimaginable ways. For example, they have led to the destruction of properties worth billions of dollars; the loss of thousands of lives, impacting countless families and orphaning children; and the internal displacement of millions of people. Such internal displacements have also occasioned a number of further human rights issues and heightened the vulnerabilities of women and children to exploitation, forms of abuse, and human trafficking.

The risks and threats posed by terrorist activities require the adoption of proactive, integrated, multisectoral and multidimensional approaches to effectively combat it. Accordingly, the Nigerian Government adopted a number of measures, including the enactment of the Terrorism (Prevention) Act, 2011 (TPA) as amended by the Terrorism (Prevention) (Amendment) Act, 2013 (TPAA). It is, therefore, imperative for prosecutors, investigators and the Courts to understand and familiarize themselves with the provisions of the TPA, as amended.

The objective of the User's Guide to the Terrorism (Prevention) Act, 2011 (TPA) as amended by the Terrorism (Prevention) (Amendment) Act, 2013 (TPAA) is to serve as a reference guide for prosecutors, investigators, the Courts and all those involved in the criminal justice system on the application of the TPA, as amended. The distinctive way terrorism offences and ancillary powers are presented and discussed will enhance users' understanding of the scope of offences and the ancillary powers under the law.

The User's Guide is designed to be user-friendly and is structured in two parts. The first part deals with terrorist offences and the second discusses ancillary powers. Themes covered herein include: the scope of terrorism offences; ancillary powers; numbering of sections; the framework of duties and responsibilities; powers under the Act; evidence (including oral evidence); human rights compliance; and gender considerations.

The User's Guide will no doubt be a useful tool for all criminal justice actors in Nigeria.



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Director General, Nigerian Institute of Advanced Legal Studies

Joint message from the Head of Cooperation of the European Union Delegation to Nigeria and the Economic Community of West African States (ECOWAS) and the United Nations Office on Drugs and Crime Country Representative in Nigeria

Since 2012, the Office of the United Nations Office on Drugs and Crime (UNODC) and the European Union have been working, in cooperation with the Government of Nigeria, to help build the capacity of the Nigerian criminal justice system to effectively investigate and prosecute terrorism offences and to facilitate inter-agency collaboration in counter-terrorism matters.

The User's Guide to the Terrorism (Prevention) Act, 2011 (TPA) as amended by the Terrorism (Prevention) (Amendment) Act, 2013 (TPAA) is one of a series of practical tools that UNODC has developed in conjunction with its Nigerian partners under the leadership of the Nigerian Institute of Advanced Legal Studies.

The materials we have assembled for the User's Guide, which encompasses all of the relevant offences detailed under the Terrorism (Prevention) Act, 2011 as amended by the Terrorism (Prevention) (Amendment) Act, 2013, is designed to serve as a quick and practical reference work for investigators, prosecutors, public defenders and judges working in this complex field. The Guide sets out clearly the elements of each offence and the evidential standards that must be met to successfully secure a conviction under the provisions of the Act. It also explains in detail all of the ancillary powers set out in the Act.

The criminal justice system in Nigeria has made great strides in the past few years in bringing suspected members of terrorist organizations to justice, but there is always room for improvement in this most challenging of arenas. It is our earnest hope that the User's Guide will greatly assist criminal justice professionals as they prepare their cases for court, and thus help to advance the swift and effective administration of justice for victims of terrorism.



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The United Nations Office on Drugs and Crime (UNODC) wishes to express appreciation to all parties involved in the development and facilitation of the User's Guide to the Terrorism (Prevention) Act, 2011 (TPA) as amended by the Terrorism (Prevention) (Amendment) Act, 2013 (TPAA).

The User's Guide was prepared by UNODC consultants Ms. Rosemary Fernandes and Mr. Fraser Hirst, in collaboration with officials from the Nigerian Institute of Advanced Legal Studies (NIALS), under the leadership of Professor Adedeji Adegunle (Senior Advocate of Nigeria), with the assistance of Mr. David Oluwagbami and Ms. Kemi Omojola.

UNODC is grateful to the Director General of NIALS, Professor Muhammed Tawfiq Ladan, who established a working group, comprised of Dr. Ibe Okegbe Ifeakandu, Mr. Shankyula Samuel Tersoo and Dr. Habila Saleh Ardzard, to review, edit and validate the final draft of the User's Guide and to ensure that it is tailored to the Nigerian context and meets the needs of Nigerian criminal justice actors. We would like to recognize the tireless effort and dedication of the members of the working group, who undertook this task in addition to their demanding day-to-day workload.

The following staff members of UNODC also contributed to the composition of the User's Guide: Ms. Hadiza Abba, Ms. Nicole Anderson, Mr. Mohammed Azim Arshad, Ms. Kate Fitzpatrick, Mr. Ulrich Garms, Mr. Joshua Gbor, Ms. Patricia Okoye, Mr. Tom Parker and Mr. Andre Peña Torres.

UNODC extends its special thanks to the European Union for its continuing commitment and support to strengthening the criminal justice response to terrorism in Nigeria.

Introduction

In 2011, in order to address and more effectively respond to the scourge of terrorism afflicting Nigeria, the National Assembly enacted the Terrorism (Prevention) Act, 2011 (TPA). The stated purpose of the Act was to put in place measures “for the prevention, prohibition and combating of acts of terrorism, the financing of terrorism in Nigeria and for the effective implementation of the Convention on the Prevention and Combating of Terrorism and the International Convention on the Suppression of the Financing of Terrorism”.

The Terrorism (Prevention) (Amendment) Act, 2013 (TPAA) was enacted to amend the TPA, to provide “for extraterritorial application of the Act and strengthening of terrorist financing offences; and for related matters”. The amendments introduced by the TPAA were substantial. The TPAA: increased the number and the scope of the offences; broadened the definition of terrorism; significantly increased the sentences for terrorist offences;¹ and increased the scope of the ancillary powers. From the original TPA: 11 sections continue to be in force without amendment; 8 sections were amended; 21 sections were deleted; and 38 new sections were introduced by the TPAA.

The User’s Guide to the Terrorism (Prevention) Act, 2011 (TPA) as amended by the Terrorism (Prevention) (Amendment) Act, 2013 (TPAA) attempts to provide useful assistance to investigators, prosecutors, defence counsel and the courts in relation to the handling of terrorism cases, with reference to the applicable offences and powers contained in the TPA as amended by the TPAA. The Guide is divided into two parts: (a) part I, which deals with offences under the TPA as amended by the TPAA; and (b) part II, which sets out the schedule of ancillary powers under the TPA as amended by the TPAA.²

Terrorist offences

Part I, dealing with offences under the Act, which contains information in relation to each of the 31 terrorist offences in force under the TPA as amended by the TPAA, is presented in five columns, as follows:

1. Name of the offence, section number (with reference to both the TPA and TPAA), and details of the minimum and/or maximum sentences for the offence;
2. Points to prove/elements: a summary of the required points to prove the offence in question, together with a breakdown of the elements of the offence;³
3. Evidence required: details and examples of the types of evidence and evidential requirements to prove the elements of the offence;
4. Ancillary powers: a list of examples of ancillary powers that may be of particular relevance in relation to the offence. The list is not intended to be exclusive, and in any event, the applicable ancillary powers will vary from case to case based upon the particular nature and circumstances of each case;
5. Notes: a commentary/list of relevant issues and information relating to the offence.

Ancillary powers

Part II, the schedule of ancillary powers, which contains information on all 35 ancillary powers contained in the TPA as amended by the TPAA, is presented in four columns, as follows:

1. Legislation, providing the section number, with reference to both the TPA and TPAA;

1 The TPA as amended by the TPAA increased some maximum sentences and introduced lengthy minimum sentences for many offences, including: terrorist meetings; soliciting and giving support to terrorist groups; harbouring terrorists or hindering the arrest of a terrorist; provision of training; provision of devices; recruitment; incitement; dealing in terrorist property; and membership of a terrorist group. All offences carry a minimum sentence of 20 years imprisonment.

2 In the User’s Guide, the text of the TPA as amended by the TPAA is cited exactly as adopted by the National Assembly of Nigeria.

3 The points to prove are set out with reference to the actual wording of the offence, whereas the elements of the offence contain a basic summary of the set of component facts that must be proven for each offence.

2. Authority, which provides details of the person, agency or institution that exercises the power;
3. Power, which presents a brief summary of the nature of the power;
4. Notes, highlighting relevant points relating to the exercise and applicability of the power.

Numbering of the sections of the Act

As noted above, owing to the amendment and deletion of sections of the original TPA and the introduction of new sections by the TPAA, the numbering of the sections of the Act is somewhat confusing and problematic: the numbering does not follow a logical pattern; many section numbers have been duplicated; and the numbering only goes up to section 41 although there are 58 separate sections currently in force. For clarification, the offences and the ancillary powers in the User's Guide have been listed herein in the order in which they appear in the TPA as amended by the TPAA. For ease of reference, each offence and ancillary power has been set out in the table of contents.

Framework of duties, responsibilities and powers under the Act

The TPA as amended by the TPAA sets out the following framework of duties, powers and responsibilities:

1. The Office of the National Security Adviser (ONSA) shall be the coordinating body for all security and enforcement agencies under the Act: section 1A.(1) of the TPA, inserted by section 2 of the TPAA (specific powers and duties set out in section 1A.(1)(a)–(d));
2. The Attorney-General of the Federation shall be the authority for the effective implementation and administration of the Act: section 1A(2) of the TPA, inserted by section 2 of the TPAA;
3. The law enforcement and security agencies shall be responsible for the gathering of intelligence and investigation of the offences provided under the Act: section 1A.(3) of the TPA, inserted by section 2 of the TPAA (further details of the powers of the law enforcement and security agencies under the Act are set out in section 1A.(4)–(6));
4. The Federal High Court located in any part of Nigeria, regardless of the location where the offence is committed, shall have jurisdiction to try offences and hear and determine proceedings arising under the Act: section 32 of the TPA, inserted by section 15 of the TPAA.

Scope of terrorist offences/exercise of discretion

The scope of terrorist offences under the Act is extremely wide. As a result, many people who never took up arms, who perhaps had a limited or tangential interaction with terrorists and who may have been forced to provide minor services or to supply food or other items under duress or compulsion, and even women and girls who have been kidnapped and forced into marriage with members of a terrorist group against their will, may well find that their actions and situations place them within the scope of terrorist offences. This may occur even though, in reality: they may have had no choice due to the force, compulsion or duress exerted upon them; their level of culpability may be negligible; and they may effectively be victims of terrorism. Furthermore, the issue is compounded by the fact that many of the terrorist offences carry hefty minimum sentences: membership; support to terrorists; attending a terrorist meeting; and harbouring terrorists all involve minimum sentences of 20 years imprisonment. The wholesale prosecution of everyone who potentially falls within the ambit of terrorism offences would place an immense burden on the justice and correctional systems; is likely to have negative impacts at a community and societal level; and would not serve the ends of justice. It is suggested that prosecutors, when reviewing potential cases, take a practical common-sense approach and take care to consider carefully the context of the alleged offence and to assess, for all affected persons (victims, persons charged and other directly and indirectly affected persons), the wider rights, public interest and justice implications of pressing ahead with the prosecution, taking into account the ultimate aims of fighting terrorism and protecting communities.⁴

⁴ For further details on the exercise of the powers of prosecutors in determining whether to prosecute a case, reference should be made to paragraph 7.6.3.2 (a) and (d) of the Prosecutorial Guidelines for Federal Prosecutors issued by the Office of the Attorney General and Minister of Justice, Federal Ministry of Justice, Abuja.

Physical or real evidence

As stated above, part I of the User's Guide relating to the terrorist offences includes examples of the types of evidence and evidential requirements to prove the elements of each offence. In addition, it will be necessary to ensure that the evidence meets the basic evidence criteria, as follows:

1. Is the evidence presented relevant?

Does the evidence have probative value in assisting the court in determining the facts at issue in the case? Is the evidence relevant to the points to prove and elements of the offence?

2. Is the evidence presented properly accounted for?

Can the evidence be proved to be authentic to the court's satisfaction?

3. Is the evidence admissible?

Has the evidence been obtained in accordance with the law? Could it be excluded on the basis of any of the rules of evidence?

Oral evidence

Oral evidence on suspects and witnesses often plays a prominent role in the prosecution of terrorism cases, especially where there is a need to prove the knowledge and intent of the suspect. However, there must be an awareness by investigators, prosecutors and judges of some of the inherent risks in relying upon oral evidence, in particular avoidance of reliance on confession evidence. The quote below, by the Special Rapporteur of the United Nations Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, highlights some of the relevant concerns:

Persons interviewed by authorities during investigations may be confronted with the entire repressive machinery of society. Questioning, in particular of suspects, is inherently associated with risks of intimidation, coercion and mistreatment. The risks are heightened for vulnerable persons and for persons questioned in detention.

Coercive techniques, even when not amounting to torture or ill-treatment, are means to the same ends, administered by State agents to confirm their presumption of guilt. They are likely to produce faulty information and give rise to conditions conducive to the use of torture or ill-treatment. Strengthening protection against coercive questioning methods and championing an interviewing model based on the principle of presumption of innocence are accordingly key to preventing mistreatment during questioning and enhancing authorities' effectiveness.⁵

In light of the risks highlighted above and the established international human rights norm of the presumption of innocence, it is suggested that there should be a shift away from guilt-presumptive accusatory interrogation techniques that prioritize eliciting confessions above all else to more professional investigative interviewing approaches that prioritize the obtaining of accurate information, avoiding reliance on confession evidence. Furthermore, as addressed in the Anti-Torture Act, 2017⁶ and the Evidence Act, 2011,⁷ and confirmed in the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa of the African Commission on Human and Peoples' Rights (article N.6(d)): "Any confession or other evidence obtained by any form of coercion or force may not be admitted as evidence or considered as probative of any fact at trial or in sentencing".

⁵ A/71/298, paras. 8 and 42.

⁶ The Anti-Torture Act, 2017 states that: "Any confession, admission or statement obtained as a result of torture shall not be invoked as evidence in a proceeding, except against a person accused of torture as evidence that the confession, admission or statement was made".

⁷ Section 29 of the Evidence Act, 2011 provides that the court shall not allow a confession to be given in evidence if it was obtained: "(a) by oppression of the person who made it; or (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in such consequence", Oppression is defined in section 29(5) to include "torture, inhuman or degrading treatment, and the use or threat of violence whether or not amounting to torture".

Human rights compliance

Compliance with human rights is essential to the effective, fair and impartial investigation of terrorism cases. It also strengthens accountability for terrorism offences, assists in addressing the conditions conducive to the spread of terrorism, improves the relationship between the investigative authorities and the communities affected by terrorism and strengthens the fundamental pillars of society and its democratic values, including respect for human rights and the rule of law, which terrorism seeks to undermine and destroy.

A human rights-compliant approach requires that all persons, including victims, witnesses and suspects, be treated with utmost dignity, fairness and respect, without discrimination of any kind, in accordance with their specific individual needs and requirements. This includes the accordence of full respect for and compliance with all applicable human rights. For investigation processes, it is recommended that, at a minimum, there should be strict adherence to the basic procedural safeguards for those deprived of their liberty, including the safeguards for the pre-trial process set out in the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (known as the Robben Island Guidelines), all of which have corresponding provisions in Nigerian law.

Overlapping offences

There is considerable overlap between many of the offences under the TPA as amended by the TPAA. By way of example, the new section 13 of the TPA, Financing of terrorism (as set out in section 3 of the TPAA), is very similar in its wording and scope to the other new section 13 of the TPA, Funds or property used for terrorist acts (as set out in section 7 of the TPAA), and the two sections also overlap with section 10 of the TPA, Funds to support terrorism (as set out in section 4 of the TPAA). These overlaps are highlighted and cross-referenced in the notes section of part I for each of the offences in the User's Guide. When formulating charges, it is important to consider all possible applicable offences and, for each offence, to review the points to prove/elements of the offence in light of the available evidence.

There is also a potential overlap between offences under the TPA as amended and offences under the non-terrorism-related criminal law of Nigeria. For example, kidnapping may be criminalized under section 1 of the TPA, Prohibition of Acts of Terrorism (as amended by section 2 of the TPAA) and section 15 of the TPA, Hostage taking (as set out in section 3 of the TPAA), as well as under the non-terrorism-related criminal law of Nigeria. The key difference between the offences is the existence of a terrorism-related element to the offence. For the offence of kidnapping under section 1 of the TPA as amended by the TPAA, the terrorist-related element needs to be proven, showing the actual and/or intended consequence of the act upon the country, the population of the country or an international organization. If there are terrorist-related aspects to a criminal act, the investigators and prosecutors should seek to charge the suspect under the TPA as amended, provided that there is evidence to prove each element of the identified offence. Furthermore, if a suspect is charged under non-terrorism-related criminal law, the additional powers under the TPA as amended, as set out in the schedule of ancillary powers included in the present User's Guide, will not be applicable.

Moreover, there are some offences under the TPA as amended that do not include any terrorism-related points to prove/elements, including: section 15, Hostage taking (set out in section 3 of the TPAA); section 19, Escape or aiding and abetting escape (set out in section 3 of the TPAA); section 22, Unlawful assumption of character of officer of any law enforcement or security [agency] (set out in section 3 of the TPAA); and section 23, Tampering with evidence and witness[es] (set out in section 3 of the TPAA). Even though it is possible to prove these offences in cases where there is no terrorism link or element, it is nevertheless strongly recommended that these offences under the TPA as amended should only be charged if there is a provable terrorism link; in all other cases non-terrorism criminal law should be used. These issues are set out in the notes section of part I of the User's Guide.

Gender dimensions

An effective criminal justice response to terrorism must: (a) include a gender perspective; (b) adopt an approach based on gender mainstreaming and human rights; and (c) take account of and appropriately respond to the multifaceted and distinct ways that women and men are involved in, and impacted by, terrorist acts and counter-terrorism responses. Adopting such an approach will strengthen the effectiveness of the criminal justice response to terrorism and respect for women's rights.

Gender dimensions permeate every aspect of the criminal justice system. In relation to the investigation and prosecution of terrorist offences under the TPA as amended, three issues of particular relevance and significance, which must be appropriately addressed, are: the treatment of women in the investigation process (as suspects, victims and witnesses); the gender dimensions of terrorist offences, especially support offences; and the prosecution of sexual and gender-based violence (SGBV) crimes perpetrated by terrorist groups as a tactic of terrorism.

Integrating a gender perspective into the interviewing of, and into all other interactions with, female victims, witnesses and suspects is vital in order to increase the likelihood that women will agree to cooperate with law enforcement and justice authorities in the investigation and prosecution of terrorism offences. Moreover, such a perspective helps to protect women who are victims or witnesses of acts of terrorism from retraumatization through contact with the justice system, including the prevention of stigmatization by their families or communities, or possible retaliation. Special regard must be taken for the distinct risks, needs and vulnerabilities of women in contact with criminal justice processes and in detention, and proactive measures must be put in place to deal effectively with identified risks.

As read, the TPA as amended by the TPAA is gender neutral as there are no distinctions between men and women in the formulation of the offences and powers under the Act. Nevertheless, it is important to recognize that women may be differently and disproportionately impacted by the criminalization of certain terrorism support offences. For example, section 5, Soliciting and giving support to terrorist groups for the commission of terrorist [acts] (as set out in section 3 of the TPAA), section 6, Harboursing terrorists or hindering the arrest of a terrorist (as set out in section 3 of the TPAA), and section 16, Membership of a terrorist group or proscribed organization (as set out in section 3 of the TPAA) all contain provisions that could be used to discriminate against women. It is possible that a woman's actions may, for example, fall within the scope of these offences as a consequence of being married (including forced marriage) to a suspected terrorist. When considering the gender dimensions of such offences as they relate to particular cases, it is important to understand the roles of women and men in Nigerian society and how existing power relations and inequalities between women and men affect the choices and decisions of the individuals involved in the alleged offences.

