

CANADA CODE PENAL

PART II.1 TERRORISM

Interpretation

Definitions

83.01 (1) The following definitions apply in this Part.

"Canadian" « Canadien »	"Canadian" means a Canadian citizen, a permanent resident within the meaning of subsection 2(1) of the <i>Immigration and Refugee Protection Act</i> or a body corporate incorporated and continued under the laws of Canada or a province.
"entity" « entité »	"entity" means a person, group, trust, partnership or fund or an unincorporated association or organization.
"listed entity" « entité inscrite »	"listed entity" means an entity on a list established by the Governor in Council under section 83.05.
"terrorist activity" « activité terroriste »	"terrorist activity" means (a) an act or omission that is committed in or outside Canada and that, if committed in Canada, is one of the following offences: (i) the offences referred to in subsection 7(2) that implement the <i>Convention for the Suppression of Unlawful Seizure of Aircraft</i> , signed at The Hague on December 16, 1970, (ii) the offences referred to in subsection 7(2) that implement the <i>Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation</i> , signed at Montreal on September 23, 1971, (iii) the offences referred to in subsection 7(3) that implement the <i>Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents</i> , adopted by the General Assembly of the United Nations on December 14, 1973, (iv) the offences referred to in subsection 7(3.1) that implement the <i>International Convention against the Taking of Hostages</i> , adopted by the General Assembly of the United Nations on December 17, 1979, (v) the offences referred to in subsection 7(3.4) or (3.6) that implement the <i>Convention on the Physical Protection of Nuclear Material</i> , done at Vienna and New York on March 3, 1980, (vi) the offences referred to in subsection 7(2) that implement the <i>Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation</i> , supplementary to the <i>Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation</i> , signed at Montreal on February 24, 1988, (vii) the offences referred to in subsection 7(2.1) that implement the <i>Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation</i> , done at Rome on March 10, 1988, (viii) the offences referred to in subsection 7(2.1) or (2.2) that implement the <i>Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf</i> , done at Rome on March 10, 1988, (ix) the offences referred to in subsection 7(3.72) that implement the <i>International Convention for the Suppression of Terrorist Bombings</i> , adopted by the General Assembly of the United Nations on December 15, 1997, and (x) the offences referred to in subsection 7(3.73) that implement the <i>International Convention for the Suppression of the Financing of Terrorism</i> , adopted by the General Assembly of the United Nations on December 9, 1999, or

(b) an act or omission, in or outside Canada,

(i) that is committed

(A) in whole or in part for a political, religious or ideological purpose, objective or cause, and

(B) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada, and

(ii) that intentionally

(A) causes death or serious bodily harm to a person by the use of violence,

(B) endangers a person's life,

(C) causes a serious risk to the health or safety of the public or any segment of the public,

(D) causes substantial property damage, whether to public or private property, if causing such damage is likely to result in the conduct or harm referred to in any of clauses (A) to (C), or

(E) causes serious interference with or serious disruption of an essential service, facility or system, whether public or private, other than as a result of advocacy, protest, dissent or stoppage of work that is not intended to result in the conduct or harm referred to in any of clauses (A) to (C),

and includes a conspiracy, attempt or threat to commit any such act or omission, or being an accessory after the fact or counselling in relation to any such act or omission, but, for greater certainty, does not include an act or omission that is committed during an armed conflict and that, at the time and in the place of its commission, is in accordance with customary international law or conventional international law applicable to the conflict, or the activities undertaken by military forces of a state in the exercise of their official duties, to the extent that those activities are governed by other rules of international law.

"terrorist group"
« *groupe terroriste* »

"terrorist group" means

(a) an entity that has as one of its purposes or activities facilitating or carrying out any terrorist activity, or

(b) a listed entity,

and includes an association of such entities.

For greater certainty

(1.1) For greater certainty, the expression of a political, religious or ideological thought, belief or opinion does not come within paragraph (b) of the definition "terrorist activity" in subsection (1) unless it constitutes an act or omission that satisfies the criteria of that paragraph.