Terrorist groups, including Boko Haram, have systematically engaged in SGBV as a strategy to attain their objectives. Women and girls have been targeted as victims of trafficking in persons and SGBV offences, including sexual slavery, forced and child marriage, systemic rape and forced labour.⁸ International and regional human rights law requires that Nigeria ensure that individuals belonging to terrorist groups who commit SGBV offences be held criminally responsible.⁹ However, the TPA as amended does not include any specific reference to SGBV offences, undermining accountability and promoting impunity, although it is possible that a sexual-based attack upon a victim's life or a SGBV-related kidnapping could fall within the scope of section 1 of the TPA (as amended by section 2 of the TPAA). When investigating or prosecuting terrorism-related SGBV offences, it is important to ensure a human rights-based approach (recognizing SGBV as a manifestation of gender inequality and discrimination against women) and a victim-centred approach (incorporating the core objectives of "do no harm", the well-being, empowerment and safety of victims, as well as to restore a sense of control, autonomy, self-respect and personal privacy that are eroded by acts of SGBV).

Vulnerable persons

Special considerations will also have to be taken when dealing with children and other vulnerable persons (including people living with physical and mental disabilities) as suspects, victims or witnesses in order to ensure that their particular risks, needs and vulnerabilities are identified and appropriately addressed and safeguarded.

⁸ For a more in-depth analysis of these issues, readers are referred to the UNODC Nigeria Training Module on Gender Dimensions of Criminal Justice Responses to Terrorism.

⁹ See the Convention on the Elimination of All Forms of Discrimination against Women (1979); the report of the Secretary-General on women and peace and security (S/2017/861, para. 61); and article 3 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) (the Maputo Protocol).

Part I

Offences under the Terrorism (Prevention) Act, 2011 (TPA) as amended by the Terrorism (Prevention) (Amendment) Act, 2013 (TPAA)

I. Prohibition of Acts of Terrorism (section 1 of the TPA as amended by section 2 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Prohibition of Acts of Terrorism</p> <p>Maximum sentence: death penalty</p> <p>Section 1 of the TPA (as amended by section 2 of the TPAA)</p>	<p>S.1 requires investigators and prosecutors to prove that:</p> <p>1. An act of terrorism has occurred which falls within the definition in S.1(3) of the TPA (S.1(2) of the TPA as renumbered by S.2(b) of the TPAA). In the majority of cases (subject to the exception of cases falling within S.1(3)(d) of the TPA, namely offences within the scope of counter-terrorism protocols and conventions duly ratified by Nigeria), an act of terrorism, as defined by the TPA, contains two distinct elements, both of which must be proved:</p> <p>(a) The act itself: it will be necessary to prove that the act involves or causes one of the actions listed in S.1(3)(c) (i)–(vii) of the TPA; and</p> <p>(b) The consequence/intended consequence upon a country, a government or an international organization: in this regard, the consequence/intended consequence must fall within the scope of S.1(3)(a) and (b) of the TPA.</p> <p>2. In relation to the act of terrorism, a person's actions must fall within one of the categories of prohibited actions listed in the amended S.1(3) of the TPA, and it must be proven that the person acted:</p> <ul style="list-style-type: none"> • Knowingly; • Willingly; • Deliberately; and • With malice, aforethought. <p>3. Given the key importance of S.1 of the TPA in the investigation, prosecution and adjudication of terrorism offences, further details on the specific requirements for each of the basic elements of the offence are set out below.</p>	<p>1. Evidence must be adduced to prove each of the elements of the alleged offence.</p> <p>2. Given the extremely wide scope of this offence and its stated intention to prohibit all acts of terrorism and the financing of terrorists, the type of evidence required to prove the elements of the offence is likely to be equally wide-ranging and far reaching, depending on the individual circumstances of each case. Evidence may include oral evidence of witnesses and suspects; evidence of first response officers; forensics (for example, fingerprints or explosives); mobile phone and telecom records; and financial records.</p>	<p>Given the extremely wide scope of this offence, all possible ancillary powers may have to be considered, subject to the individual circumstances of each case.</p>	<p>1. S.1(1) of the TPA as amended sets out the overall purpose and effect of the section, namely that “all acts of terrorism and financing of terrorism are hereby prohibited”.</p> <p>2. The offence is very wide-ranging in its scope, as set out in S.1(2) and (3) of the TPA, covering the whole ambit of terrorist attacks, killings and kidnappings, as well as all associated acts of planning, preparation and financing, subject to the existence of a terrorist motivation (consequence/intended consequence) as defined in S.1(3)(a) and (b) of the TPA.</p> <p>3. By virtue of S.1(2) of the TPA, the offence applies to a person or body corporate, and applies to acts carried out both in or outside Nigeria.</p> <p>4. The consequence and/or intended consequence for a country, a government or an international organization (as set out in S.1(3)(a) and (b) of the TPA) is the key factor in distinguishing between terrorist and non-terrorist offences under the TPA. If it is not possible to prove a consequence/intended consequence within the scope of S.1(3)(a) and (b), the act will not be an act of terrorism under S.1 of the TPA.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>The act itself: to fall within the definition of an “act of terrorism” in S.1(3) of the TPA, it is necessary to prove that the act involves or causes one of the following:</p> <p>(i) an attack upon a person’s life which may cause serious bodily harm or death;</p> <p>(ii) kidnapping of a person;</p> <p>(iii) destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss;</p> <p>(iv) the seizure of an aircraft, ship or other means of public or goods transport and diversion or the use of such means of transportation for any of the purposes in paragraph (b) (iv) [S.1(3)(c)(iv)] of this subsection;</p> <p>(v) the manufacture, possession, acquisition, transport, supply or use of weapons, explosives or nuclear, biological and chemical weapons, as well as research into, and development of biological and chemical weapons without lawful authority;</p> <p>(vi) the release of dangerous substance or causing of fire, explosions or floods, the effect of which is to endanger human life;</p> <p>(vii) interference with or disruption of the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life.</p> <p>Consequence/intended consequence: in addition to proving that the act falls within the scope of S.1(3)(c) (i)–(vii) of the TPA as set out above, it is also necessary to prove (pursuant to S.1(3)(a) and (b)) that the act:</p>			<p>5. The categories of prohibited actions listed in S.1(2) of the TPA are extremely wide-ranging and cover a multitude of different levels of involvement. From a points-to-prove perspective, proving the more indirect levels of involvement, such as indirect omission, incitement and inducement, will present additional challenges, in that issues such as reasonable necessity (in the case of omissions) and causal links (for incitement and inducement) will have to be proved.</p> <p>6. S.1(4) of the TPA refers to an act which disrupts a service but is committed in pursuance of a protest. Since this sub-section is not included in the definition of an act of terrorism under S.1(3) of the TPA, its status as an offence under S.1 of the TPA may be questionable. In any event, S.1(4) sets out the following specific defence: demonstration or stoppage of work is not a terrorist act within the meaning of this definition provided that the act is not intended to result in any harm referred to in S.1(3)(b)(i), (ii) or (iv) as renumbered by the TPAA.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>(a) may seriously harm or damage a country or an international organization;</p> <p>(b) is intended or can reasonably be regarded as having been intended to –</p> <p>(i) unduly compel a government or international organization to perform or abstain from performing any act;</p> <p>(ii) seriously intimidate a population;</p> <p>(iii) seriously destabilize or destroy the fundamental political, constitutional, economic or social structures of a country or an international organization; or</p> <p>(iv) otherwise influence such government or international organization by intimidation or coercion.</p> <p>Categories of prohibited actions: in addition to proving the act and the consequence/ intended consequence, it is also necessary to prove that a person's actions fall within the scope of S.1(2)(a)–(h) of the TPA, as amended, namely that a person or body corporate who knowingly in or outside Nigeria directly or indirectly willingly:</p> <p>(a) does, attempts or threatens any act of terrorism;</p> <p>(b) commits an act preparatory to or in furtherance of an act of terrorism;</p> <p>(c) omits to do anything that is reasonably necessary to prevent an act of terrorism;</p> <p>(d) assists or facilitates the activities of persons engaged in an act of terrorism or is an accessory to any offence under the Act;</p> <p>(e) participates as an accomplice in or contributes to the commission of any act of terrorism or offences under the Act;</p>			

Offence/ sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>(f) assists, facilitates, organizes or directs the activities of persons or organizations engaged in any act of terrorism;</p> <p>(g) is an accessory to any act of terrorism, or ;</p> <p>(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 the Act.</p> <p>Knowledge/intention: in addition to proving the act, the consequence/intended consequence and the scope of involvement, it is also necessary to prove that the person acted:</p> <ul style="list-style-type: none"> • Knowingly; • Willingly; • Deliberately; and • With malice, aforethought. <p>S.1(3)(d) of the TPA prohibits:</p> <p>An act or omission in or outside Nigeria which constitutes an offence within the scope of counter-terrorism protocols and conventions duly ratified by Nigeria.</p> <p>For the offence under S.1(3)(d), it is not necessary to prove the consequence or intended consequence of the act, although the category of involvement and the mental element (knowingly, willingly, deliberately and with malice aforethought) will still have to be proved. In addition, it will be necessary to prove all the elements of the specific offence as contained in the relevant protocols or conventions, as well as their ratification by Nigeria.</p> <p>S.1(4) of the TPA: see entry 6 in the notes column of the present table.</p>			

2. Proscribed Organization (section 2 of the TPA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Proscribed Organization</p> <p>Maximum sentence: 20 years imprisonment</p> <p>Section 2 of the TPA</p>	<p>S.2 requires that:</p> <p>S.2(1)(c): a judge in Chambers declares any entity to be a proscribed organization and that such notice is published in the official gazette;</p> <p>S.2(3)(i): a person who belongs or professes to belong to a proscribed organization commits an offence under the Act.</p>	<p>1. There must be evidence to show that a person belongs to a proscribed organization. This may be in the form of oral testimony of witnesses or the person charged, supported by other evidence that establishes clear links between the person charged and the activities or the operation of the proscribed organization: taking into account all of the circumstances of the case, this can be shown to amount to evidence that a person belongs to a proscribed organization.</p> <p>2. Despite the shifting of the burden of proof for defence to the person charged under S.2(4) of the TPA, it is nevertheless incumbent upon the prosecution to adduce evidence to prove that the entity in question is a proscribed organization, to show when it became a proscribed organization and to show when the person charged belonged to or professed to belong to the organization.</p> <p>3. The nature, time frame and level of the connection between the person charged and the proscribed organization should be clearly identified, with evidence in support.</p> <p>4. Possible evidence, in addition to the notice published in the official gazette declaring an entity to be a proscribed organization, may include: oral testimony; written, electronic or telephone communications linking a person charged to known members of a proscribed organization; banking and financial records showing links to a proscribed organization; and surveillance records.</p>	<p>Application to a judge in Chambers to declare an entity to be a proscribed organization under S.2(1) of the TPA.</p>	<p>1. Original S.2 of the TPA remains in force and has not been amended or deleted by the TPAA.</p> <p>2. There are considerable similarities and overlaps between S.2 of the TPA and S.16 of the TPA, as set out in section 3 of the TPAA, which deals with membership of a terrorist group or proscribed organization. Before formulating charges, care should be taken to review both S.2 and S.16 and their elements in line with available evidence.</p> <p>3. S.2(3)(ii) of the TPA makes it clear that, for the avoidance of doubts, political parties should not be regarded as proscribed organizations and nobody should be treated as such because of his or her political beliefs.</p> <p>4. The definition of a proscribed organization is contained in S.40(c) of the TPA as set out in section 19 of the TPAA, and in original S.9(5) of the TPA.</p> <p>5. Under S.2(4) of the TPA, it is a defence for a person charged under S.2(3) with the offence of belonging to a proscribed organization to prove that the organization had not been declared a proscribed organization at the time the person charged became or began to profess to be a member of the organization and that he has not taken part in the activities of the organization at any time after it was declared to be a proscribed organization.</p>

3. Offences against internationally protected persons (section 3 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Offences against internationally protected persons</p> <p>Maximum sentence: life imprisonment</p> <p>Section 3 of the TPA as set out in section 3 of the TPAA</p>	<p>S.3 requires investigators and prosecutors to prove that any person who intentionally:</p> <p>(a) murders, kidnaps or commits other attacks on the person or liberty of an internationally protected person [IPP];</p> <p>(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</p> <p>(c) threatens to commit any such attack;</p> <p>commits an offence under the Act.</p> <p>The offence has three basic elements, each of which must be proved:</p> <p>1. The act of murder, kidnapping or other attack, or the carrying out of an attack on official premises, private accommodation or means of transport, or the threat of such attack;</p> <p>2. The identity of the victim, namely that she or he is an internationally protected person;</p> <p>3. Intentionality in relation to the committing of the act and the identity of the intended victim.</p>	<p>1. The requirement of intentionality requires that a person charged must know that the victim is an IPP. Evidence must be adduced to prove this.</p> <p>2. “Other attacks”, “violent attack” and “any such attack” must be construed to be serious attacks likely to endanger IPPs or their liberty.</p> <p>3. The scope of the evidence may be very wide, depending upon the circumstances of the offence, and may include oral evidence of witnesses and suspects, evidence of first response officers, and forensic evidence (for example, fingerprints or explosives).</p>	<p>Various ancillary powers may be applicable depending on the circumstances of the offence and the available evidence.</p>	<p>1. The text of S.3 as set out in section 3 of the TPAA replaces original S.3 of the TPA.</p> <p>2. Offences against IPPs under S.3(a) may also constitute offences under S.1 (Prohibition of Acts of Terrorism) if the requirements set out in S.1(2) and (3) (as amended) can be proved.</p> <p>3. If an attack on an IPP is proved pursuant to S.1, the maximum sentence is the death penalty, whereas under S.3 the maximum sentence is life imprisonment.</p> <p>4. When considering offences against IPPs, prosecutors will need to consider the requirements and applicability of both S.1 and S.3 when drafting their charges, based on available evidence.</p> <p>5. At present there is no schedule of IPPs, although it will encompass diplomatic missions and international and regional organizations and agencies, including the United Nations, the European Union, the Economic Community of West African States (ECOWAS) and the African Union.</p> <p>6. Nigeria is a member of several international organizations, many of which are currently rendering services to Nigeria. Diplomatic laws and other aspects of public international law include specific requirements and obligations for the protection of foreign representatives and their teams.</p>

4. Terrorist meetings (section 4 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Terrorist meetings</p> <p>Minimum sentence: 20 years imprisonment</p> <p>Section 4 of the TPA as set out in section 3 of the TPAA</p>	<p>S.4 requires investigators and prosecutors to prove that any person who:</p> <p>(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; or</p> <p>(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</p> <p>(c) attends a meeting, which in his knowledge is to support a proscribed organization or to further the objectives of a proscribed organization;</p> <p>commits an offence under the Act.</p> <p>For offences under S.4(a), (b) or (c), there are three key elements that must be proved:</p> <p>1. For S.4(a) this would consist of arranging, managing, assisting in arranging or managing or participating in a meeting or an activity;</p> <p>2. For S.4(b), the connection between, for example, the meeting or activity and an act of terrorism or terrorist group;</p> <p>3. For S.4(c), the knowledge of the person charged that the meeting or activity is concerned or connected with an act of terrorism or terrorist group.</p>	<p>1. In order to prove the offence, it is essential that there is evidence to prove each of the three elements of the offence.</p> <p>2. It is important to gather as much evidence as possible about the details, circumstances, purpose and background of the meeting or activity, and the role of the person charged within it. The location and timing of all of the above will be relevant.</p> <p>3. The connection with the act of terrorism or terrorist group must be clearly identified and supported by evidence.</p> <p>4. Sources of evidence may include oral evidence of witnesses or suspects, telecommunications and surveillance data, written notes and records.</p>	<p>1. Application for a warrant for terrorist investigation under S.24 of the TPA (as set out in section 11 of the TPAA).</p> <p>2. If covert operations are deemed necessary in the investigation of offences under this section, or if details of communications between the persons charged are required to prove the offence, it may be necessary to apply for a communication interception order under S.29(1) of the TPA (as amended by section 13 of the TPAA).</p> <p>3. If there are grounds to suspect that a person charged has committed, is committing or is likely to commit an act of terrorism or is in possession of terrorist property relating to the offence, an application could be made under S.15(9) of the TPA (as amended by section 9 of the TPAA) for an order compelling delivery of any relevant document.</p>	<p>1. The text of S.4 is set out in section 3 of the TPAA. The text replaces original S.4 of the TPA.</p> <p>2. The process to declare an entity a proscribed organization is set out in S.2(t) of the TPA. All such declarations must be published in the official gazette. There is currently no schedule of proscribed organizations.</p>

5. Soliciting and giving support to terrorist groups for the commission of terrorist [acts] (section 5 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Soliciting and giving support to terrorist groups for the commission of terrorist [acts]</p> <p>Minimum sentence: 20 years imprisonment</p> <p>Section 5 of the TPA as set out in section 3 of the TPAA</p>	<p>S.5(1) requires investigators and prosecutors to prove that any person who knowingly, in any manner, directly or indirectly, solicits or renders support:</p> <p>(a) for the commission of an act of terrorism; or</p> <p>(b) to a terrorist group;</p> <p>commits an offence under the Act.</p> <p>S.5(2) of the TPA defines such support to include:</p> <p>(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;</p> <p>(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;</p> <p>(c) receipt or provision of information or moral assistance, including invitation to adhere to a terrorist or terrorist group;</p> <p>(d) entering or remaining in a country for the benefit of, or at the direction of or in association with a terrorist group; or</p> <p>(e) the provision of, or making available, such financial or other related services prohibited under the Act or as may be prescribed by regulations made pursuant to the Act.</p> <p><i>Note: This is not an all-inclusive list and other actions not covered under S.5(2) of the TPA could still be construed to amount to support.</i></p>	<p>1. There must be evidence to prove each of the three key elements of the offence, namely: the act of directly or indirectly soliciting or rendering support; connecting the support to an act of terrorism or a terrorist group; and showing that such support was solicited or rendered knowingly.</p> <p>2. There should be evidence of the support given (what is the person charged alleged to have done: where, when, how, with whom and in what circumstances) and how such support has facilitated the commission of an identified act of terrorism or supported a terrorist group.</p> <p>3. It is important to establish that the person charged offered or solicited assistance in furtherance of an act of terrorism or for a terrorist group by, for example, providing expertise or travel documents.</p> <p>4. Soliciting an act of terrorism can be provided through posts on the internet. Terrorist groups increasingly use the internet to disseminate propaganda.</p> <p>5. Receipt or provision of material assistance can include, for example weapons, explosives, training, transportation or false documentation information or moral assistance.</p>	<p>The scope of this offence is extremely wide and covers a variety of different types of support and situations. As such, the applicable ancillary powers will also be very wide in scope, depending upon the circumstances of the offence and the available evidence.</p>	<p>1. The text of S.5 is set out in section 3 of the TPAA. It replaces original S.5 of the TPA.</p> <p>2. There is an overlap between S.5 and a number of other offences under the TPA, such as S.1, Prohibition of Acts of Terrorism; S.10 (as set out in section 3 of the TPAA) Recruitment of persons to be members of terrorist groups or to participate in terrorist acts; S.9 (as set out in section 3 of the TPAA) Provision of devices to a terrorist; S.4 (as set out in section 3 of the TPAA) Terrorist meetings; and S.13 (as set out in section 3 of the TPAA) Financing of terrorism. When drafting charges, care should be taken to consider all possible applicable offences and to evaluate their applicability based on the elements of the offences and the available evidence.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>S.5(3) of the TPA seeks to clarify the points to prove as follows:</p> <p>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.</p> <p>The wording of S.5(3) is somewhat confusing, but appears to suggest that the requirement of proof is limited to the actions of the person in knowingly soliciting or rendering direct or indirect support to the terrorist act or terrorist group, and that no extra layers of proof relating to, for example, the collection of such support, are required.</p> <p>In summary, there are therefore three key elements which need to be proved:</p> <ol style="list-style-type: none"> 1. The act of directly or indirectly soliciting or rendering support (see S.5(2) of the TPA for the scope of the definition of support); 2. The purpose of the act, namely support for a terrorist act or a terrorist group; 3. The person must knowingly solicit or render the support for the terrorist act or terrorist group. 	<ol style="list-style-type: none"> 6. Entering or remaining in a country for the benefit or at the direction of a terrorist group can amount to giving support. 7. Providing financial or other related services can amount to support. 8. Possible evidence may include oral evidence, recordings, banking and other financial records, telecommunications and e-mails and internet records. 		

6. Harboursing terrorists or hindering the arrest of a terrorist (section 6 of the TPA as set out in section 3 of the TPAA)

Offence/ sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Harboursing terrorists or hindering the arrest of a terrorist</p> <p>Minimum sentence: 20 years imprisonment</p> <p>Section 6 of the TPA as set out in section 3 of the TPAA</p>	<p>S.6 requires investigators and prosecutors to prove that any person who knowingly harbours, conceals or causes to be harboured or concealed, hinders or interferes with the arrest of a person who to his knowledge has:</p> <p>(a) committed or about to commit an act of terrorism;</p> <p>(b) likely to commit an act of terrorism;</p> <p>(c) is a member of a terrorist group;</p> <p>(d) has been convicted of an act of terrorism but escaped from punishment; or</p> <p>(e) against whom he knew that a warrant of arrest had been issued;</p> <p>commits an offence under the Act.</p> <p>There are four key elements to be proved for this offence:</p> <p>1. The act of harboursing, concealing or causing to be harboured or concealed, hindering or interfering with the arrest of a person;</p> <p>2. Proof that the person who has been harboured or concealed falls within one of the categories listed in S.6(a)–(e) of the TPA as set out above;</p> <p>3. That the person charged has knowingly harboured or concealed or hindered or interfered with the arrest of the person; and</p> <p>4. That the person charged has knowledge that the person who has been harboured falls within one of the categories listed in S.6(a)–(e) of the TPA.</p>	<p>1. The prosecution has to adduce evidence to prove each of the four key elements of the offence.</p> <p>2. The prosecution must clearly identify the person who is being harboured and must provide evidence to prove that he or she falls within one of the categories listed in S.6(a)–(e).</p> <p>3. Evidence should be adduced to prove what the person charged did (what actions did the person take: where, when, how and under what circumstances) and demonstrate how the person's actions amount to harboursing, concealing or causing to be harboured or concealed, hindering or interfering with the arrest of the identified person.</p> <p>4. Proving the actual knowledge of the person charged is a central aspect of this offence. For example, a member of hotel staff who had no knowledge that the person lodged in the hotel is wanted in connection with acts of terrorism will not be culpable.</p> <p>5. Evidence of communications between the person charged and the alleged terrorist may be of particular significance when trying to prove the required knowledge.</p> <p>6. Evidence to prove this offence may include oral evidence, recorded or written communications and circumstantial evidence.</p>	<p>1. The range of possible powers could be very wide, depending on the circumstances and available evidence.</p> <p>2. Application for a warrant for terrorist investigation under S.24 of the TPA (as set out on section 11 of the TPAA).</p> <p>3. If covert operations are deemed necessary in the investigation of offences under S.6, or if details of communications between persons charged are required to prove the offence, it will be necessary to apply for a communication interception order under S.29 of the TPA (as set out on section 13 of the TPAA).</p>	<p>1. The text of S.6 is set out in section 3 of the TPAA (the text replaces S.6 of the TPA).</p> <p>2. The knowledge of the person charged forms a major aspect of this offence. It should be noted that it is necessary to prove actual knowledge of the person charged, not just a reasonable belief.</p> <p>3. Evidence could possibly be sourced from the owners, managers or staff of hotels or guest houses or other properties where suspected terrorists may have stayed or visited.</p>

7. Provision of training and instruction to terrorist groups or terrorists (section 7 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Provision of training and instruction to terrorist groups or terrorists</p> <p>Minimum sentence: 20 years imprisonment</p> <p>Section 7 of the TPA as set out in section 3 of the TPAA</p>	<p>S.7 requires investigators and prosecutors to prove that any person who, knowingly, agrees to provide or receive training, training material or instructions:</p> <p>(a) in the making or use of any form of explosive or other lethal devices;</p> <p>(b) in carrying out a terrorist act, to a member of a terrorist group;</p> <p>(c) to a person engaging in or preparing to engage in the commission of a terrorist act; or</p> <p>(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;</p> <p>commits an offence under the Act.</p> <p>There are three key elements to the offence that have to be proved:</p> <p>1. The act of agreeing to provide or receive training, training material or instructions;</p> <p>2. That the content of the training, training material or instructions that the person charged agrees to provide falls within the scope of S.7(a)–(d) of the TPA as set out above; and</p> <p>3. That the person charged knowingly agrees to provide or receive the training, training material or instructions.</p>	<p>1. Evidence is required to prove each of the elements of the offence.</p> <p>2. The prosecution must prove exactly what the person charged is alleged to have done (where, when, how, and with whom) and must show how these actions amount to agreeing to provide or receive training, training material or instructions.</p> <p>3. The prosecution must set out, with evidence in support, the content of the training, training material or instructions that the person charged is alleged to have provided or received, as well as showing how it falls within the scope of S.7(a)–(d).</p> <p>4. Evidence must be adduced to prove the required knowledge of the person charged.</p> <p>5. The direction or instruction may come in many forms and proof may require retrieval of information or documents from computers and/or e-mail accounts and/or the interception of SMS records.</p> <p>6. It may include the giving and obtaining of knowledge of practical skills in the making or use of explosives and/or the provision of firearms training in order to commit a terrorist offence.</p> <p>7. Evidence to prove this offence may include: oral evidence, computer and telephone records, communications through social media and the internet, written training materials, evidence from field operations and investigations and real and circumstantial evidence.</p>	<p>Various ancillary powers may be applicable depending upon the circumstances of the offence and the available evidence.</p>	<p>1. The text of S.7 is set out in section 3 of the TPAA (the text replaces S.7 of the TPA).</p> <p>2. Actual knowledge is a key element of the offence that must be proved.</p> <p>3. The prohibited act that must be proved is agreeing to provide or receive training, training material or instructions: it is therefore not necessary to prove that the training has actually taken place, although such evidence would nevertheless be extremely useful in proving the act.</p> <p>4. S.7 does not specifically state whether it is applicable to the provision of training outside Nigeria, although it is arguable that it may be applicable to such international training.</p> <p>5. S.13(t)(a) of the TPA (set out in section 3 of the TPAA) on financing terrorism is specifically applicable to acts both in or outside Nigeria and is wide enough in scope to cover training. In addition, original S.9(6) of the TPA, which specifically relates to any suspected international terrorist or an international terrorist group, may also be applicable to training outside Nigeria, subject to other criteria in S.7 being met. When drafting charges, care should be taken to consider all possible applicable offences and to evaluate their applicability based on the elements of the offences and the available evidence.</p> <p>6. Evidence could be sourced from various organizations such as telecommunications and internet service providers, as well as banks, which can, for example, provide evidence to show financial links between the person charged and a terrorist organization.</p>

8. Concealing of information about acts of terrorism (section 8 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Concealing of information about acts of terrorism</p> <p>Minimum sentence: 10 years imprisonment</p> <p>Section 8 of the TPA as set out in section 3 of the TPAA</p>	<p>S.8(1) requires that investigators and prosecutors prove that a person has information which he knows or believes to be of material assistance in:</p> <p>(a) preventing the commission by any person or an organization of an act of terrorism; or</p> <p>(b) securing the apprehension, prosecution or conviction of another person for an offence under the Act and fails to disclose such information to any law enforcement or security officer as soon as reasonably practicable;</p> <p>commits an offence under the Act.</p> <p>The key elements of the offence that must be proved are that:</p> <p>1. The person charged has information;</p> <p>2. The person charged knows or believes that such information is of material assistance in preventing an act of terrorism or securing the apprehension, prosecution or conviction of a person under the TPA;</p> <p>3. Failure to disclose the information to a law enforcement or security officer as soon as reasonably practicable.</p> <p>S.8(2) and (3) of the TPA set out the following defences:</p> <p>(2) It is a defence for a person charged with an offence under S.8(1) to prove that he:</p> <p>(a) did not know and had no reasonable cause to suspect that the disclosure was likely to affect a terrorist investigation; or</p> <p>(b) has a reasonable excuse for the non-disclosure or interference.</p> <p>S.8(1) does not require disclosure by a legal practitioner of any information, belief or suspicion based on any information, which he obtained in privileged circumstances.</p> <p>Privileged circumstances for the purpose of S.8(3) above are defined in S.8(4).</p>	<p>1. Evidence must be adduced to prove every element of the offence.</p> <p>2. The prosecution must identify, with evidence in support, the information that the person charged has, which is the subject of this offence, and must clearly demonstrate how that information is of material assistance in preventing an act of terrorism, or securing the apprehension, prosecution or conviction of an identified person.</p> <p>3. The requirement to prove the knowledge or belief of the person charged, and the requirement to prove that the information had not been disclosed as soon as reasonably practicable may, in some circumstances, pose a serious challenge to the successful prosecution of this offence.</p> <p>4. Evidence may include oral evidence, written documents, electronic records, telephone and internet communications, surveillance records and videos, investigation reports and any other evidence of implicating contact and communication between the person charged and known members of terrorist groups.</p>	<p>1. Application for a warrant for terrorist investigation under S.24 of the TPA (as set out in section 11 of the TPAA).</p> <p>2. If communications from the person charged are required to prove details of the information held by and/or the knowledge of the person charged, it will be necessary to apply for a communication interception order under S.29 of the TPA (as set out in section 13 of the TPAA).</p>	<p>1. The text of S.8 is set out in section 3 of the TPAA. It replaces original S.8 of the TPA.</p> <p>2. The defence in S.8(2) raises the following issues:</p> <p>(a) Under S.8(1), the knowledge or belief of the person charged (that the information is of material assistance in preventing an act of terrorism) is an essential element of the offence. If knowledge or belief is not proved by the prosecution, the offence is not proved;</p> <p>(b) S.8(2) seeks to transfer the burden of proof from the prosecution to the person charged to prove that he or she did not have the knowledge or belief. As such S.8(1) and (2) are inconsistent;</p> <p>(c) As stated, knowledge or belief is an element of this offence. However, S.8(2) seeks to extend this element of the offence to also include having reasonable cause to suspect that the disclosure was likely to affect a terrorist investigation. This is another inconsistency between S.8(1) and (2);</p> <p>(d) It is suggested that the correct approach is for the prosecution to adduce evidence to show that the person charged has knowledge or belief, in accordance with the wording of the actual offence as set out in S.8(1).</p> <p>The defence for legal practitioners in relation to information received in privileged circumstances does not extend to other professionals, for example, accountants and banking officials.</p> <p>4. Sources of evidence may include telecommunication service providers.</p>

9. Provision of devices to a terrorist (section 9 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Provision of devices to a terrorist</p> <p>Minimum sentence: 20 years imprisonment</p> <p>Section 9 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with original section 9 of the TPA)</p>	<p>S.9 requires investigators and prosecutors to prove that a 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 under the Act.</p> <p>The key elements of the offence are:</p> <ol style="list-style-type: none"> 1. The act of offering to provide or providing any explosive or other lethal device; 2. The recipient/intended recipient of the explosive or lethal device is a terrorist group, or a terrorist, or any other person; 3. The intended use: for use by, or for the benefit of, a terrorist group or a member of a terrorist group; 4. That the person charged knowingly carries out the act: the requirement of knowledge extends to knowledge of the identity of the recipient and the use to which the explosive or lethal device will be put. 	<ol style="list-style-type: none"> 1. It is necessary to adduce evidence to prove each of the key elements of the offence. 2. Full details should be identified of exactly what the person charged is alleged to have done and when, the subject matter of the offence (the explosive or lethal device), the connection to an identified terrorist or terrorist group, and the intended use, with evidence in support. 3. Evidence must be adduced to show the required knowledge of the person charged. 4. Evidence may include oral evidence, real evidence, forensic evidence, surveillance evidence, written records and banking or electronic or telecommunication records showing the connection of the person charged to a terrorist or terrorist group. 	<p>The power to admit in evidence a certificate relating to a weapon, a hazardous, radioactive or harmful substance, a toxic chemical or microbial or other biological agent or toxin, under S.32 of the TPA (as set out in section 13 of the TPAA).</p>	<ol style="list-style-type: none"> 1. The text of S.9 is set out in S.3 of the TPAA. This S.9 should not be confused with original S.9 of the TPA, which remains in force and deals with issues of international terrorism. 2. Sources of evidence include banking and telecommunication companies, which may be able to provide records that link the person charged with a known terrorist or terrorist group.

10. Recruitment of persons to be members of terrorist groups or to participate in terrorist acts (section 10 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Recruitment of persons to be members of terrorist groups or to participate in terrorist acts</p> <p>Minimum sentence: 20 years imprisonment</p> <p>Section 10 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with section 10 set out in section 4 of the TPAA)</p>	<p>S.10 requires investigators and prosecutors to prove that the person charged knowingly agreed to recruit or recruited another person to be a member of a terrorist group or participate in the commission of a terrorist act.</p> <p>The basic elements of the offence are:</p> <ol style="list-style-type: none"> 1. The act of recruiting or agreeing to recruit another person; 2. The purpose of the recruitment, namely to be a member of a terrorist group or to participate in the commission of a terrorist act; 3. The requirement of knowledge on the part of the person charged extends to both the act of recruiting or agreeing to recruit, as well as the purpose of the recruitment to be a member of a terrorist group or participate in a terrorist act. 	<ol style="list-style-type: none"> 1. There must be evidence to prove each of the key elements of the offence listed. 2. Evidence should be adduced to show the means of recruitment, whether physical or online. In any event, the prosecution should clearly identify all relevant actions taken by the person charged (what did the person actually do: where, when, with whom, in what circumstances) and demonstrate how the person's actions amounted to recruitment. 3. The terrorist group or terrorist act for which the recruitment has allegedly taken place must be identified, with evidence in support. There must be a proven connection between the actions of the person charged and the alleged purpose of the recruitment. 4. The person's knowledge of both the recruitment and its purpose is a key element of the offence and must be proven. 5. Possible evidence may include oral evidence, written documentation, written and electronic communications and telephone records and banking records showing connections and communications between the person charged and both the recruited person and the terrorist group. 	<p>Various ancillary powers may be applicable, depending upon the circumstances of the offence and the available evidence.</p> <p>For example, it would be appropriate to apply for an interception of communication order under S.29 of the TPA (as set out in section 13 of the TPAA) in order to obtain evidence to prove the link between the person charged and the recruited person and/or the terrorist group.</p>	<ol style="list-style-type: none"> 1. The text of S.10 is set out in section 3 of the TPAA. It should not be confused with S.10 set out in section 4 of the TPAA, which relates to providing funds in support of terrorism. 2. Sources of possible evidence include telecommunications and internet service providers and banking service providers that may have records connecting the person charged to either the recruited person or the terrorist group and to recruitment offices and organizations.

II. Incitement, promotion or solicitation of property for the commission of terrorist acts (section II of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Incitement, promotion or solicitation of property for the commission of terrorist acts</p> <p>Minimum sentence: 20 years imprisonment</p> <p>Section II of the TPA (as set out in section 3 of the TPAA)</p>	<p>S.II requires investigators and prosecutors to prove that any person who knowingly:</p> <p>(a) incites or promotes the commission of a terrorist act;</p> <p>(b) incites or promotes membership in a terrorist group; or</p> <p>(c) solicits property for the benefit of a terrorist group or for the commission of a terrorist act;</p> <p>commits an offence under the Act.</p> <p>The basic elements of the offence are:</p> <p>1. That the person charged carries out an act that is within the scope of S.II(a), (b) or (c) as set out above. This in turn consists of two key elements:</p> <p>(i) Incitement, promotion or solicitation; and</p> <p>(ii) A connection or causal link between the incitement, promotion and solicitation and the terrorist act or terrorist group.</p> <p>2. The person charged carries out the act knowingly.</p>	<p>1. Evidence required for each of the key elements of the offence.</p> <p>2. There should be clear evidence as to:</p> <p>(a) what the person allegedly said and did;</p> <p>(b) how the person's actions or words or other communications amount to incitement, promotion or solicitation;</p> <p>(c) who was the object of the incitement or promotion;</p> <p>(d) to whom were the person's instructions or messages given or distributed;</p> <p>(e) identification of the targeted terrorist act or terrorist group;</p> <p>(f) the causal link between incitement, promotion or solicitation and the identified act of terrorism or terrorist group;</p> <p>(g) for offences under S.7(c), evidence to identify the property that has been solicited, the circumstances of the solicitation, as well as the causal link to an identified terrorist group or act of terrorism;</p> <p>(h) the knowledge of the person relating to his or her actions and the link to a terrorist act or terrorist group, including the person's intention.</p> <p>3. Inciting or promoting could include more indirect or subtle messaging, for example, through video messaging and public speeches or sermons, although the causal link and the element of knowledge/intentionality on the part of the person charged would still need to be proved.</p> <p>4. Possible evidence for the proof of this offence may include oral evidence, written documentation, telephone and electronic communications, messaging and correspondence, media posts (including electronic media and platforms), bank or financial records and/or property transfer files and records, and any other records that show links between the person charged, the target audience and a terrorist group.</p>	<p>Various ancillary powers may be applicable, depending upon the circumstances of the offence and the available evidence.</p>	<p>1. The text of S.II is set out in section 3 of the TPAA.</p> <p>2. Sources of evidence, depending on the circumstances of the offence, may include telecommunications and internet service providers, banking and financial institutions and property companies.</p>

12. Provision of facilities in support of terrorist acts (section 12 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Provision of facilities in support of terrorist acts</p> <p>Maximum sentence: life imprisonment</p> <p>Section 12 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with S.12 of the TPA as amended by section 6 of the TPAA, which deals with seizure of terrorist cash)</p>	<p>S.12 requires investigators and prosecutors to prove that any person who being:</p> <p>(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;</p> <p>(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</p> <p>(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 the Act or for planning, promoting or supporting the commission of a terrorist act; commits an offence under the Act.</p> <p>The key elements of the offence that must be proved are:</p> <p>1. That the person is: (a) the owner, occupier, lessee or person in charge of any building, premises, room or place; or (b) the owner, charterer, lessee, operator, agent or master/pilot of a vessel or aircraft; 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; and</p> <p>2. That: (a) the building, premises or room is used to hold a meeting; or (b) the vessel or aircraft is used; or (c) the technological devices; are used, for the purposes of committing an offence under the Act or for planning, promoting or supporting the commission of a terrorist act;</p> <p>3. That the person knowingly permits the use of the building, premises, room, vessel/aircraft, or technological devices for the above purpose.</p>	<p>1. Evidence to be adduced to prove each of the key elements of the offence.</p> <p>2. The buildings, premises, rooms, vessels, aircraft or technological equipment that are the subject of the offence must be clearly identified and particularized.</p> <p>3. Evidence must be adduced to show the person's actual interest and/or control over the property, premises, room, vessel, aircraft or technological equipment.</p> <p>4. Evidence is required to identify, particularize and provide full details of the purpose of the use of property, premises, room, vessel, aircraft or technological equipment (for terrorist meetings or terrorist acts).</p> <p>5. There must be evidence particularizing and connecting the use of the property, vessel, aircraft or technological equipment to the identified purpose.</p> <p>6. There must also be evidence to establish the knowledge of the person charged and how the person permitted the use of the property, vessel, aircraft or technological equipment for the identified purpose.</p> <p>7. Possible evidence may include oral evidence, property, vessel and aircraft registers, hotel and guest house registers, bank and financial records and written and electronic communications.</p>	<p>1. Application for a warrant for terrorist investigation under S.24 of the TPA (as set out in section 11 of the TPAA).</p> <p>2. Power of an authorized officer of a law enforcement or security agency to issue a detention order relating to a conveyance under S.30 of the TPA (as set out in section 13 of the TPAA).</p>	<p>1. The text of S.12 is set out in section 3 of the TPAA. It should not be confused with S.12 of the TPA as amended by section 6 of the TPAA, which deals with the seizure of terrorist cash.</p> <p>2. There is a possible overlap between this offence and the offence of soliciting property for the benefit of terrorists under S.11 of the TPA as set out in section 3 of the TPAA. When formulating charges, the elements of both offences should be carefully considered in light of the available evidence.</p> <p>3. Sources of evidence may include property purchase and rental agencies, hotel and guest house records, property registers, vessel and aircraft registers and technological equipment suppliers.</p>