Facilitation

(2) For the purposes of this Part, facilitation shall be construed in accordance with subsection 83.19(2).

2001, c. 41, ss. 4, 126.

Financing of Terrorism

Providing or collecting property for certain activities

83.02 Every one who, directly or indirectly, wilfully and without lawful justification or excuse, provides or collects property intending that it be used or knowing that it will be used, in whole or in part, in order to carry out

(a) an act or omission that constitutes an offence referred to in subparagraphs (a)(i) to (ix) of the definition of "terrorist activity" in subsection 83.01(1), or

(b) any other act or omission intended to cause death or serious bodily harm to a civilian or to any other person not taking an active part in the hostilities in a situation of armed conflict, if the purpose of that act or omission, by its nature or context, is to intimidate the public, or to compel a government or an international organization to do or refrain from doing any act,

is guilty of an indictable offence and is liable to imprisonment for a term of not more than 10 years.

2001, c. 41, s. 4.

Providing, making

83.03 Every one who, directly or indirectly, collects property, provides or invites a person to provide, or

available, etc.,
property or services
for terrorist purposes

makes available property or financial or other related services

(a) intending that they be used, or knowing that they will be used, in whole or in part, for the purpose of facilitating or carrying out any terrorist activity, or for the purpose of benefiting any person who is facilitating or carrying out such an activity, or

(b) knowing that, in whole or part, they will be used by or will benefit a terrorist group,

is guilty of an indictable offence and is liable to imprisonment for a term of not more than 10 years.

2001, c. 41, s. 4.

Using or possessing
property for terrorist
purposes

83.04 Every one who

(a) uses property, directly or indirectly, in whole or in part, for the purpose of facilitating or carrying out a terrorist activity, or

(b) possesses property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purpose of facilitating or carrying out a terrorist activity,

is guilty of an indictable offence and is liable to imprisonment for a term of not more than 10 years.

2001, c. 41, s. 4.

List of Entities

Establishment of list

83.05 (1) The Governor in Council may, by regulation, establish a list on which the Governor in Council may place any entity if, on the recommendation of the Solicitor General of Canada, the Governor in Council is satisfied that there are reasonable grounds to believe that

(a) the entity has knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity; or

(b) the entity is knowingly acting on behalf of, at the direction of or in association with an entity referred to in paragraph (a).

Recommendation

(1.1) The Solicitor General may make a recommendation referred to in subsection (1) only if the Solicitor General has reasonable grounds to believe that the entity to which the recommendation relates is an entity referred to in paragraph (1)(a) or (b).

Application to
Solicitor General

(2) On application in writing by a listed entity, the Solicitor General shall decide whether there are reasonable grounds to recommend to the Governor in Council that the applicant no longer be a listed entity.

Deeming

(3) If the Solicitor General does not make a decision on the application referred to in subsection (2) within 60 days after receipt of the application, the Solicitor General is deemed to have decided to recommend that the applicant remain a listed entity.

Notice of the decision
to the applicant

(4) The Solicitor General must give notice without delay to the applicant of any decision taken or deemed to have been taken respecting the application referred to in subsection (2).

Judicial review

(5) Within 60 days after the receipt of the notice of the decision referred to in subsection (4), the applicant may apply to a judge for judicial review of the decision.

Reference

(6) When an application is made under subsection (5), the judge shall, without delay

(a) examine, in private, any security or criminal intelligence reports considered in listing the applicant and hear any other evidence or information that may be presented by or on behalf of the Solicitor General and may, at the request of the Solicitor General, hear all or part of that evidence or information in the absence of the applicant and any counsel representing the applicant, if the judge is of the opinion that the disclosure of the information would injure national security or endanger the safety of any person;

(b) provide the applicant with a statement summarizing the information available to the judge so as to enable the applicant to be reasonably informed of the reasons for the decision, without disclosing any information the disclosure of which would, in the judge's opinion, injure national security or endanger the safety of any person;

	(c) provide the applicant with a reasonable opportunity to be heard; and
	(d) determine whether the decision is reasonable on the basis of the information available to the judge and, if found not to be reasonable, order that the applicant no longer be a listed entity.
Evidence	(6.1) The judge may receive into evidence anything that, in the opinion of the judge, is reliable and appropriate, even if it would not otherwise be admissible under Canadian law, and may base his or her decision on that evidence.
Publication	(7) The Solicitor General shall cause to be published, without delay, in the <i>Canada Gazette</i> notice of a final order of a court that the applicant no longer be a listed entity.
New application	(8) A listed entity may not make another application under subsection (2), except if there has been a material change in its circumstances since the time when the entity made its last application or if the Solicitor General has completed the review under subsection (9).
Review of list	(9) Two years after the establishment of the list referred to in subsection (1), and every two years after that, the Solicitor General shall review the list to determine whether there are still reasonable grounds, as set out in subsection (1), for an entity to be a listed entity and make a recommendation to the Governor in Council as to whether the entity should remain a listed entity. The review does not affect the validity of the list.
Completion of review	(10) The Solicitor General shall complete the review as soon as possible and in any event, no later than 120 days after its commencement. After completing the review, the Solicitor General shall cause to be published, without delay, in the <i>Canada Gazette</i> notice that the review has been completed.
Definition of "judge"	(11) In this section, "judge" means the Chief Justice of the Federal Court or a judge of that Court designated by the Chief Justice.
	2001, c. 41, ss. 4, 143.
Admission of foreign information obtained in confidence	<p>83.06 (1) For the purposes of subsection 83.05(6), in private and in the absence of the applicant or any counsel representing it,</p> <p>(a) the Solicitor General of Canada may make an application to the judge for the admission of information obtained in confidence from a government, an institution or an agency of a foreign state, from an international organization of states or from an institution or an agency of an international organization of states; and</p> <p>(b) the judge shall examine the information and provide counsel representing the Solicitor General with a reasonable opportunity to be heard as to whether the information is relevant but should not be disclosed to the applicant or any counsel representing it because the disclosure would injure national security or endanger the safety of any person.</p>
Return of information	<p>(2) The information shall be returned to counsel representing the Solicitor General and shall not be considered by the judge in making the determination under paragraph 83.05(6)(d), if</p> <p>(a) the judge determines that the information is not relevant;</p> <p>(b) the judge determines that the information is relevant but should be summarized in the statement to be provided under paragraph 83.05(6)(b); or</p> <p>(c) the Solicitor General withdraws the application.</p>
Use of information	<p>(3) If the judge decides that the information is relevant but that its disclosure would injure national security or endanger the safety of persons, the information shall not be disclosed in the statement mentioned in paragraph 83.05(6)(b), but the judge may base the determination under paragraph 83.05(6)(d) on it.</p> <p>2001, c. 41, s. 4.</p>
Mistaken identity	83.07 (1) An entity claiming not to be a listed entity may apply to the Solicitor General of Canada for a certificate stating that it is not a listed entity.
Issuance of certificate	<p>(2) The Solicitor General shall, within 15 days after receiving the application, issue a certificate if satisfied that the applicant is not a listed entity.</p> <p>2001, c. 41, s. 4.</p>

Freezing of property

83.08 (1) No person in Canada and no Canadian outside Canada shall knowingly

(a) deal directly or indirectly in any property that is owned or controlled by or on behalf of a terrorist group;

(b) enter into or facilitate, directly or indirectly, any transaction in respect of property referred to in paragraph (a); or

(c) provide any financial or other related services in respect of property referred to in paragraph (a) to, for the benefit of or at the direction of a terrorist group.

No civil liability

(2) A person who acts reasonably in taking, or omitting to take, measures to comply with subsection (1) shall not be liable in any civil action arising from having taken or omitted to take the measures, if the person took all reasonable steps to satisfy himself that the relevant property was owned or controlled by or on behalf of a terrorist group.

2001, c. 41, s. 4.

Exemptions

83.09 (1) The Solicitor General of Canada or a person designated by the Solicitor General may authorize any person in Canada or any Canadian outside Canada to carry out a specified activity or transaction that is prohibited by section 83.08, or a class of such activities or transactions.