13. Financing of terrorism (section 13 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Financing of terrorism</p> <p>Maximum sentence: life imprisonment</p> <p>Section 13 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with the very similar section 13 set out in section 7 of the TPAA, which deals with funds and property used for terrorist acts)</p>	<p>S.13(1)(a) requires investigators and prosecutors to prove that any person or entity who, in or outside Nigeria, solicits, acquires, provides, collects, receives, possesses or makes available funds, property or other services by any means to:</p> <p>(i) terrorists; or</p> <p>(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 the Act or in breach of the provisions of the Act;</p> <p>commits an offence under the Act.</p> <p>S.13(1)(b) requires investigators and prosecutors to prove that any person or entity who, in or outside Nigeria, possesses funds intending that it will 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[s] or terrorist groups;</p> <p>commits an offence under the Act.</p> <p>S.13(2) requires investigators and prosecutors to prove that any person who knowingly enters into, or becomes involved in an arrangement:</p>	<p>1. S.13(1)(a), S.13(1)(b) and S.13(2) are effectively three separate offences, each with its own key elements and points to prove, which must be supported by evidence.</p> <p>2. For S.13(1)(a):</p> <p>(a) The funds, property or services which are the subject of the offence must be clearly identified and evidenced;</p> <p>(b) The act of soliciting, acquiring, providing, collecting, receiving or possessing of the funds, property or services must be clearly identified with a clear evidence trail covering all aspects of the act, and how the act was carried out;</p> <p>(c) The connection between the person charged and the actual or intended terrorist or terrorist group recipient must be identified and evidenced;</p> <p>(d) The details of the alleged intention, knowledge or reasonable grounds of belief on the part of the person charged must also be identified and supported by evidence;</p> <p>(e) The prosecution must identify and provide evidence as to which actual or intended offence or breach under the TPA the person charged intended, knew or believed the funds would be used for.</p> <p>3. For S.13(1)(b):</p> <p>(a) Clearly identify the funds which are the subject of the offence, with evidence in support;</p> <p>(b) Identify how, and in what capacity the person charged is alleged to have possessed the funds, with evidence in support;</p>	<p>1. Power to seize terrorist funds or property under S.12 of the TPA (as set out in section 3 of the TPAA).</p> <p>2. Power to make a provisional order to attach all monies and other property belonging to, or held on behalf, of the person charged under S.15(3) of the TPA (as amended by section 9 of the TPAA).</p> <p>3. For entities convicted of the offence: forfeiture of assets, funds or property; winding up of the entity; withdrawal of the practicing licence of the entity and its officers; and transfer of the entity's assets to the Federation account, under S.25(2) and (3) of the TPA (as set out in section 3 of the TPAA).</p> <p>4. Power of the court, following conviction, to order forfeiture of: (a) terrorist funds 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, under S.32(3) of the TPA (as set out in S.15 of the TPAA).</p>	<p>1. The text of S.13 is set out in section 3 of the TPAA. It should not be confused with the very similar S.13 of the TPA set out in section 7 of the TPAA, which deals with funds and property used for terrorist acts.</p> <p>2. There is considerable overlap between the two sections S.13 of the TPA (as set out in sections 3 and 7, respectively, of the TPAA). Despite their similarities they are separate offences. When choosing/drafting the charges, care should be taken to review the points to prove and elements of both offences in the context of the available evidence.</p> <p>3. There is also considerable overlap between S.13 and various other sections of the TPA, including: S.11 (as set out in section 3 of the TPAA) Incitement, promotion or solicitation of property for the commission of terrorist acts; S.14 (as set out in section 3 of the TPAA) Dealing in terrorist property; and S.10 (as set out in section 4 of the TPAA) Funds to support terrorism. Before choosing and drafting the charges, care should be taken to review the elements and applicability of each offence in line with the available evidence.</p> <p>4. S.13(1) specifically applies to a person or an entity.</p> <p>5. S.13(1) specifically applies to acts in or outside Nigeria.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>(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</p> <p>(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;</p> <p>commits an offence under the Act.</p> <p>For S.13(1)(a) the key elements that must be proved are:</p> <ol style="list-style-type: none"> 1. The act of soliciting, acquiring, providing, collecting, receiving, possessing or making available funds, property or other services; 2. The direct or indirect recipient of the funds, property or services is a terrorist or terrorist group; 3. The person or entity has the intention or knowledge or has reasonable grounds to believe that such funds or property will be used to commit an offence or other breach under the Act. <p>For S.13(1)(b) the key elements are:</p> <ol style="list-style-type: none"> 1. The act of possessing funds; 2. The actual or intended purpose of committing or facilitating the commission of a terrorist act by terrorists or terrorist groups; and 	<p>(c) Clearly identify the actual or intended purpose for which the person charged is alleged to have possessed the funds, identify and demonstrate the link between the possession of funds and the intended purpose, and identify the intended terrorist act, providing evidence in support for each step;</p> <p>(d) Prove, with evidence in support the knowledge or intention of the person charged.</p> <p>4. For S.13(2)(a):</p> <p>(a) Identify the arrangement that the person charged allegedly entered into or became involved in, with evidence to show the precise nature and details of the arrangement and the person's involvement in the arrangement;</p> <p>(b) Clearly identify the terrorist funds that are the subject of the offence, with evidence in support;</p> <p>(c) Demonstrate the connections and methodology showing how the arrangement facilitated the acquisition, retention or control by or on behalf of another person of the identified terrorist funds, providing evidence in support and identifying the other person in question;</p> <p>(d) Prove the required knowledge of the person charged, which must extend to the arrangement and his/her involvement in it, as well as the actual or intended purpose and result.</p>		<p>6. It is possible to prove all the elements of these offences without the necessity to prove that the funds or property in question were actually used to commit a terrorism offence for example, when it can be proved that funds are made available for terrorism, or that it is intended that the funds will be used for a terrorist act.</p> <p>7. "Proscribed organization" is defined in S.40(d) of the TPA as set out in section 19 of the TPAA. For proscribed organizations, see also S.2 of the TPA, S.16 of the TPA as set out in section 3 of the TPAA and original S.9(5) of the TPA.</p> <p>8. The scope of these offences are extremely wide to cover acts beyond financing of terrorism. For example, S.13(1)(a) also includes the acts of soliciting, acquiring, providing, collecting, receiving or processing of services, which could include training or other support services.</p> <p>9. Sources of evidence may include banks and financial institutions, land registries, property companies and agencies and telecommunication and internet service providers.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>3. The person or entity intends or knows that the funds will be used for the purpose of committing or facilitating the commission of a terrorist act by terrorist or terrorist groups.</p> <p>For S.13(2)(a) the key elements are:</p> <p>1. The act of entering into or becoming involved in an arrangement;</p> <p>2. The purpose of the arrangement being to facilitate the acquisition, retention or control by or on behalf of another person of terrorist fund[s] by concealment;</p> <p>3. Concealment, removal out of jurisdiction, transfer to a nominee or in any other way;</p> <p>4. The person charged knowingly carries out the act, with knowledge of the purpose of the arrangement and the result/intended result.</p> <p>For S.13(2)(b) the key elements are:</p> <p>1. The act of entering into or becoming involved in an arrangement;</p> <p>2. 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;</p> <p>3. The person knowingly carries out the act, with knowledge of the purpose and the result/intended result of the arrangement.</p>	<p>5. For S.13(2)(b):</p> <p>(a) Identify the arrangement that the person charged allegedly entered into or became involved in, with evidence to show the precise nature and details of the arrangement and the person's involvement in the arrangement;</p> <p>(b) Clearly identify the funds or other property that are the subject of the offence;</p> <p>(c) Identify, with full evidence in support, the terrorist purpose, entity or proscribed organization which benefited or was intended to benefit from the funds or property, identify how and in what way the benefit was allegedly derived, and prove the connection between the actions of the person charged and the result/intended result;</p> <p>(d) Prove the required knowledge of the person charged, which must extend to the arrangement and his/her involvement in it, as well as the actual or intended purpose and result.</p> <p>6. While the scope of S.13 is extremely wide, the collection and presentation of the evidence is likely to be complex, and the prosecution must take particular care to present clear details with evidence in support to prove every aspect and element of the alleged offence.</p> <p>7. Possible types of evidence in support include oral evidence, banking and other financial records, written documents, property titles and records and electronic and telephone communications.</p>		

14. Dealing in terrorist property (section 14 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Dealing in terrorist property</p> <p>Minimum sentence: 20 years imprisonment</p> <p>Section 14 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with S.14 of the TPA as amended by section 8 of the TPAA, which remains in force and deals with the obligation to report suspicious transactions relating to terrorism)</p>	<p>S.14 requires investigators and prosecutors to prove that a person or entity who, knowingly:</p> <p>(a) deals, directly or indirectly, in any terrorist funds;</p> <p>(b) acquires or possesses terrorist fund[s];</p> <p>(c) enters into, or facilitates, directly or indirectly, any transaction in respect of [a] terrorist funds;</p> <p>(d) converts, conceals, or disguises terrorist funds or property; or</p> <p>(e) provides financial or other services in respect of terrorist fund[s] or property at the direction of a terrorist or terrorist group;</p> <p>commits an offence under the Act.</p> <p>The essential elements of the offence are:</p> <p>1. The act that the person or entity has carried out must be one of the acts set out in S.14(a)–(e), as listed above;</p> <p>2. That the services were provided at the direction of a terrorist or terrorist group;</p> <p>3. That the person or entity commits the act knowingly. The person or entity must therefore have knowledge that the funds or property that are the subject of the alleged offence are terrorist funds or property.</p>	<p>1. Evidence must be adduced to prove both elements of the offence, namely the act and the knowledge.</p> <p>2. Details of what the person charged is alleged to have actually done and how and when it was done should be clearly identified, with evidence in support.</p> <p>3. The funds or property that are the subject of the alleged offence must be clearly identified, as well as how they constitute terrorist funds or property, with supporting evidence.</p> <p>4. The link between the person or entity and terrorist funds must be firmly established and detailed, with evidence in support.</p> <p>5. The knowledge of the person charged must be identified and proved to show that the person knew that the funds or property that are the subject of the alleged offence are terrorist funds or property.</p> <p>6. The alleged act of giving direction to the person charged by a terrorist or terrorist group must be clearly identified (how, where and in what circumstances) and proved with evidence.</p> <p>7. Possible evidence in support of this offence includes oral evidence, property records, banking and financial records, written, electronic and telephone communications and real and circumstantial evidence.</p>	<p>1. Power to seize terrorist funds or property under S.12 of the TPA (as amended by section 6 of the TPAA).</p> <p>2. Power to make a provisional order to attach all monies and other property belonging to, or held on behalf, of the person charged under S.15(3) of the TPA (as amended by section 9 of the TPAA).</p> <p>3. For entities convicted of the offence: forfeiture of assets, funds or property; winding up of the entity; withdrawal of the practicing licence of the entity and its officers; and transfer of the entity's assets to the Federation account, under S.25(2) and (3) of the TPA (as set out in section 3 of the TPAA).</p> <p>4. Power of the court, following conviction, to order forfeiture of: (a) terrorist funds 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, under S.32(3) of the TPA (as set out in section 15 of the TPAA).</p>	<p>1. The text of S.14 is set out in section 3 of the TPAA. It should not be confused with S.14 of the TPA, as amended by section 8 of the TPAA, which remains in force and deals with the obligation to report suspicious transactions relating to terrorism.</p> <p>2. There are significant overlaps between this offence and other offences relating to terrorist financing under the TPA, including S.11 (as set out in section 3 of the TPAA) Incitement, promotion or solicitation of property for the commission of terrorist acts; S.13 (as set out in section 3 of the TPAA) Financing of terrorism; and S.10 (as set out in section 4 of the TPAA) Funds to support terrorism. Before choosing and drafting the charges, care should be taken to review the elements and applicability of each offence in line with the available evidence.</p> <p>3. "Terrorist property" is defined in S.40 of the TPA as amended by section 19 of the TPAA.</p> <p>4. S.14 applies to both individuals and other entities.</p> <p>5. S.14(2) sets out the following specific defence to this offence: "It is a defence for a person charged under subsection (1) of this section [S.14(1)] 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".</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
				<p>This raises the following issues:</p> <p>(a) Under S.14(1), the knowledge of the person or entity (that the funds or property that are the subject of the alleged offence are terrorist funds or property) is an element of the offence. If knowledge is not proved by the prosecution, the offence is not proved;</p> <p>(b) S.14(2) seeks to transfer the burden of proof from the prosecution to the person or entity to prove that he or she did not have such knowledge. As such S.14(1) and (2) are inconsistent;</p> <p>(c) As stated, prior knowledge is an element of this offence. However, S.14(2) seeks to extend this element of the offence to include having reasonable cause to suspect or believe that the arrangement relates to terrorist property. This is another inconsistency between S.14(1) and (2);</p> <p>(d) It is suggested that the correct approach is for the prosecution to adduce evidence to show that the person or entity has knowledge that the funds or property in question relate to terrorist property, in accordance with the wording of the actual offence as set out in S.14(1).</p> <p>6. Sources of evidence may include banking and financial institutions and telecommunication and internet service providers.</p>

15. Hostage taking (section 15 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Hostage taking</p> <p>Maximum sentence: life imprisonment</p> <p>Section 15 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with original section 15 of the TPA as amended by section 9 of the TPAA, which remains in force and relates to dealing in terrorist property)</p>	<p>S.15(1) requires investigators and prosecutors to prove that any person who knowingly:</p> <p>(a) seizes, detains or attempts to seize or detain;</p> <p>(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</p> <p>(c) gives an explicit or implicit condition for the release of the person held hostage;</p> <p>commits an offence under the Act.</p> <p>The elements of the offence to be proved are:</p> <p>1. The act of seizing, detaining, attempting to seize or detain, threatening to kill, injure or continue to detain another person in order to compel a third party to do or abstain from doing any act; or</p> <p>2. Giving an explicit or implicit condition for release of the person held hostage;</p> <p>3. The knowledge of the person charged must extend to both the act and the purpose.</p>	<p>1. Evidence must be adduced to prove each of the elements of the offence.</p> <p>2. Clearly identify and particularize exactly what the person charged is alleged to have done (where, when and how) and the alleged nature and involvement of the person in the offence, providing evidence in support of all alleged facts.</p> <p>3. The victim/intended victim and the third party must be identified with evidence in support.</p> <p>4. Details must be particularized and proved as to the purpose (what is the person charged allegedly seeking to compel the third party to do or abstain from?), and/or what are the conditions for the release of the hostage and what are the circumstances (when, where and how) in which the person charged has allegedly given the conditions for release. Evidence will be needed to support each of these details.</p> <p>5. The knowledge of the person charged must be proved; such knowledge must extend to both the commission of the act and the purpose (compelling a third party) and/or giving of the conditions for release of the hostage.</p> <p>6. Possible sources of evidence include oral evidence, pictures and videos and other surveillance materials and written, electronic or telephone communications.</p>	<p>1. Application for a warrant for terrorist investigation under S.24 of the TPA as set out in section 11 of the TPAA.</p> <p>2. Various other powers depending upon the circumstances of the offence and the available evidence.</p>	<p>1. The text of S.15 is set out in section 3 of the TPAA. It should not be confused with original S.15 of the TPA as amended by section 9 of the TPAA, which remains in force and relates to dealing in terrorist property.</p> <p>2. S.15(2) defines a “third party” to mean a state, an international governmental organization, a natural or legal person or a group of persons.</p> <p>3. There is an overlap between S.15 and S.1 of the TPA (as amended by section 2 of the TPAA), which specifically covers the act of kidnapping. However, there are significant differences between the elements of the two offences, such as the need to prove the consequence or intended consequence upon a country, a government or an international organization for offences under S.1 of the TPA. When formulating charges for kidnapping/hostage taking offences, care should be taken to consider each of the elements of the possible offences in light of the available evidence.</p> <p>4. In terms of the elements of this offence, S.15 does not require any connection to be proved to terrorists, terrorist organizations or acts of terrorism. As such, the scope of this offence is extremely wide and is not confined to hostage taking with intended terrorist consequences; for example it could be applicable to hostage taking in the context of piracy or organized crime or other non-terrorism contexts, provided that all the elements of the offence can be proved.</p> <p>5. A number of the other offences (such as S.8(1) and S.17 of the TPA as amended by section 3 of the TPAA) include references to offences under the TPA as part of the elements of the offence. As such, the wide scope of S.15 effectively and by implication expands the scope of the definition of terrorism. Nevertheless, in most circumstances in which there is no connection between the hostage taking and any terrorist offence, terrorist act or terrorist group, it is suggested that the most appropriate charge is likely to be under the general criminal law, subject to the circumstances of the case and available evidence.</p>

16. Membership of a terrorist group or proscribed organization (section 16 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Membership of a terrorist group or proscribed organization</p> <p>Minimum sentence: 20 years imprisonment</p> <p>Section 16 of the TPA as set out in section 3 of the TPAA</p>	<p>S.16 requires investigators and prosecutors to prove that:</p> <p>(1) Any person who is a member or professes to be a member of a terrorist group; or,</p> <p>(3) Any person who belongs or professes to belong to a proscribed organization;</p> <p>commits an offence under the Act.</p> <p>The elements to be proved are:</p> <p>1. That the person charged is a member or professes to be a member of the organization in question;</p> <p>2. That the organization in question is a terrorist group or a proscribed organization.</p>	<p>1. Evidence is required to prove the two key elements of the offence.</p> <p>2. There must be evidence to show that the person charged is a member or professes to be a member of the terrorist group or proscribed organization. This may be in the form of oral testimony of witnesses or of the person charged, supported by evidence that establishes clear links between the person charged and the activities or the operation of the organization, which, taking account of all the circumstances of the case, can be shown to amount to membership of the organization.</p> <p>3. Despite the attempt to shift the burden of proof to the person charged in relation to the defences under S.16(2) and (4) of the TPA, it is nevertheless incumbent upon the prosecution to adduce evidence to prove that the entity in question is a terrorist group or proscribed organization, to show when it became a terrorist group or proscribed organization, and to show when the person charged was a member or professed to be a member of the organization in question.</p> <p>4. The nature, time frame and level of the connection between the person charged and the terrorist group or proscribed organization should be clearly identified with evidence in support.</p>	<p>Application to a judge in Chambers to declare an entity to be a proscribed organization under S.2(1)(c) of the TPA.</p>	<p>1. The text of S.16 is set out in section 3 of the TPAA.</p> <p>2. There is considerable overlap and duplication between the offence under S.16(3) of the TPA (as set out in section 3 of the TPAA) and original S.2 of the TPA, which remains in force without amendment. The principal difference between the two sections is that original S.2 of the TPA refers to “belonging” to a proscribed organization and S.16(2) refers to being a “member” of a proscribed organization.</p> <p>3. The definition of a proscribed organization contained in S.40 of the original TPA has been amended by section 19 of the TPAA. The procedure for applying for an entity to be declared a proscribed organization is set out in original S.2 of the TPA.</p> <p>4. At present there is no list of proscribed organizations in Nigeria. Nigeria appears to proscribe organizations on a case-by-case basis.</p> <p>5. S.16(2) provides that it is a defence for a person charged with an offence under S.16(1) 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; or (b) professed to be a member of that entity; or that (c) he had not taken part in the activities of that entity, after it became a terrorist group.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
		<p>5. Possible evidence may include: a notice published in the official gazette declaring the entity in question to be a proscribed organization; oral testimony; written, electronic or telephone communications linking the person charged to known members of the proscribed organization; banking and financial records showing links to the proscribed organization; surveillance records; and membership and branding records.</p>		<p>6. S.16(4) provides that it is a defence for a person charged under S.16(3) to prove that the organization had not been declared a proscribed organization at the time the person charged became or began to profess to be a member of the organization and that he had not taken part in the activities of the organization at any time after it had been declared to be a proscribed organization.</p> <p>7. Sources of evidence may include internet and telecommunication service providers and banking and financial institutions, which may have records to show links between the person charged and a terrorist group or proscribed organization.</p>

17. Conspiracy (section 17 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Conspiracy</p> <p>Maximum sentence: life imprisonment (if the act of terrorism is committed): in circumstances where the act of conspiracy is committed (where there is no proof that the act of terrorism was committed), the minimum sentence is 20 years imprisonment</p> <p>Section 17 of the TPA as set out in section 3 of the TPAA</p>	<p>S.17 requires investigators and prosecutors to prove that any person who conspires with another to commit an offence under the 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 the Act;</p> <p>committed an offence under the Act.</p> <p>The elements are:</p> <ol style="list-style-type: none"> 1. The act of conspiring with another person; 2. For the purpose of committing an offence under the Act. 	<ol style="list-style-type: none"> 1. The prosecution must prove the conspiracy between two or more people, and that the purpose was to carry out an offence under the TPA as amended. 2. Full details of the alleged conspiracy and the alleged role and level of involvement of the person charged in the conspiracy should be clearly identified (where, when, how and what was agreed between whom) with evidence in support. 3. The offence that is the subject of the alleged conspiracy must be clearly identified with as much particularity as possible, and supported by evidence. Evidence should also be led as to whether the offence was actually committed. 4. Possible evidence may include oral testimony, surveillance evidence and written, electronic or telephone communications evidencing the conspiracy and its intended purpose. 	<p>Various ancillary powers may be applicable, depending upon the circumstances of the offence, the nature of the alleged conspiracy and the available evidence.</p> <p>It could be appropriate to apply for an interception of communication order under S.29 of the TPA (as set out in section 13 of the TPAA) in order to obtain evidence to show electronic or telephone communications relating to the alleged conspiracy.</p>	<ol style="list-style-type: none"> 1. The text of S.17 is set out in section 3 of the TPAA. 2. S.17 is also applicable to acts of conspiracy to commit a terrorist act in any place outside Nigeria provided that the terrorist act would have constituted an offence under the TPA if it had been carried out in Nigeria. 3. Proof of any form of conspiratorial agreement between the person charged and any other person is sufficient to constitute the conspiracy element of this offence. In addition, it will be necessary to prove that the purpose of the conspiracy is to commit an offence under the TPA. 4. S.34 of the Criminal Code of Nigeria provides that “a husband and wife of Christian marriage are not criminally responsible for a conspiracy between themselves alone”. However, the TPA is not subject to the provisions of the Criminal Code, and as such S.17 could be applicable to conspiracies between a husband and wife. 5. Possible sources of evidence may include internet and telecommunication service providers, which could show communications between the alleged conspirators.

18. Aiding and abetting (section 18 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Aiding and abetting</p> <p>Maximum sentence: life imprisonment if the act of terrorism is committed in circumstances where there is no proof that the act of terrorism was committed the minimum sentence is 20 years imprisonment</p> <p>Section 18 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with original section 18 of the TPA, which is still in force and deals with request[s] from foreign States)</p>	<p>S.18 requires investigators and prosecutors to prove that a person who knowingly, directly or indirectly:</p> <p>(a) aids and abets;</p> <p>(b) induces, incites, instigates, instructs;</p> <p>(c) counsels or procures another person by any means whatsoever to commit an act of terrorism;</p> <p>commits an offence under the Act.</p> <p>The elements of the offence to be proved are:</p> <p>1. That the person charged aids, abets, induces, incites, instigates, instructs, counsels or procures another person;</p> <p>2. That the person charged did this for the purpose of committing an act of terrorism. This requires a causal link between the act and the purpose.</p> <p>3. The person charged acts knowingly: the requirement of knowledge extends to both the act and the intended purpose.</p>	<p>1. Evidence must be adduced to prove each of the elements of the offence.</p> <p>2. The prosecution must clearly identify and particularize the following, providing evidence in support for each:</p> <p>(a) What is the person charged alleged to have done: aiding, abetting, inducing, inciting, instigating, instructing, counselling or procuring?</p> <p>(b) Exactly how is the person charged alleged to have carried out the act: what did the person allegedly do (including what the person allegedly said or wrote), how, where, when and with whom?</p> <p>(c) Who is the person who has been aided, abetted, induced, incited, instigated or instructed?</p> <p>(d) What is the actual or intended act of terrorism that is the subject of the alleged offence?</p> <p>(e) If it is alleged that the act of terrorism has been carried out, evidence must be led to this effect;</p> <p>(f) What is the causal link between what the person charged is alleged to have said or done, and the commission of the act of terrorism?</p> <p>(g) The knowledge of the person charged in relation to the act and the actual or intended purpose (commission of the act of terrorism) must also be established.</p> <p>3. Possible evidence may include: oral evidence; surveillance evidence; written, electronic or telephone communications with the person who has allegedly been aided, abetted, induced, incited, instigated or instructed, or with other persons involved in the act of terrorism; and real and forensic evidence of acts of terrorism that have been carried out.</p>	<p>Various ancillary powers may be applicable depending upon the circumstances of the offence and the available evidence.</p> <p>It will also depend on the act of terrorism which is being alleged and the nature and details of how the person charged is alleged to have aided and abetted the commission of the act of terrorism.</p>	<p>1. The text of S.18 is set out in section 3 of the TPAA. It should not be confused with original S.18 of the TPA, which remains in force and relates to request[s] from foreign States.</p> <p>2. There is an overlap between this offence and other offences in the act such as S.1 (as amended by section 2 of the TPAA) Prohibition of Acts of Terrorism, which specifically prohibits incitement and inducement. When formulating charges, care should therefore be taken to review the required elements of all applicable offences in line with the available evidence.</p> <p>3. Possible sources of evidence include telecommunication and internet service providers or other bank or financial institutions which may possess records that demonstrate a link between the person charged and other people involved in the offence or in the carrying out of the act of terrorism.</p>

19. Escape or aiding and abetting escape (section 19 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Escape or aiding and abetting escape</p> <p>Maximum sentence: life imprisonment</p> <p>Section 19 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with original section 19 of the TPA, which remains in force and deals with requests to foreign States)</p>	<p>S.19 requires investigators and prosecutors to prove that any person who:</p> <p>(a) being in lawful custody, escapes; or</p> <p>(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 provisions of the Act;</p> <p>commits an offence under the Act.</p> <p>For S.19(a) the elements to be proved are:</p> <ol style="list-style-type: none"> 1. That the person escaped; 2. That the person was in lawful custody at the time of the escape. <p>For S.19(b) the elements to be proved are:</p> <ol style="list-style-type: none"> 1. That the person charged aided, facilitated or abetted the escape of a person; 2. That the person in question was in the lawful custody of any law enforcement or security agency or was suspected of having committed an offence under the Act. 	<ol style="list-style-type: none"> 1. For S.19(a) (the offence of escape), evidence must be adduced to show the details of the escape (where, when and how) and to prove that the person charged was in lawful custody at the time of the escape. 2. For the offence of aiding, facilitating or abetting an escape under S.19(b), the prosecution must clearly identify exactly what the person charged is alleged to have done, providing full evidence in support: this should include details of the alleged actions and steps taken by the person charged, details of the precise nature and level of support and details of how the actions of the person charged enabled the escape to take place. In addition, evidence must be adduced to show that the person who escaped was in the lawful custody of a law enforcement or security agency at the time of the escape, or that he was suspected of having committed an offence under the TPA. 3. In order to prove lawful custody, evidence should be sourced in relation to all applicable court orders, custody records and records of arrest and detention. 4. In order to prove that an escapee was suspected of having committed an offence under the TPA, details of the alleged offence must be identified and evidence must be led to prove the suspicion (as well as evidencing the basis of that suspicion), which could include evidence provided by the investigating officers. 5. Possible evidence will therefore include oral evidence (including the evidence of witnesses to the escape and law enforcement, security agency and correctional service officers), court orders, records of arrest and detention, custody records, real evidence relating to the escape and written, electronic or telephone communications between the person charged and witnesses to the escape. 	<p>Various ancillary powers may be applicable depending upon the circumstances of the offence and the available evidence.</p>	<ol style="list-style-type: none"> 1. The text of S.19 is set out in section 3 of the TPAA. It should not be confused with original S.19 of the TPA, which remains in force and relates to requests to foreign States. 2. The offence of escaping from lawful custody under S.19(a) does not include any terrorist-related elements. Likewise, the offence of aiding, facilitating or abetting the escape of a person who is in the lawful custody of any law enforcement or security agency is not restricted to terrorism-related detainees. The only explicit reference to terrorism is the criminalizing under S.19(b) of aiding, facilitating or abetting the escape of a person suspected to have committed an offence under the TPA. Nevertheless, it is suggested that this offence should only be charged if there is a terrorism link and that, in other circumstances, other criminal laws of Nigeria should be used. 3. Possible sources of evidence include: law enforcement and security agencies or correctional services that may be able to give evidence as to the circumstances of the escape and whose records may indicate the lawfulness of the detention.

20. Attempt to commit an offence under this Act (section 20 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Attempt to commit an offence under this Act</p> <p>Maximum sentence: life imprisonment</p> <p>Section 20 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with original section 20 of the TPA, which remains in force and deals with evidence pursuant to a request)</p>	<p>S.20(t) requires investigators and prosecutors to prove that any person attempted to commit any offence under the Act.</p> <p>The additional elements to be proved depend upon the elements of the offence that the person charged is alleged to have attempted to commit.</p>	<ol style="list-style-type: none"> 1. The prosecution must: identify the offence that the person charged is alleged to have attempted to commit; demonstrate, with full evidence in support, exactly what the person charged is alleged to have done (what acts were carried out, the extent and nature of the involvement of the person charged in the attempt, where, when, how and with whom); and show how the actions of the person charged, as indicated by the evidence, constitute an attempt to commit the offence. 2. Additional points to prove will depend upon the elements of the offence that the person charged is alleged to have attempted to commit. 3. In proving the attempt, it is important to adduce evidence to show the knowledge and intent of the person charged. 4. In order to prove the attempt to commit an offence, it is necessary to show that the actions of the person charged were more than merely preparatory to the commission of the offence (preparatory acts are criminalized under S.21 of the TPA as set out in section 3 of the TPAA). 5. The actual evidence to support an offence under S.20 will depend upon the offence that the person charged is alleged to have attempted to commit and the nature of the attempt. 	<p>Various ancillary powers may be applicable depending upon the circumstances of the offence and the available evidence.</p> <p>It will also depend on the offence that has been attempted and the nature of the attempt. As S.20 applies to any offence under the Act, the scope of the applicable ancillary powers could be very wide.</p>	<ol style="list-style-type: none"> 1. The text of S.20 is set out in section 3 of the TPAA. It should not be confused with original S.20 of the TPA, which remains in force and relates to evidence pursuant to a request. 2. In circumstances where a person is charged with any offence under the Act and the evidence establishes an attempt to commit the offence, the person charged may be convicted of attempting to commit the offence (S.20(2)). 3. Conversely, where a person is charged with an attempt to commit an offence under the 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 (S.20(3)). 4. There is an overlap between S.20 and S.1 of the TPA as amended by section 2 of the TPAA (Prohibition of Acts of Terrorism), which specifically refers, in S.1(2)(a), to attempting any act of terrorism. When formulating charges for offences of attempt, the elements to be proved under each of these sections should be reviewed in line with the available evidence. 5. Possible sources of evidence will depend upon the offence that the person charged is alleged to have attempted to commit and the nature of the attempt.

21. Preparation to commit terrorist acts (section 21 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Preparation to commit terrorist acts</p> <p>Maximum sentence: life imprisonment</p> <p>Section 21 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with original section 21 of the TPA, which remains in force and deals with forms of requests)</p>	<p>S.21 requires investigators and prosecutors to prove that 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 under the Act.</p>	<p>1. The prosecution must:</p> <p>(a) Identify the act of terrorism, with as much specificity as possible and with evidence in support, that the person charged is alleged to have engaged or assisted in preparing to commit;</p> <p>(b) Demonstrate, with full evidence in support, exactly what the person charged is alleged to have done (what acts were carried out, the extent and nature of the person's involvement, where, when, how and with whom); and</p> <p>(c) Show how the actions of the person charged, as indicated by the evidence, constitute engagement or assistance in conduct preparatory to the commission of an act of terrorism;</p> <p>(d) Adduce evidence to show the knowledge and intent of the person charged.</p> <p>2. Additional points to prove will depend upon the act of terrorism (and the elements of the applicable offences relating to the act of terrorism) in respect of which the person charged is alleged to have engaged or assisted in preparatory acts.</p> <p>3. The actual evidence to support an offence under S.21 will depend upon the act of terrorism for which the person charged is alleged to have engaged in preparatory acts, including the nature of the alleged actions and involvement of the person charged. With regard to offences for which it is alleged that the person charged has assisted another person, written, electronic and telephone communications between the person charged and the person assisted and/or records of financial transactions between them may be relevant.</p>	<p>Various ancillary powers may be applicable, depending on the circumstances of the offence and the available evidence.</p>	<p>1. The text of S.21 is set out in section 3 of the TPAA. It should not be confused with original S.21 of the TPA, which remains in force and relates to forms of requests.</p> <p>2. There is an overlap between S.21 and S.1 of the TPA as amended by section 2 of the TPAA (Prohibition of Acts of Terrorism), which specifically refers, in S.1(2)(b), to committing acts preparatory to an act of terrorism and, in S.1(2)(d) and S.1(2)(f), to assisting persons and organizations engaged in an act of terrorism. When formulating charges for offences involving preparatory acts or the giving of assistance, the elements to be proved under each of these sections should be carefully reviewed in light of the available evidence.</p> <p>3. Possible sources of evidence will depend on the act of terrorism in which the person charged is alleged to have engaged or assisted in preparing to commit, and the nature of the alleged preparation or assistance.</p>

22. Unlawful assumption of character of offence/sentence of any law enforcement or security agency (section 22 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Unlawful assumption of character of officer of any law enforcement or security agency</p> <p>Minimum sentence: 5 years imprisonment</p> <p>Section 22 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with original section 22 of the TPA, which remains in force and deals with extradition)</p>	<p>S.22 requires investigators and prosecutors to prove that any person who, with intent to deceive, unlawfully assumes the name, character or designation of an officer of any law enforcement or security agency;</p> <p>commits an offence under the Act.</p> <p>The elements of the offence are:</p> <p>1. The act of unlawfully assuming the name or character or designation of an officer of any law enforcement or security agency.</p> <p>2. The person charged commits an offence under the Act with intent to deceive.</p>	<p>1. Evidence must be adduced to prove each element of the offence.</p> <p>2. The prosecution must:</p> <p>(a) Identify the officers whose name, character and designation were allegedly assumed by the person charged, together with the agency to which the officers belonged, providing evidence in support. Evidence may include oral evidence of the officers in question and the agency's written records;</p> <p>(b) Set out exactly what the person charged is alleged to have done (what actions did the person take, where, when, how and with whom), providing evidence in support. This evidence may be in the form of oral testimony or other evidence, such as photograph and video evidence, uniforms and written documentation.</p> <p>(c) Demonstrate, based on the evidence, how the actions of the person charged amount to assuming the name, character or designation of an officer of a law enforcement or security agency;</p> <p>(d) Prove that the person charged acted unlawfully: evidence may include the records of the law enforcement and/or security agencies;</p> <p>(e) Prove the intent of the person charged to deceive, for example, by adducing evidence of the purpose of the person's acts. This evidence may include oral testimony or written, electronic or telephone communications from the person charged, or other circumstantial evidence.</p> <p>3. Possible evidence may include oral testimony, real evidence, written records of the law enforcement or security agency, video and photographic evidence, written, electronic or telephone communications and circumstantial evidence.</p>	<p>Various ancillary powers may be applicable, depending on the circumstances of the offence and the available evidence.</p>	<p>1. The text of S.22 is set out in section 3 of the TPAA. It should not be confused with original S.22 of the TPA, which remains in force and relates to extradition.</p> <p>2. It is not necessary to show any connection to terrorism/terrorist acts/terrorist organizations to prove the elements of this offence based on the wording of the offence, although it is suggested that prosecutors should only charge a person under S.22 if there is a link to terrorism, and that in all other circumstances the existing criminal law of Nigeria should be used.</p> <p>3. Sources of evidence include the relevant law enforcement and security agencies of the officers whose name, character or designation were allegedly assumed by the person charged.</p>

23. Tampering with evidence and witness[es] (section 23 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Tampering with evidence and witness[es]</p> <p>Minimum sentence: 5 years imprisonment</p> <p>Section 23 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with original section 23 of the TPA, which remains in force and relates to the exchange of information relating to terrorist groups and terrorist acts)</p>	<p>S.23 requires investigators and prosecutors to prove that a person who tampers with:</p> <p>(a) a witness by intimidation, threats, blackmail or similar acts; or</p> <p>(b) evidence or exhibit by falsification, conversion, destruction or forgery;</p> <p>commits an offence under the Act.</p> <p>The elements of the offences to be proved for S.23(a) are:</p> <p>1. The act of tampering with a witness;</p> <p>2. Method: by intimidation, threats, blackmail or similar acts.</p> <p>The elements of the offence to be proved for S.23(b) are:</p> <p>1. The act of tampering with evidence or an exhibit;</p> <p>2. By falsification, conversion, destruction or forgery.</p>	<p>1. Evidence must be adduced to prove each element of the offence.</p> <p>2. The prosecution must:</p> <p>(a) Identify the witness, evidence or exhibit that the person charged allegedly tampered with, together with evidence in support;</p> <p>(b) Set out exactly what the person charged is alleged to have done (what actions did the person take, where, when, how and with whom), providing evidence in support, and demonstrate how these actions amount to tampering;</p> <p>(c) Adduce evidence to show how the actions of the person charged amount to intimidation, threats, blackmail, falsification, coercion, destruction or forgery.</p> <p>3. Possible evidence includes: oral evidence; documentary evidence; real evidence (exhibits); and written, electronic and telephone communications.</p>	<p>1. Power of the law enforcement or security agency to take all reasonable measures to protect the identity and life of any witness who has been intimidated, threatened or blackmailed, under S.33 of the TPA (as set out in section 13 of the TPAA).</p> <p>2. Power of the court to make orders or directions for the protection of witnesses, under S.34 of the TPA (as set out in section 13 of the TPAA).</p>	<p>1. The text of S.23 is set out in section 3 of the TPAA. It should not be confused with original S.23 of the TPA, which remains in force and relates to exchange of information relating to terrorist groups or terrorist acts.</p> <p>2. It is not necessary to show any connection to terrorism/terrorist acts/terrorist organizations to prove the elements of this offence based on the wording of the offence. It is, however, suggested that prosecutors should charge a person under S.23 only if there is a link to terrorism, and that in all other circumstances the existing criminal law of Nigeria should be used.</p> <p>3. Sources of evidence will include law enforcement and security agencies and, possibly, internet and telecommunication providers in cases where threats have been communicated by e-mail or by telephone.</p>