Ministerial authorization

(2) The Solicitor General or a person designated by the Solicitor General may make the authorization subject to any terms and conditions that are required in their opinion, and may amend, suspend, revoke or reinstate it.

Existing equities maintained

(3) All secured and unsecured rights and interests in the frozen property that are held by persons, other than terrorist groups or their agents, are entitled to the same ranking that they would have been entitled to had the property not been frozen.

Third party involvement

(4) If a person has obtained an authorization under subsection (1), any other person involved in carrying out the activity or transaction, or class of activities or transactions, to which the authorization relates is not subject to sections 83.08, 83.1 and 83.11 if the terms or conditions of the authorization that are imposed under subsection (2), if any, are met.

2001, c. 41, s. 4.

Disclosure

83.1 (1) Every person in Canada and every Canadian outside Canada shall disclose forthwith to the Commissioner of the Royal Canadian Mounted Police and to the Director of the Canadian Security Intelligence Service

(a) the existence of property in their possession or control that they know is owned or controlled by or on behalf of a terrorist group; and

(b) information about a transaction or proposed transaction in respect of property referred to in paragraph (a).

Immunity

(2) No criminal or civil proceedings lie against a person for disclosure made in good faith under subsection (1).

2001, c. 41, s. 4.

Audit

83.11 (1) The following entities must determine on a continuing basis whether they are in possession or control of property owned or controlled by or on behalf of a listed entity:

(a) authorized foreign banks within the meaning of section 2 of the *Bank Act* in respect of their business in Canada, or banks to which that Act applies;

(b) cooperative credit societies, savings and credit unions and caisses populaires regulated by a provincial Act and associations regulated by the *Cooperative Credit Associations Act*;

(c) foreign companies within the meaning of subsection 2(1) of the *Insurance Companies Act* in respect of their insurance business in Canada;

(c.1) companies, provincial companies and societies within the meaning of subsection 2(1) of the *Insurance Companies Act*;

(c.2) fraternal benefit societies regulated by a provincial Act in respect of their insurance activities, and insurance companies and other entities engaged in the business of insuring risks that are regulated by a

provincial Act;

(d) companies to which the *Trust and Loan Companies Act* applies;

(e) trust companies regulated by a provincial Act;

(f) loan companies regulated by a provincial Act; and

(g) entities authorized under provincial legislation to engage in the business of dealing in securities, or to provide portfolio management or investment counselling services.

Monthly report

(2) Subject to the regulations, every entity referred to in paragraphs (1)(a) to (g) must report, within the period specified by regulation or, if no period is specified, monthly, to the principal agency or body that supervises or regulates it under federal or provincial law either

(a) that it is not in possession or control of any property referred to in subsection (1), or

(b) that it is in possession or control of such property, in which case it must also report the number of persons, contracts or accounts involved and the total value of the property.

Immunity

(3) No criminal or civil proceedings lie against a person for making a report in good faith under subsection (2).

Regulations

(4) The Governor in Council may make regulations

(a) excluding any entity or class of entities from the requirement to make a report referred to in subsection (2), and specifying the conditions of exclusion; and

(b) specifying a period for the purposes of subsection (2).

2001, c. 41, s. 4.

Offences -- freezing of property, disclosure or audit

83.12 (1) Every one who contravenes any of sections 83.08, 83.1 and 83.11 is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$100,000 or to imprisonment for a term of not more than one year, or to both; or

(b) on conviction on indictment, to imprisonment for a term of not more than 10 years.

No contravention

(2) No person contravenes section 83.1 if they make the disclosure referred to in that section only to the Commissioner of the Royal Canadian Mounted Police or the Director of the Canadian Security Intelligence Service.

2001, c. 41, s. 4.