24. Obstruction of any officer of a law enforcement or security agency (section 24 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/ elements	Evidence required	Ancillary powers	Notes
<p>Obstruction of any officer of a law enforcement or security agency</p> <p>Minimum sentence: 5 years imprisonment</p> <p>Section 24 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with section 24 of the TPA as set out in section 11 of the TPAA, which deals with the issuance of warrant for terrorist investigation)</p>	<p>S.24(1) requires investigators and prosecutors to prove that any person who:</p> <p>(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 the Act; or</p> <p>(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 the Act;</p> <p>commits an offence under the Act.</p> <p>S.24(2) requires investigators and prosecutors to prove that any person who:</p> <p>(a) refuses any officer of 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 the Act;</p> <p>(b) assaults, or obstructs any officer of the relevant law enforcement or security agency in the execution of his duty under the Act; or</p>	<p>1. For offences under S.24(1)(a) the prosecution must:</p> <p>(a) Identify the officer who was allegedly obstructed and prove that the officer was authorized and was an officer of a relevant law enforcement or security agency: evidence may include oral evidence of the officer in question and/or his or her superiors and documentary evidence of the agency;</p> <p>(b) Identify the powers that the officer was exercising at the time of the alleged obstruction and show the provisions of the Act from which those powers were derived: evidence may include oral evidence of the officer and/or his or her superiors, documentation and records from the agency and court orders;</p> <p>(c) Set out exactly what the person charged is alleged to have done (what actions did the person take, where, when, how and with whom, and under what circumstances), providing evidence in support, and demonstrate how such actions amount to obstructing the identified officer in the exercise of the identified powers under the Act: evidence may include oral evidence of the officer and other witnesses;</p> <p>(d) Adduce evidence to show that the person charged acted willfully: this could be oral evidence of the person charged or witnesses or from electronic or telephone communications of the person charged.</p> <p>2. For offences under S.24(1)(b) the prosecution must:</p> <p>(a) Identify the relevant officer and prove that the officer was authorized: evidence may include oral evidence of the officer in question and/or his or her superiors and documentary evidence of the agency;</p> <p>(b) Identify the enquiry or request for information made by the officer, show that the enquiry or request was lawful, and identify the provisions of the Act in accordance with which the enquiry or request was made: evidence may include oral evidence of the officer and/or his or her superiors, documentation and records from the agency and court orders;</p>	<p>Powers of law enforcement and security agencies in S.1(a)(iii)–(vi) of the TPA (as set out in section 2 of the TPAA).</p> <p>See also S.40 of the TPA as amended by section 19(c) of the TPAA, which sets out the definition of law enforcement and security agencies.</p>	<p>1. The text of S.24 is set out in section 3 of the TPAA. It should not be confused with S.24 set out in section 11 of the TPAA, which relates to the issuance of warrant for terrorist investigations.</p> <p>2. The offences under this section are very wide-ranging in their scope and cover multiple different factual scenarios. When formulating charges, it is important to consider carefully the offences and their respective elements in each of the subsections in light of the available evidence.</p> <p>3. There is also considerable overlap between the offences in the various subsections such as S.24(1)(a) (obstructing an officer in exercise of any of the powers conferred by the Act) and S.24(2)(b) (obstructing an officer in the execution of his duty under the Act). Prosecutors should be aware and should take into account these overlaps and the material differences in the respective offences when formulating charges under this section.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>(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 the Act or any other law prohibiting terrorism has been or is being committed, or which is liable to seizure under the Act;</p> <p>commits an offence under the Act</p> <p>S.24(3) requires investigators and prosecutors to prove that the person charged:</p> <p>(a) discloses to another anything which is likely to prejudice a terrorist investigation; or</p> <p>(b) interferes with material that is likely to undermine a terrorist investigation, or likely to be relevant to a terrorist investigation;</p> <p>commits an offence under the Act.</p> <p>S.24 criminalizes seven different sets of circumstances set out in its various subsections. The elements of the offences set out in each of the subsections are:</p> <p>i. For S.24(1)(a):</p> <p>(i) The willful act of obstruction by any person of the exercise of the powers of any authorized officer of a relevant enforcement or security agency;</p> <p>(ii) The officer is obstructed in the exercise of any of the powers conferred under the Act;</p>	<p>(c) Set out exactly what the person charged is alleged to have done (what actions did the person take and/or fail to take, where, when, how and with whom, and under what circumstances), providing evidence in support, and demonstrate how these actions amount to failing to comply with the enquiry or request of the officer: evidence may include oral evidence of the officer and other witnesses.</p> <p>3. For offences under S.24(2)(a) the prosecution must:</p> <p>(a) Identify the relevant officer and his or her agency and prove that the officer was an authorized officer of the law enforcement or security agency in question: evidence could include oral evidence of the officer in question and documentary evidence of the agency;</p> <p>(b) Identify the search that the officer was seeking to carry out at the time of the alleged offence. For searches of premises, identify the premises in question. Prove the officer's authority to conduct the search with reference to the applicable provisions of the Act: evidence may include oral evidence of the officer and/or his or her superiors, documentation and records from the agency and court orders;</p> <p>(c) Set out exactly what the person charged is alleged to have done (what actions did the person take and/or fail to take, where, when, how and with whom, and under what circumstances), providing evidence in support, and demonstrate how such actions amount to refusing access to premises or failure to submit to a search: evidence could include oral evidence of the officer and other witnesses.</p> <p>4. For offences under S.24(2)(b) the prosecution must:</p> <p>(a) Identify the relevant officer and his or her agency: evidence could include oral evidence of the officer in question and/or his or her superiors and documentary evidence of the agency;</p> <p>(b) Identify the duty the officer was exercising (as well as the applicable enabling provisions under the Act) at the time the alleged offence took place: evidence may include oral evidence of the officer and/or his or her superiors, documentation and records from the agency and court orders;</p>		<p>4. S.24(1)(a) is the only subsection of S.24 that specifies a mental element to the offence, namely the requirement that the person charged acts willfully. Nevertheless, it is arguable that the requirement of willfulness applies to all the offences in S.24 and it is therefore best practice for prosecutors to seek to adduce evidence to prove the person charged acted willfully with regard to offences under all subsections.</p> <p>5. S.24(4) sets out the following defence for offences under S.24(3): "It is a defence for a person charged with an offence under subsection (3) [S.24(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". Knowledge and/or reasonable suspicion on the part of the person charged is an element of the offences under S.24(3). S.24(4) seeks to shift the burden of proof to the person charged to prove lack of knowledge or reasonable suspicion. Nevertheless, and on the basis that knowledge and/or reasonable suspicion is an element of the offences under S.24(3), prosecutors are advised to identify evidence to indicate the knowledge and/or reasonable suspicion of the person charged.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>(iii) The person charged acts willfully: there must be an intention on the part of the person charged to obstruct the officer in the exercise of his or her powers.</p> <p>2. For S.24(1)(b):</p> <p>(i) Failure to comply with any lawful enquiry or request for information made by any authorized officer in accordance with the provisions under the Act;</p> <p>(ii) The enquiry or request is made by the officer in accordance with the provisions of the Act.</p> <p>3. For S.24(2)(a):</p> <p>(i) The act of refusing an officer of a law enforcement or security agency access to premises or failure to submit to a search;</p> <p>(ii) The officer is authorized to conduct the search under the Act (the wording of the Act only refers to authority to conduct a search of the person charged. It is suggested, nevertheless, that any request for access to premises must also be authorized under the Act in order to fall within S.24(2)(a).</p> <p>4. For S.24(2)(b):</p> <p>(i) The act of assaulting or obstructing an officer of a law enforcement or security agency;</p> <p>(ii) The assault or obstruction of the officer takes place in the exercise of the officer's duty under the Act.</p>	<p>(c) Set out exactly what the person charged is alleged to have done (what actions did the person take, where, when, how and with whom, and under what circumstances), providing evidence in support, and demonstrate how such actions amount to assault or obstruction of the identified officer while exercising the identified duty under the identified provisions of the Act: evidence could include oral evidence of the officer and other witnesses, medical evidence of the assault, etc.</p> <p>5. For offences under S.24(2)(c) the prosecution must:</p> <p>(a) Identify the relevant officer and his or her agency: evidence could include oral evidence of the officer in question and/or his or her superiors and documentary evidence of the agency;</p> <p>(b) Identify the offence under the Act or other law prohibiting terrorism (specifying the act and the relevant sections) that it is alleged has been or is being committed, as well as proving the belief and/or suspicion of the officer in question as to the committing of the offence, and the basis of that belief and/or suspicion OR proving that the items in question are liable to seizure under the Act (specifying the applicable provisions of the Act): evidence may include the evidence of the relevant officer, agency records and reports, oral evidence of the officer's superiors and court orders;</p> <p>(c) Identify the books, documents, information, storage system or articles that are the subject matter of the dispute, and prove their connection and relationship to the offence under the Act or other law prohibiting terrorism which the officer suspects has been or is being committed OR prove that the items in question are liable to seizure under the identified provisions of the Act: evidence may include real evidence (the items in question), oral evidence or any written or electronic documents that confirm the connection between the items and the offence and court orders;</p> <p>(d) Set out exactly what the person charged is alleged to have done (what actions did the person take or not take, where, when, how and with whom, and under what circumstances), providing evidence in support, and demonstrate how such actions amount to failing to produce, concealing or attempting to conceal the items that are the subject matter of the offence: evidence may include oral evidence of the officer and other witnesses and written, electronic or telephone communications.</p>		<p>6. Sources of evidence will include officers of law enforcement and security agencies, and possibly telecommunication and internet service providers if it is suspected that electronic documents have been concealed or interfered with.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>5. For S.24(2)(c):</p> <p>(i) The act of failing to produce or concealing or attempting to conceal from an officer of the relevant law enforcement or security agency, any book, document, information storage system or article;</p> <p>(ii) The officer has reasonable grounds to suspect or believe that an offence under the Act or any other terrorism law has been or is being committed;</p> <p>(iii) The book, document, information storage system or article in question relates to the suspected offence;</p> <p>OR</p> <p>(iv) The book, document, information storage system or article in question is liable to seizure under the Act (in which case there is no requirement to prove the elements set out in S.24(2)(c)(ii) and (iii) above relating to reasonable suspicion or the relationship between the article and the suspected offence).</p> <p>6. For S.24(3)(a):</p> <p>(i) The act of disclosure to another person;</p> <p>(ii) The disclosure is likely to prejudice a terrorist investigation;</p> <p>(iii) The person charged must have knowledge, or reasonable grounds to suspect, that the disclosure is likely to prejudice a terrorist investigation.</p>	<p>6. For offences under S.24(3)(a) the prosecution must:</p> <p>(a) Identify what has allegedly been disclosed by the person charged, with evidence in support: evidence may include oral evidence or written, electronic or telephone communications that contain disclosure;</p> <p>(b) Identify the terrorist investigation that has been prejudiced: evidence may include the evidence of officers of law enforcement and security agencies and agency documents;</p> <p>(c) Clearly evidence the prejudice to the terrorist investigation that has been caused by the alleged disclosure of the person charged: evidence may include oral evidence from officers of law enforcement and security agencies, agency investigation records and documentation;</p> <p>(d) Identify to whom the disclosure of the person charged has allegedly been made: evidence may include oral evidence or written, electronic or telephone communications between the person charged and the recipient of the disclosure;</p> <p>(e) Set out what the person charged is alleged to have done (what did the person do, where, when, how and under what circumstances), providing evidence in support, and demonstrate how the actions of the person charged amount to disclosure: evidence may be oral evidence or written, electronic or telephone communications;</p> <p>(f) As stated in the notes section, it is also recommended that the prosecution should seek to identify evidence that tends to indicate that the person charged had knowledge, or reasonable cause to suspect that his or her disclosure was likely to affect the terrorist investigation: evidence may be oral evidence or written, electronic or telephone communications that tend to indicate the required knowledge or reasonable cause for suspicion.</p> <p>7. For offences under S.24(3)(b) the prosecution must:</p> <p>(a) Identify the material that has allegedly been interfered with by the person charged: evidence may include oral evidence, real evidence (the material) and written or electronic records relating to the material;</p> <p>(b) Identify the terrorist investigation that is the subject of this offence: evidence may include the evidence of officers of law enforcement</p>		

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>7. For S.24(3)(b):</p> <p>(i) The act of interfering with material;</p> <p>(ii) The effect of the interference: the interference is likely to undermine a terrorist investigation, or is likely to be relevant to a terrorist investigation;</p> <p>(iii) The person charged must have knowledge, or reasonable grounds to suspect that the interference is likely to affect a terrorist investigation (S.24(4) is ambiguous as to whether the requirement of knowledge/reasonable grounds for suspicion applies to both S.24(3)(a) and (b): it is nevertheless suggested that prosecutors should seek to prove the requirement in relation to both sub-sections).</p>	<p>(c) Clearly evidence how the terrorist investigation has been undermined or otherwise affected by the alleged interference of the person charged: evidence may include oral evidence from officers of law enforcement and security agencies, agency investigation records and documentation;</p> <p>(d) Set out exactly what the person charged is alleged to have done (what did the person do, where, when, how and under what circumstances), providing evidence in support, and demonstrate how the actions of the person charged amount to interference with the identified material: evidence may be oral evidence or written, electronic or telephone communications;</p> <p>(e) As stated in the notes column, it is also recommended that the prosecution should seek to identify evidence that tends to indicate that the person charged had knowledge, or reasonable cause to suspect that his or her interference was likely to affect the terrorist investigation: evidence may be oral evidence or written, electronic or telephone communications that tend to indicate the required knowledge or reasonable cause for suspicion.</p>		

25. Offences by an entity (section 25 of the TPA as set out in section 3 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Offences by an entity</p> <p>Maximum sentence: life imprisonment</p> <p>Section 25 of the TPA as set out in section 3 of the TPAA</p> <p>(Not to be confused with section 25 of the TPA as set out in section 12 of the TPAA, which deals with investigation and search without warrant)</p>	<p>S.25(1) requires investigators and prosecutors to prove that an offence under the Act committed by an entity has 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.</p> <p>The basic elements of the offence are:</p> <ol style="list-style-type: none"> 1. That an offence under the Act has been committed by an entity; 2. The offence was committed on the instigation or with the connivance of, or is attributable to any neglect on the part of the person charged who is a director, manager, secretary of the entity or a person purporting to act in such capacity; 3. That the person liable to punishment has knowledge of the offence and did not exercise all due diligence to prevent the commission of such offence. 	<ol style="list-style-type: none"> 1. Evidence must be adduced to prove each of the key elements of the offence. 2. Evidence required to show that the entity has been convicted of an offence under the Act, such as a certificate of conviction or court records. 3. Identify, with evidence, the status of the person charged in relation to the entity, namely director, manager or secretary, or person purporting to act as such: evidence may include company documentation and records; written, electronic and telephone communications and oral evidence. 4. Set out exactly what the person charged is alleged to have done (what did the person do or fail to do, where, when, how and under what circumstances), providing evidence in support, and demonstrate how the actions of the person charged amount to instigation, connivance or neglect leading to the commission of the offence by the entity: evidence may include oral evidence, company records and documentation or written, electronic or telephone communications. 5. As stated in the notes column, it is also recommended that the prosecution seek to identify evidence that tends to indicate that the person charged had knowledge and/or lack of due diligence in relation to the commission of the offence by the entity: evidence may be oral evidence, written, electronic or telephone communications or company documentation that tend to indicate the required knowledge and/or lack of due diligence. 6. Company records, accounts and documentation, banking, financial and accounting records, written and electronic communications on behalf of the company are all likely to be of key significance in proving an offence under S.25. 	<ol style="list-style-type: none"> 1. Forfeiture of any assets, funds or property used or intended to be used in the commission of an offence/order to wind up the entity/withdraw the practice licence of the entity and its principal officers or both (S.25(2) as set out in section 3 of the TPAA). 2. Where the Court orders the entity to be wound up, its assets and properties shall be transferred to the Federation Account (S.25(3) as set out in section 3 of the TPAA). 	<ol style="list-style-type: none"> 1. The text of S.25 is set out in section 3 of the TPAA. It should not be confused with S.25 of the TPA set out in section 12 of the TPAA, which deals with investigation and search without warrant. 2. S.25(4) sets out the following defence: “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”. This subsection seeks to shift the burden of proof to the person charged to prove due diligence/lack of knowledge. Nevertheless, and on the basis that knowledge and/or lack of due diligence is an element of the offence under S.25(1), prosecutors are recommended to adduce evidence to indicate the knowledge and/or lack of due diligence of the person charged. 3. Sources of evidence will depend on the offence under the Act that has been committed by the entity, but may include company and property registries, financial and banking institutions and internet and telecommunication service providers.

26. International terrorism (section 9(6)(d) of the TPA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>International terrorism</p> <p>Maximum sentence: 5 years imprisonment</p> <p>Section 9 of the TPA, which remains in force without amendment</p> <p>(Not to be confused with section 9 set out in section 3 of the TPAA, which deals with the provision of devices to a terrorist)</p>	<p>Section 9(6)(d) of the TPA requires investigators and prosecutors to prove that the person charged has contravened any regulation under S.9(6)(a), (b) or (c) of the TPA.</p> <p>The basic elements are:</p> <ol style="list-style-type: none"> 1. The Attorney-General of the Federation has made regulations under S.9(6)(a), (b) and (c) of the TPA. 2. The actions of the person charged contravene the regulations made by the Attorney-General of the Federation. 	<ol style="list-style-type: none"> 1. It will be necessary to identify the specific regulation made by the Attorney-General of the Federation that the person charged is alleged to have contravened, and to show when it came into force. 2. The prosecution must identify, with evidence in support, what the person charged is alleged to have done (what actions were done, where, when, how and with whom) and demonstrate how the actions of the person charged constitute a contravention of the identified regulations. 3. This offence specifically relates to international terrorists and international terrorist groups: evidence should therefore be adduced to indicate that the person charged is, for example, a suspected international terrorist (see S.9(1)–(4) of the TPA). 4. Possible evidence for this offence may include oral evidence, real evidence, banking and financial records and written, electronic or telephone communications. 	<ol style="list-style-type: none"> 1. Power of the Attorney-General of the Federation to make regulations in relation to international terrorists and international terrorist organizations under S.9(6)(a), (b) and (c) of the TPA. 2. Power of the President to make declarations in relation to suspected international terrorists and international terrorist organizations under S.9(1)–(4) of the TPA. 	<ol style="list-style-type: none"> 1. This is original S.9 of the TPA, which remains in force without amendment. It should not be confused with S.9 set out in section 3 of the TPAA, which deals with the provision of devices to a terrorist. 2. Offences under S.9(6) specifically relate to international terrorists and international terrorist groups. 3. This offence relates to contravening regulations under S.9(6)(a), (b) and (c) of the TPA. Under those subsections, the Attorney-General of the Federation may, with respect to any suspected international terrorist or an international terrorist group, make regulations to provide: <ul style="list-style-type: none"> (a) for the freezing of his or its funds, financial assets or other economic resources, including proceeds derived from property, owned or controlled directly or indirectly by him or it, by persons acting on his or its behalf or at his or its direction; (b) for the prevention of his or its entry into, or transit in, Nigeria; (c) for the prohibition of the direct or indirect supply, sale and transfer of arms, weapons, ammunitions, military vehicles and equipment, paramilitary equipment, spare parts and related material, technical advice, assistance or training related to military activities. 4. There is potential overlap between this offence and other offences under the Act, including S.5 (as set out in section 3 of the TPAA) Soliciting and giving support to terrorist groups for the commission of terrorist [acts]; S.7 (as set out in section 3 of the TPAA) Provision of training and instruction to terrorist groups or terrorists; S.9 (as set out in section 3 of the TPAA) Provision of devices to a terrorist; and S.14 (as set out in section 3 of the TPAA) Dealing in terrorist property.

27. Funds to support terrorism (section 10 of the TPA as set out in section 4 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Funds to support terrorism</p> <p>Minimum sentence for individuals: 10 years imprisonment.</p> <p>Minimum fine for corporate bodies: ₦100,000,000</p> <p>Section 10 of the TPA as set out in section 4 of the TPAA</p> <p>(Not to be confused with S.10 of the TPA as set out in section 3 of the TPAA, which deals with recruitment of persons to be members of terrorist groups or to participate in terrorist acts)</p>	<p>S.10(1) requires investigators and prosecutors to prove that 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:</p> <p>(a) finance a terrorist or terrorist organization;</p> <p>(b) commit an offence in breach of an enactment specified in the schedule to the Act; or</p> <p>(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;</p> <p>commits an offence under the Act.</p> <p>The elements of the offence to be proved are:</p> <p>1. That the person charged has directly or indirectly, provided, solicited or collected any fund or has attempted to provide, solicit or collect any fund;</p>	<p>1. The funds that are the subject of the alleged offence must be clearly identified with evidence in support: evidence may include financial and banking records, internal company records and accounts and communications.</p> <p>2. The purpose for which the funds were used/intended must be identified and fully particularized, with evidence in support. For S.10(1)(a) the terrorist or terrorist group that is the alleged recipient/intended recipient of the funds should be identified; for S.10(1)(b) the offence must be identified with particularity, together with the applicable provision set out in the schedule to the Act; and for S.10(1)(c) full particulars should be identified and provided of the act carried out or intended to be carried out, including the intended civilian target/victims and the intended overall purpose (intimidation/compelling a government or international organization): evidence may include oral evidence, written, electronic and telephone communications and banking transactions.</p> <p>3. The prosecution should identify, with evidence in support, what the person charged is alleged to have done (what steps and actions were taken by the person, when, where, how and with whom) and demonstrate how the actions of the person charged amount to providing, soliciting or collecting funds, or attempting to provide, solicit or collect funds: evidence may include banking and financial records, company accounts and internal documentation and written, electronic and telephone communications.</p>	<p>1. The prosecution of the principal officers of the corporate body who are, on conviction, liable to imprisonment for a term of not less than ten years (S.10(1)(c)(ii)).</p> <p>2. The winding up of the corporate body and prohibition from its reconstitution or incorporation under any form or guise (S.10(1)(c)(iii)).</p> <p>3. Power to seize terrorist funds or property under S.12 of the TPA (as amended by section 6 of the TPAA).</p> <p>4. Power to make a provisional order to attach all monies and other property belonging to or held on behalf of the person charged under S.15(3) of the TPA (as amended by section 9 of the TPAA).</p> <p>5. Power of the court, following conviction, to order the forfeiture of any terrorist fund[s] with accrued interest and/or terrorist property (under S.32(3) of the TPA as set out in section 15 of the TPAA).</p>	<p>1. The text of S.10 is set out in section 4 of the TPAA. It should not be confused with S.10 of the TPA as set out in section 3 of the TPAA, which deals with recruitment of persons to be members of terrorist groups or to participate in terrorist acts.</p> <p>2. S.10(2) provides that “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 organization is located; or, (b) the terrorist act occurred or is planned to occur”.</p> <p>3. S.10(3) provides that: “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.” It will suffice to prove the intended purpose of the funds.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>2. That the funds will be used in full or in part for one of the purposes described in S.10(1)(a), (b) or (c) as set out above;</p> <p>3. The person charged acts willingly with the knowledge and/or intention that the funds will be used in full or in part for the identified purpose.</p>	<p>4. The connection between the acts of the person charged and the identified purpose must be particularized and proved: evidence may include financial and banking records, written, electronic or telephone communications from the person charged and oral evidence.</p> <p>5. The prosecution must also adduce evidence to show that the person charged acted willingly, and that he or she had the requisite knowledge and/or intention that the identified funds were to be used for the identified purpose: evidence may include oral evidence, written, electronic and telephone communications and any other evidence of the factual circumstances from which an intention on the part of the person charged could be inferred.</p> <p>6. Evidence sources such as banking and financial records, internal company accounts and documentation, and relevant communications that identify the funds in question and show the financial trail of the funds are likely to be of significant importance in proving this offence.</p>		<p>4. S.10(4) provides that “For the purpose of this section, intention may be inferred from objective factual circumstances”.</p> <p>5. Possible sources of evidence include property and company registries, financial and banking institutions and telecommunication and internet service providers.</p>

28. Funds or property used for terrorist acts (section 13 of the TPA as set out in section 7 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Funds or property used for terrorist acts</p> <p>For offences under S.13(1):</p> <p>Minimum sentence for individuals: 10 years imprisonment</p> <p>Maximum sentence for individuals: life imprisonment</p> <p>Minimum fine for corporate bodies: ₦100,000,000</p> <p>For offences under S.13(2):</p> <p>Maximum sentence for individuals: life imprisonment</p> <p>Section 13 of the TPA as set out in section 7 of the TPAA. (The offence under S.13 of the TPA as set out in section 7 of the TPAA is distinct but similar to that under S.13 of the TPA as set out in section 3 of the TPAA, which deals with the financing of terrorism)</p>	<p>S.13(1) requires investigators and prosecutors to prove that any person or body corporate who, in or outside Nigeria:</p> <p>(a) solicits, acquires, provides, collects, receives, possesses or makes available funds, property or other services by any means, whether legitimate or otherwise, to:</p> <p>(i) [a] terrorist organization; or</p> <p>(ii) [an] 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 the Act or in breach of the provisions of the Act; or</p> <p>(b) attempts to do any of the acts specified in paragraph (a) of this subsection; and</p> <p>(c) possesses funds with the unlawful intention that it [will] 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;</p> <p>commits an offence under the Act.</p> <p>S.13(2) requires investigators and prosecutors to prove that any person who knowingly enters into or becomes involved, participates as an accomplice, organizes or directs others in an arrangement:</p> <p>(a) which facilitates the acquisition, retention or control by or on behalf of another person of terrorist fund[s] by concealment, removal out of jurisdiction, transfer to a nominee or in any other way; or</p> <p>(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:</p>	<p>1. S.13(1)(a), (b) and (c) and S.13(2)(a) and (b) are effectively separate offences, each of which has its own key elements and points to prove that must be supported by evidence.</p> <p>2. For S.13(1)(a):</p> <p>(a) The funds, property or services that are the subject of the offence must be clearly identified and evidenced;</p> <p>(b) The act of soliciting, acquiring, providing, collecting, receiving or possessing of the funds, property or services must be clearly identified (what did the person charged do, when, where, how and with whom), with a clear evidence trail covering all aspects of the act and how it was carried out;</p> <p>(c) The actual or intended recipient (individual terrorist or terrorist organization) of the funds, property or services must be clearly identified and the connection between the person charged and the actual or intended individual terrorist or terrorist organization demonstrated and evidenced;</p> <p>(d) The details of the alleged intention, knowledge or reasonable grounds of belief on the part of the person charged must also be identified and supported by evidence, in addition to evidence that the person charged acted willingly;</p> <p>(e) The prosecution must identify and provide evidence as to which actual or intended offence or breach under the TPA the person charged intended, knew or believed the funds would be used for.</p>	<p>1. The winding-up of the corporate body and prohibition from its reconstitution or incorporation under any form or guise (S.13(5)(b) of the TPA as set out in section 7 of the TPAA).</p> <p>2. Power to seize terrorist funds or property under S.12 of the TPA (as amended by section 6 of the TPAA).</p> <p>3. Power to make a provisional order to attach all monies and other property belonging to, or held on behalf of, the person charged under S.15(3) of the TPA (as amended by section 9 of the TPAA).</p>	<p>1. The text of S.13 is set out in section 7 of the TPAA. It should not be confused with S.13 of the TPA set out in section 3 of the TPAA, which is very similar but not identical in wording and scope, which also deals with the financing of terrorism.</p> <p>2. There is considerable overlap between the two sections S.13 of the TPA as set out in sections 3 and 7 of the TPAA, respectively. Despite their similarities they are separate offences. When choosing/drafting the charges, care should be taken to review the points to prove and elements of both offences in the context of the available evidence.</p> <p>3. There is also considerable overlap between S.13 and various other sections of the TPA, including: S.11 of the TPA (as set out in section 3 of the TPAA) Incitement, promotion or solicitation of property for the commission of terrorist acts; S.14 of the TPA (as set out in section 3 of the TPAA) Dealing in terrorist property; and S.10 of the TPA (as set out in section 4 of the TPAA) Funds to support terrorism. Before choosing and drafting the charges, care should be taken to review the elements and applicability of each offence in line with the available evidence.</p>

Offence/ sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>(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:</p> <p>(i) [a] terrorist individual;</p> <p>(ii) [a]terrorist organization; or</p> <p>(iii) [a] proscribed organization.</p> <p>For S.13(1)(a) the key elements that must be proved are:</p> <ol style="list-style-type: none"> 1. The act of soliciting, acquiring, providing, collecting, receiving, possessing or making available funds, property or services; 2. The direct or indirect recipient of the funds, property or services is a terrorist organization or an individual terrorist; 3. The person charged acts willingly and has the intention, knowledge or reasonable grounds to believe that the property, funds or services will be used to commit an offence or other breach under the Act. <p>For S.13(1)(b) the key elements are the same as for S.13(1)(a) except that instead of proving that the person charged carried out the act it must be proved that the person attempted to carry out the act.</p> <p>For S.13(1)(c) the key elements to be proved are:</p> <ol style="list-style-type: none"> 1. The act of possessing funds; 2. The actual or intended purpose of committing or facilitating the commission of a terrorist act by terrorists or terrorist groups; and 3. The person charged intends or knows that the funds will be used for the purpose of committing or facilitating the commission of a terrorist act. 	<p>3. For S.13(1)(b) the same elements will have to be proved as for S.13(1)(a), except that it must be shown how the actions of the person charged amount to an attempt to commit the offence (as opposed to the actual committing of the full offence).</p> <p>4. For S.13(1)(c):</p> <p>(a) Clearly identify the funds that are the subject of the offence, with evidence in support;</p> <p>(b) Identify how and in what capacity the person charged is alleged to have possessed the funds, with evidence in support;</p> <p>(c) Clearly identify the actual or intended purpose for which the person charged is alleged to have possessed the funds; identify and demonstrate the link between the possession of funds and the intended purpose; and identify the intended terrorist act, providing evidence in support for each step;</p> <p>(d) Prove, with evidence in support, the knowledge or intention of the person charged.</p> <p>5. For S.13(2)(a):</p> <p>(a) Identify the arrangement that the person charged allegedly entered into, became involved in, participated in as an accomplice or organized, or in which he or she directed others, with evidence to show the precise nature and details of the arrangement and the involvement of the person charged in the arrangement;</p> <p>(b) Clearly identify the terrorist fund that is the subject of the offence; and demonstrate, with evidence, the funds and the connection of the funds to the arrangement that the person charged allegedly entered into or was otherwise involved in;</p>	<p>4. For entities convicted of the offence: forfeiture of any assets, funds or property; winding-up of the entity; withdrawal of the practice licence of the entity and its officers or both; and transfer of the entity's assets and properties to the Federation Account, under S.25(2) and (3) of the TPA (as set out in section 3 of the TPAA).</p> <p>5. Power of the court, following conviction, to order forfeiture of: (a) terrorist fund[s] 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, under S.32(3) of the TPA (as set out in section 15 of the TPAA).</p>	<p>4. S.13(1) specifically applies to both individuals and corporate bodies.</p> <p>5. S.13(3) makes it clear that it is not necessary to prove that funds or property were actually used to commit a terrorism offence. For example, when it can be proved that funds are made available for terrorism, or that it is intended that funds will be used to commit a terrorist offence.</p> <p>6. S.13(4) specifically provides that "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 organization is located; or (b) the terrorist act occurred or is planned to occur".</p> <p>7. "Proscribed organization" is defined in S.40 of the TPAA (as amended by section 19 of the TPAA). For proscribed organizations, see also S.2 of the TPA, S.16 of the TPA as set out in section 3 of the TPAA, and S.9(5) of the TPA.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>For S.13(2)(a) the key elements are:</p> <ol style="list-style-type: none"> 1. The act of entering into, becoming involved in, participating as an accomplice, organizing or directing others in an arrangement; 2. The purpose of facilitating the acquisition, retention or control by or on behalf of another person of terrorist funds; 3. Concealment, removal out of jurisdiction, transfer to a nominee or any other way; 4. The person charged knowingly carries out the act, with knowledge of the purpose of the arrangement and the result/intended result. <p>For S.13(2)(b) the key elements are:</p> <ol style="list-style-type: none"> 1. The act of entering into, becoming involved in, participating as an accomplice, organizing or directing others in an arrangement; 2. Funds or other property are to be made available for the purposes of terrorism, or for the benefit of a terrorist individual, terrorist organization or proscribed organization; 3. The person charged knowingly carries out the act, with knowledge of the purpose of the arrangement and the result/intended result. 	<p>(c) Evidence must be provided to prove how and in what way the arrangement facilitated the acquisition, retention or control of the terrorist funds by or on behalf of another identified person;</p> <p>(d) Prove the required knowledge of the person charged, which must extend to the arrangement and his/her involvement in it, as well as the actual or intended purpose and result.</p> <p>6. For S.13(2)(b):</p> <p>(a) Identify the arrangement that the person charged allegedly entered into, became involved in, participated in as an accomplice or organized, or in which he or she directed others, with evidence to show the precise nature and details of the arrangement and the involvement of the person responsible in the arrangement;</p> <p>(b) Clearly identify the terrorist funds or other property that is the subject of the offence; and demonstrate, with evidence, the funds and the connection of the funds to the arrangement that the person charged allegedly entered into or was otherwise involved in;</p> <p>(c) Identify, with full evidence in support, the terrorist purpose or the terrorist individual, terrorist organization or proscribed organization that benefited or was intended to benefit from the funds or property. Identify how and in what way the benefit was allegedly derived and prove the connection between the action of the person charged and the result/intended result;</p> <p>(d) Prove the required knowledge of the person charged, which must extend to the arrangement and his/her involvement in it, as well as the actual or intended purpose and result.</p> <p>7. Since the scope of S.28 is extremely wide, the collection and presentation of the evidence is likely to be complex. The prosecution must take care to present clear details, with evidence in support, to prove every aspect and element of the alleged offence.</p> <p>8. Possible types of evidence in support include: oral evidence, banking and other financial records, written documents, property titles and records and electronic and telephone communications.</p>		<p>8. S.13(5)(a) provides that where a corporate body commits an offence under S.13(1), in addition to the liability to pay a fine, the principal officers of the corporate body are liable to prosecution and, on conviction are subject to imprisonment for a term of not less than ten years. However, the offence is not fully formulated in the law and the points to prove and/or elements of the offence are not stated; as such S.13(5)(a) cannot be used as the basis of the prosecution of the principal officers of a corporate body. There is, nevertheless, scope for the prosecution of the principal officers under S.25 of the TPA (as set out in section 3 of the TPAA), Offences by an entity, if the elements of the offence under that section can be proved.</p> <p>9. The scope of these offences is extremely wide, covering acts beyond the financing of terrorism. For example, S.13(1)(a) also includes the acts of soliciting, acquiring, providing, collecting, receiving or possessing or making available funds or other services, which could include training or other support services.</p> <p>10. Sources of evidence may include banks and financial institutions, land registries, property companies and agencies and telecommunication and internet service providers.</p>

29. Obligation to report suspicious transaction[s] relating to terrorism (section 14 of the TPA as amended by section 8 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Obligation to report suspicious transaction[s] relating to terrorism</p> <p>Under S.14(4):</p> <p>Minimum fine: ₦10,000,000</p> <p>Minimum sentence: 5 years imprisonment</p> <p>Under S.14(6):</p> <p>Minimum fine: ₦20,000,000</p> <p>Minimum sentence: 10 years imprisonment</p> <p>Section 14 of the TPA as amended by section 8 of the TPAA</p> <p>(Not to be confused with section 14 of the TPA as set out in section 3 of the TPAA, which relates to dealing in terrorist property)</p>	<p>S.14 creates the following legal obligations:</p> <p>(1) requires that a financial institution or designated non-financial institution shall, immediately but not later than 72 hours, forward reports of suspicious transactions relating to terrorism to the Financial Intelligence Unit; and</p> <p>(3) requires that details of a report sent by the institution or designated non-financial institution shall not be disclosed by the institution or any of their officers to any other person.</p> <p>For an offence under S.14, it must be proved that a person breached S.14(3), namely that he or she disclosed to any other person details of the report required under S.14(1).</p> <p>For an offence under S.14(6) it must be proved that a financial institution or designated financial institution has continued the breach of the reporting obligation under S.14(1).</p>	<p>1. For offences under S.14(3), the prosecution must identify, with evidence in support, the details that have allegedly been disclosed by the person charged, the recipient of the disclosure, the position held by the person charged in the identified financial institution or designated non-financial institution, the circumstances of the obligation to report and how the transaction is related to terrorism, and the details of exactly what the person charged is alleged to have done (where, when, how, with whom, at whose direction, and with what level of knowledge or intent).</p> <p>2. For offences under S.14(6), the identity of the financial institution or designated non-financial institution must be identified together with the alleged actions of the institution, the circumstances and nature of the alleged breach of S.14(1) (detailing the transaction which was not reported and how it is related to terrorism), and details of how the institution's actions constitute a "continued breach" of S.14(1), including evidence in support. See notes 4 and 5 for issues relating to the validity of this offence.</p> <p>3. Evidence may include the records and communications of the financial institution, records and documentation of the Financial Intelligence Unit and oral evidence.</p>	<p>Obligation to report suspicious transactions relating to terrorism (S.14(1) of the TPA).</p>	<p>1. This is original S.14 of the TPA, as amended by section 8 of the TPAA. It should not be confused with S.14 of the TPA as set out in section 3 of the TPAA, which relates to dealing in terrorist property.</p> <p>2. The offence under S.14(4) is applicable to individuals not institutions.</p> <p>3. The offence under S.14(6) applies to financial institutions and designated non-financial institutions.</p> <p>4. The offence under S.14(6) requires that the institution "continues with the breach" of S.14(1). The meaning of these words, in practice, is somewhat ambiguous, leading to a lack of clarity as to what must be proved for the offence. If the institution deliberately fails to report a suspicious transaction, could that be considered a "continued breach" even though there is nothing that is being continued? And if an institution has been sanctioned by the Financial Intelligence Unit for a non-deliberate breach of S.14(1), in what way could that breach be "continued"? In reality, it is very difficult to determine what actions are intended to be prohibited, which arguably undermines the validity of the offence.</p> <p>5. S.14(6) provides that on conviction, an institution, the principal officers of the institution or the defaulting officer are liable to imprisonment for a minimum term of 10 years. However, the aspect of the offence relating to the principal officer/defaulting officer is not fully formulated (there is nothing to indicate the elements of the offence and/or the required involvement, actions or knowledge/intent of the individual to give rise to the liability to imprisonment); as such, the validity of the provision is highly questionable.</p>

30. Detention of a conveyance (section 30 of the TPA as set out in section 13 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Detention of a conveyance</p> <p>Maximum fine: ₦5,000,000</p> <p>or</p> <p>Minimum sentence: 5 years imprisonment</p> <p>Section 30 of the TPA as set out in section 13 of the TPAA</p> <p>(Not to be confused with original section 30 of the TPA, which remains in force and deals with the prosecution for offence)</p>	<p>S.30 creates the following offences and related legal powers:</p> <p>(1) empowers any authorized officer of the relevant law enforcement or security agency to issue a detention order in respect of a conveyance in circumstances set out in S.30(1)(a)–(c).</p> <p>(2) provides that, where the operator of a conveyance fails to comply with a detention order under subsection (1), the authorized person may:</p> <p>(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.</p> <p>The points to prove for the offence under S.30(6) are that the person charged:</p> <p>(a) without reasonable excuse, fails to comply with the requirement of a detention order; or</p> <p>(b) intentionally obstructs or hinders any person acting in accordance with subsection (2) of this section.</p> <p>The elements of the offence under S.30(6)(a) are:</p> <ol style="list-style-type: none"> 1. A detention order is made by an authorized officer of a law enforcement or security agency or by the court; 2. Written notice of the order has been given to the operator of the conveyance in accordance with S.30(3); 3. The person charged has failed to comply with the detention order; and 4. The person charged has no reasonable excuse for his failure to comply. 	<p>1. For offences under S.30, the prosecution must adduce evidence to:</p> <p>(a) Identify the officer who made the detention order together with his/her agency, as well as providing proof that the officer was authorized to make the order;</p> <p>(b) Identify the detention order that was made and establish the grounds on which the order was made, with reference to the criteria set out in S.30(1)(a)–(c); this must include details of the actual opinion of the authorized officer in relation to the applicability of the relevant criteria, as well as the basis/grounds for the opinion;</p> <p>(c) Identify the operator of the conveyance;</p> <p>(d) Provide details to prove that written notice of the order has been given to the operator of the conveyance in accordance with S.30(3), including details of the order and details of where, when and the circumstances in which it was served;</p> <p>(e) Clearly identify what the person charged is alleged to have done or failed to do (what were his/her actions, where, when, with whom and what were the surrounding circumstances), and demonstrate how the actions of the person charged amounted to a failure to comply with the terms of the detention order;</p>	<p>1. Power of an authorized officer of a relevant law enforcement or security agency to issue a detention order in respect of a conveyance (S.30(1)) of the TPA as set out in section 13 of the TPAA).</p> <p>2. In circumstances where the operator of a conveyance fails to comply with a detention order under S.30(1), the authorized officer has power to:</p> <p>(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 (S.30(2)) of the TPA as set out in section 13 of the TPAA).</p> <p>3. Power of the court to confirm, vary or cancel a detention order under S.30(4) of the TPA as set out in section 13 of the TPAA.</p>	<p>1. S.30 of the TPA is set out in section 13 of the TPAA. It should not be confused with original S.30 of the TPA, which remains in force and deals with the prosecution for offence.</p> <p>2. The meaning of “conveyance” under this section is defined in S.30(5) as an aircraft, train, vehicle, vessel or any other mode of transportation.</p> <p>3. An authorized officer of a law enforcement or security agency may issue a detention order in relation to a conveyance if he is of the opinion that:</p> <p>(a) a threat has been made to commit an act of violence against a conveyance or against any person or property on board a conveyance; (b) a conveyance is being used or intended to be used to commit an offence under the Act; or (c) an act of violence is likely to be committed against a conveyance or against any person or property on board.</p> <p>4. Under S.30(4), where the operator of a conveyance objects to a detention order, the operator may apply to the court, and the court may confirm, vary or cancel the order.</p>

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
	<p>The elements of the offence under S.30(6)(b) are:</p> <ol style="list-style-type: none"> 1. A detention order is made by an authorized officer of a law enforcement or security agency or by the court; 2. Written notice of the order has been given in accordance with S.30(3); 3. The operator of a conveyance fails to comply with a detention order; 4. The authorized officer or other person authorized by him/her seek to enter the conveyance or to arrange for the person or thing under threat to be removed from the conveyance, pursuant to S.30(2); 5. The person charged intentionally hinders or obstructs the authorized officer or other authorized person acting in accordance with S.30(2). 	<p>(f) Demonstrate the lack of any reasonable excuse for the failure of the person charged to comply with the detention order.</p> <ol style="list-style-type: none"> 2. For offences under S.30(6)(b), the prosecution must adduce evidence to: <ol style="list-style-type: none"> (a) Identify the officer who made the detention order, together with his/her agency, as well as provide proof that the officer was authorized to make the order; (b) Identify the detention order that was made and establish the grounds on which the order was made with reference to the criteria set out in S.30(1)(a)–(c). This must include details of the actual opinion of the authorized officer in relation to the applicability of the relevant criteria, as well as the basis/grounds for the opinion; (c) Identify the operator of the conveyance; (d) Provide details to prove that written notice of the order has been given to the operator of the conveyance in accordance with S.30(3), including details of the order and details of where, when and the circumstances in which it was served; (e) Clearly identify the alleged failure by the operator of the conveyance to comply with the detention order (what did the operator do, where, when, with whom and what were the surrounding circumstances); (f) Identify exactly what the authorized officer or other person authorized on his behalf did in order to try to enter the conveyance or to arrange for the person or thing under threat to be removed from the conveyance, pursuant to S.30(2); (g) Set out what the person charged is alleged to have done or failed to do (where, when, how, with whom and in what circumstances), and demonstrate how the actions of the person charged amount to hindering or obstructing the authorized officer or other authorized person from exercising their powers under S.30(2); (h) Demonstrate the intention of the person charged. 3. Sources of evidence may include detention orders, oral evidence of the authorized officer and any other witnesses, records and reports of the law enforcement or security agencies, real evidence, ownership records for a conveyance, other contractual documents or correspondence relating to the operation of the conveyance. 		

31. Protection of persons and witnesses (section 34 of the TPA as set out in section 13 of the TPAA)

Offence/sentence	Points to prove/elements	Evidence required	Ancillary powers	Notes
<p>Protection of persons and witnesses</p> <p>Minimum sentence: 5 years imprisonment</p> <p>Section 34 of the TPA as set out in section 13 of the TPAA</p>	<p>S.34 of the TPA sets out the powers of the court to protect witnesses and any other persons in any proceeding before it.</p> <p>The point to prove for the offence under S.34(5) is that the person charged has contravened an order or direction made by the court under S.34.</p> <p>The elements of the offence are:</p> <ol style="list-style-type: none"> 1. That the court has made an order or direction under S.34; 2. That the actions of the person charged contravene that order or direction. 	<ol style="list-style-type: none"> 1. The prosecution must: adduce evidence to identify the direction or order made by the court under S.34 that is the subject of this offence; identify the alleged actions of the person charged (what did the person do, where, when, how, with whom and with what intention); and demonstrate how the actions of the person charged amount to a breach of the identified court order or direction. 2. Evidence may include the relevant court order, written or electronic posts or publications that evidence the alleged breach and oral evidence. 	<ol style="list-style-type: none"> 1. Power of the court to protect witnesses and any other persons in any proceeding before it (S.34(1)): examples of possible orders as set out in S.34(2) and S.34(3). 2. Power to exclude from any proceeding a person other than a party or their legal representative, on the grounds of public safety or order (S.34(4)). 	<ol style="list-style-type: none"> 1. The text of S.34 is set out in section 13 of the TPAA. It replaces S.34 of the TPA, which was deleted by section 17 of the TPAA. 2. Examples of court orders or directions that may be the subject of this offence include: the issuing of a direction for ensuring that the identity and address of the witness or person charged are not disclosed under S.34(2)(c); and the making of an order that all or any of the proceedings pending before the court shall not be published in any manner under S.34(3)(a). 3. S.34 enhances the inherent power of the Federal High Court to protect parties/witnesses to a case before it.

Part II

Schedule of ancillary powers under the
Terrorism (Prevention) Act, 2011 (TPA) as
amended by the Terrorism (Prevention)
(Amendment) Act, 2013 (TPAA)

	Legislation	Authority	Power	Notes
1.	Section 1A.(1) of the TPA (as set out in section 2 of the TPAA)	Office of the National Security Adviser (ONSA)	ONSA shall be the coordinating body for all security and enforcement agencies under the Act.	Specific powers and duties set out in S1A.(1)(a)–(d).
2.	Section 1A.(2) of the TPA (as set out in section 2 of the TPAA)	Attorney-General of the Federation	The Attorney-General of the Federation shall be the authority for the effective implementation and administration of the Act.	
3.	Section 1A.(3)–(6) of the TPA (as set out in section 2 of the TPAA)	Law enforcement and security agencies	The law enforcement and security agencies shall be responsible for the gathering of intelligence and investigation of the offences provided under the Act.	S1A.(3) sets out the role of law enforcement and security agencies under the Act, and S1A.(4)–(6) lists the specific powers of the law enforcement and security agencies. Law enforcement agency is defined in S.40(c) as amended by section 19 of the TPAA.
4.	Section 2(1) of the TPA	Federal High Court	Power to declare an entity to be a proscribed organization.	S.2(5) sets out the power to withdraw such a declaration. For the definition of a proscribed organization, see S.40(d) (as set out in section 19 of the TPAA) and S.9(5) of the TPA.
5.	Section 25(2) and (3) of the TPA (as set out in section 3 of the TPAA)	Federal High Court	Forfeiture of any assets, funds or property of an entity used or intended to be used in the commission of the offence under the Act. Winding-up of the entity. Withdrawal of the practice licence of the entity and its officers. Transfer of the entity's assets to the Federation account upon winding up.	These powers specifically relate to entities that have been convicted of an offence under the Act.
6.	Section 9(1) of the TPA	President	Power to declare a person to be a suspected international terrorist.	
7.	Section 9(4) of the TPA	President	Power to declare a group to be an international terrorist group.	
8.	Section 9(6) of the TPA	Attorney-General of the Federation	Power to make regulations in relation to any suspected international terrorist or international terrorist group.	Such regulations may include powers for: (a) Freezing of funds, financial assets or other economic resources; (b) Prevention of entry into, or transit in, Nigeria; (c) Prohibition of direct or indirect supply, sale and transfer of equipment or services, such as weapons and training.
9.	Section 10(1)(c)(iii) of the TPA (as set out in section 4 of the TPAA)	Federal High Court	The winding-up of the corporate body and prohibition from its reconstitution or incorporation under any form or guise.	This power is specifically applicable when a corporate body has been convicted of an offence under S.10 (as set out in section 4 of the TPAA).

	Legislation	Authority	Power	Notes
10.	Section 12 of the TPA (as amended by section 6 of the TPAA)	Federal High Court/National Security Adviser or Inspector General of Police, with the approval of the President	Power to seize terrorist funds or property.	S.12 relates to funds or property: (a) intended to be used for the purposes of terrorism; (b) belongs to, or is held on trust for, a proscribed organization; or (c) represents property obtained through acts of terrorism.
11.	Section 13(5)(b) of the TPA (as set out in section 7 of the TPAA)	Federal High Court	Winding-up of a corporate body and prohibition from its reconstitution or incorporation under any other form or guise.	This power specifically relates to corporate bodies that have been convicted of an offence under S.13 (as set out in section 7 of the TPAA).
12.	Section 15(3) and (9) of the TPA (as amended by section 9 of the TPAA)	Federal High Court, upon application by the Attorney-General of the Federation	Power to make a provisional order to attach all monies and other property belonging to, or held on behalf, of the person charged (S.15(3)). Power to make an order compelling a person charged to deliver any document relevant to identifying, locating any property belonging to, or in the possession or control of that person (S.15(9))	S.15(3) applies where a person is charged or about to be charged with an offence under the Act. S.15(9) applies 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: the purpose of an application under S.15(9) is for investigation.
13.	Section 18 of the TPA	Federal High Court, upon application by the Attorney-General of the Federation	In the context of a request for assistance from foreign States, the Federal High Court has power to make an order under S.18(2) for: (a)(i) a search and entry of specified premises; or (a)(ii) a search of any specified person; or (a)(iii) the removal of any relevant document or material; (b) an attachment order; (c) a property tracking order; or (d) an order for freezing or forfeiture of property.	This power applies: (a) where a foreign State makes a request; (b) where there is a mutual treaty with a foreign State; (c) the offence relates to terrorism; (d) the Attorney-General has decided to execute the request.
14.	Section 19 of the TPA	Federal High Court/Attorney-General of the Federation	Under S.19(1) the Attorney-General may make a request to any foreign State to extradite a suspect, and/or: (a) to provide evidence or information relevant to an offence under the Act; or (b) for the restraint and forfeiture of property located in that State and which is liable to be forfeited for being a terrorist property. Under S.19(2) the power of the Federal High Court to make an order directed to any person resident in a foreign State to deliver himself or any document or material in his possession or under his control to the jurisdiction of the court or, subject to the approval of the foreign State for the purpose of giving evidence in relation to the proceedings.	The power under S.19(1) is exercisable if there is a mutual extradition treaty in place with the foreign State. S.19(2) relates to any proceedings for an offence under the Act.

	Legislation	Authority	Power	Notes
15.	Section 20(1) of the TPA	Federal High Court	Under S.20(1) the Federal High Court has the power to admit any evidence taken, pursuant to a request of a foreign State, in any proceeding to which such evidence relates.	The power under S.20 relates to evidence taken in any proceeding in a court of a foreign State and is conditional upon: (a) the circumstances and methods of collecting evidence being acceptable in Nigeria; and (b) the authentication of the evidence in accordance with S.20(1).
16.	Section 20(2) of the TPA	Attorney-General of the Federation	Power to disclose information to the appropriate authority of a foreign State.	
17.	Section 24 of the TPA (as set out in section II of the TPAA)	Federal High Court	Issuance of a warrant for the purposes of a terrorist investigation. The warrant may authorize 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.	The grounds for the application and issuance of a warrant under S.24 are set out in S.24(3). Application under S.24 may be made <i>ex parte</i> .
18.	Section 25 of the TPA (as set out in section 12 of the TPAA)	Law enforcement and security agencies	Investigation and search without warrant. Specific powers set out in S.25(1) (a)–(e) include: entering and searching any premises or place; the search of any person or conveyance; stopping, boarding and searching any conveyance; and arresting, searching and detaining any person whom the officer suspects to have committed or is likely to commit an offence under the Act.	These powers are only available in a case of a verifiable urgency, if a life is threatened or to prevent the commission of an offence provided under the 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. The powers are exercisable pending an application to the court for a warrant. Further details of the grounds for exercising the power are set out in S.25(1)(a)–(e).
19.	Section 26 of the TPA (as set out in section 13 of the TPAA)	Federal High Court/law enforcement and security agencies	S.26(1) imposes a duty on law enforcement and security officers to take and record, for the purpose of identification and evidence, the measurements, samples, photographs and fingerprint impressions of all persons who are in lawful custody for any offence under the Act. S.26(2) authorizes the court to make such order as it deems fit authorizing law enforcement officers to take measurements, photographs or fingerprint impressions of a person in lawful custody (in circumstances where the person refuses to submit to the taking and recording of his measurements, photographs or fingerprint impressions).	

	Legislation	Authority	Power	Notes
20.	Section 27 of the TPA (as set out in section 13 of the TPAA)	Federal High Court/law enforcement and security agencies	<p>S.27(1) authorizes the Federal High Court to grant an order for the detention of a suspect under the 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.</p> <p>S.27(3) provides that 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 the Act.</p>	The wording of S.27(1) indicates that the order for detention for a period not exceeding 90 days can only be renewed once (“subject to renewal for a similar period”).
21.	Section 28 of the TPA (as set out in section 13 of the TPAA)	Law enforcement and security agencies	<p>S.28(1): power to detain a person arrested in custody for a period not exceeding 48 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.</p> <p>S.28(4): power to place a suspect under a house arrest, including: (a) being monitored by law enforcement and security officers; (b) having no access to phones or communication gadgets; and (c) speaking only to his counsel until the conclusion of the investigation.</p>	<p>S.28(1): the exercise of this power is subject to the law enforcement agency having reasonable grounds to believe that giving access to any person, other than the medical officer or his counsel, will lead to: interference with or destruction of evidence; interference with or physical injury to persons; the alerting of other suspects; or hindering the tracking, search and seizure of terrorist property.</p> <p>S.28(4): this power is exercisable when a person charged has been granted bail within the 90-day detention period set out in S.27(1) and is subject to the approval of the head of the relevant law enforcement or security agency.</p>
22.	Section 29 of the TPA (as set out in section 13 of the TPAA)	Federal High Court	Power to make an interception of communication order authorizing: communication service providers to intercept and retain a specified communication or communications; the installing of devices for the interception or communication or communications; and the executing of covert operations for the purpose of gathering intelligence.	<p>The purpose of an interception of communications order must be for: the prevention of terrorist acts; to enhance the detection of offences related to the preparation of a terrorist act; or for the prosecution of offenders under the Act.</p> <p>The approval of the Attorney-General and the Coordinator on National Security are required in order to make the application.</p> <p>The application can be made <i>ex parte</i>.</p>

	Legislation	Authority	Power	Notes
23.	Section 30 of the TPA (as set out in section 13 of the TPAA)	Authorized officers of a law enforcement or security agency/ the Federal High Court	<p>S.30(1): power of an authorized officer of a law enforcement or security agency to issue a detention order in respect to a conveyance, based on the grounds set out in S.30(1)(a)–(c).</p> <p>S.30(2): in circumstances where the operator of a conveyance fails to comply with a detention order under S.30(1), the authorized officer 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.</p> <p>S.30(4): power of the court to confirm, vary or cancel a detention order.</p>	The meaning of “conveyance” under S.30 is defined in S.30(5) as an aircraft, train, vehicle, vessel or any other mode of transportation.
24.	Section 31 of the TPA (as set out in section 13 of the TPAA)	Law enforcement or security agency	A video recording shall be made and kept in respect of any person, conveyance or property detained under any provision of the Act (S.31(1)).	<p>A video recording and other forms of electronic evidence shall be admissible for proceedings under the Act subject to the provisions of the Evidence Act (S.31(3)).</p> <p>“Video recording” includes the recording of visual images or sound by electronic or other technological means (S.31(4)).</p>
25.	Section 32 of the TPA (as set out in section 13 of the TPAA)	Federal High Court	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, 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.	
26.	Section 33 of the TPA (as set out in section 13 of the TPAA)	Law enforcement or security agency	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 the Act, the agency shall take all reasonable measures to protect the identity and life of that person and the information volunteered shall be treated as confidential.	
27.	Section 34 of the TPA (as set out in section 13 of the TPAA)	Federal High Court	<p>S.34(1): power of the court to protect a witness or any person in any proceeding before it.</p> <p>S.34(4): power to exclude from the proceedings for any offence under the Act any person other than the parties and their legal representative, on the grounds of public safety or order.</p>	<p>S.34 enhances the inherent power of the Federal High Court to protect parties/witnesses to a case before it.</p> <p>Examples of specific orders that the court is empowered to make are set out in S.34(2) and S.34(3): this is not an exhaustive list.</p>

	Legislation	Authority	Power	Notes
28.	Section 30 of the TPA	Attorney-General of the Federation	Authority to delegate to any agency charged with responsibility for the investigation of terrorism the power to institute criminal proceedings against any person in respect of offences categorized in the Act.	
29.	Section 32 of the TPA (as set out in section 15 of the TPAA)	Federal High Court	<p>S.32(1): Federal High Court is vested with jurisdiction to try offences and hear and determine proceedings under the Act.</p> <p>S.32(3): power of the Federal High Court, following conviction for an offence under the Act, to order forfeiture of: (a) terrorist fund[s] 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.</p> <p>S.32(4): reduction of the prison sentence of a person who has facilitated the identification or arrest of other suspects.</p> <p>S.32(5): power to adopt all legal measures necessary to avoid unnecessary delays and abuse in the conduct of matters.</p>	<p>The Federal High Court can exercise both specific and inherent jurisdiction when hearing terrorism matters under the Act.</p> <p>The Federal High Court located in any part of Nigeria can hear any offence or proceeding under the Act, regardless of the location where the offence is committed.</p>
30.	Section 33 of the TPA (as set out in section 16 of the TPAA)	Federal High Court	<p>S.33(1): upon convicting a person of an offence under the Act, the court may, in addition to any imposed penalty, order the forfeiture of any proceed or fund traceable to a terrorist act.</p> <p>S.33(2): in addition to the sanctions provided for under the Act, a body corporate found liable under the Act may be subjected to civil proceedings and any other administrative sanctions by the relevant authorities.</p>	The Federal High Court has the power to make an order under S.33(1) irrespective of the person in whose names such proceeds or funds are standing or in whose possession they are found.
31.	Section 35 of the TPA	Federal High Court/Registrar General of the Corporate Affairs Commission	<p>S.35(1): the Registrar General of the Corporate Affairs Commission responsible for the registration of charities/organizations may sign a certificate refusing or revoking registration of a charity based on security or criminal intelligence reports, where there are reasonable grounds to believe that the applicant for registration as a registered charity has made, is making or is likely to make available any resources, directly or indirectly, to a terrorist group.</p> <p>S.35(5)(a)–(d): the court has the power to review the certificate of the Registrar General of the Corporate Affairs Commission made under S.35(1) to determine its reasonableness.</p>	

	Legislation	Authority	Power	Notes
32.	Section 36 of the TPA (as amended by section 18 of the TPAA)	Nigerian Immigration Service, National Security Adviser, Inspector General of Police, Minister of Justice and Attorney-General of the Federation	S.36(1): power related to the provision of information by the operator of an aircraft or master of a vessel relating to persons on board, or expected to be on board, an aircraft or vessel. S.36(2) relates to the provision of information to the competent authority of a foreign State by the Nigerian Immigration Service of information relating to persons entering or leaving Nigeria by land.	
33.	Section 37 of the TPA (as amended by section 18 of the TPAA)	Nigerian Immigration Service	S.37(1): power to prevent a person from entering Nigeria on the basis that there are reasonable grounds to believe that the person has been, is or will be involved in the commission of a terrorist act. S.37(2) extends the power to the arrest, detention and removal of a person from Nigeria if there are reasonable grounds to believe that the person has been, is or will be involved in the commission of a terrorist act.	
34.	Section 38 of the TPA (as amended by section 18 of the TPAA)	Nigerian Immigration Service	Power to refuse the application of any person applying for status as a refugee if there are reasonable grounds to believe that the applicant has committed a terrorist act or is involved in the commission of a terrorist act.	
35.	Section 39 of the TPA	Attorney-General of the Federation	Power to make regulations relating to: (a) the types of financial or other related services that may not be provided to proscribed organizations; and (b) the record of custody and video recording of suspects apprehended under the Act.	



UNITED NATIONS SECURITY COUNCIL
COUNTER-TERRORISM COMMITTEE
EXECUTIVE DIRECTORATE (CTED)