Seizure and Restraint of Property

Seizure and restraint of assets

83.13 (1) Where a judge of the Federal Court, on an *ex parte* application by the Attorney General, after examining the application in private, is satisfied that there are reasonable grounds to believe that there is in any building, receptacle or place any property in respect of which an order of forfeiture may be made under subsection 83.14(5), the judge may issue

(a) if the property is situated in Canada, a warrant authorizing a person named therein or a peace officer to search the building, receptacle or place for that property and to seize that property and any other property in respect of which that person or peace officer believes, on reasonable grounds, that an order of forfeiture may be made under that subsection; or

(b) if the property is situated in or outside Canada, a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property other than as may be specified in the order.

Contents of application

(1.1) An affidavit in support of an application under subsection (1) may be sworn on information and belief, and, notwithstanding the *Federal Court Rules, 1998*, no adverse inference shall be drawn from a failure to provide evidence of persons having personal knowledge of material facts.

Appointment of manager

(2) On an application under subsection (1), at the request of the Attorney General, if a judge is of the

opinion that the circumstances so require, the judge may

(a) appoint a person to take control of, and to manage or otherwise deal with, all or part of the property in accordance with the directions of the judge; and

(b) require any person having possession of that property to give possession of the property to the person appointed under paragraph (a).

Appointment of
Minister of Public
Works and
Government Services

(3) When the Attorney General of Canada so requests, a judge appointing a person under subsection (2) shall appoint the Minister of Public Works and Government Services.

Power to manage

(4) The power to manage or otherwise deal with property under subsection (2) includes

(a) in the case of perishable or rapidly depreciating property, the power to sell that property; and

(b) in the case of property that has little or no value, the power to destroy that property.

Application for
destruction order

(5) Before a person appointed under subsection (2) destroys property referred to in paragraph (4)(b), he or she shall apply to a judge of the Federal Court for a destruction order.

Notice

(6) Before making a destruction order in relation to any property, a judge shall require notice in accordance with subsection (7) to be given to, and may hear, any person who, in the opinion of the judge, appears to have a valid interest in the property.

Manner of giving
notice

(7) A notice under subsection (6) shall be given in the manner that the judge directs or as provided in the rules of the Federal Court.

Order

(8) A judge may order that property be destroyed if he or she is satisfied that the property has little or no financial or other value.

When management
order ceases to have
effect

(9) A management order ceases to have effect when the property that is the subject of the management order is returned to an applicant in accordance with the law or forfeited to Her Majesty.

Application to vary

(10) The Attorney General may at any time apply to a judge of the Federal Court to cancel or vary an order or warrant made under this section, other than an appointment made under subsection (3).

Procedure

(11) Subsections 462.32(4) and (6), sections 462.34 to 462.35 and 462.4, subsections 487(3) and (4) and section 488 apply, with such modifications as the circumstances require, to a warrant issued under paragraph (1)(a).

Procedure

(12) Subsections 462.33(4) and (6) to (11) and sections 462.34 to 462.35 and 462.4 apply, with such modifications as the circumstances require, to an order issued under paragraph (1)(b).

2001, c. 41, s. 4.

Forfeiture of Property

Application for order of forfeiture

83.14 (1) The Attorney General may make an application to a judge of the Federal Court for an order of forfeiture in respect of

(a) property owned or controlled by or on behalf of a terrorist group; or

(b) property that has been or will be used, in whole or in part, to facilitate or carry out a terrorist activity.

Contents of
application

(2) An affidavit in support of an application by the Attorney General under subsection (1) may be sworn on information and belief, and, notwithstanding the *Federal Court Rules, 1998*, no adverse inference shall be drawn from a failure to provide evidence of persons having personal knowledge of material facts.

Respondents

(3) The Attorney General is required to name as a respondent to an application under subsection (1) only those persons who are known to own or control the property that is the subject of the application.

Notice

(4) The Attorney General shall give notice of an application under subsection (1) to named respondents in such a manner as the judge directs or as provided in the rules of the Federal Court.

Granting of forfeiture

(5) If a judge is satisfied on a balance of probabilities that property is property referred to in paragraph

order	(1)(a) or (b), the judge shall order that the property be forfeited to Her Majesty to be disposed of as the Attorney General directs or otherwise dealt with in accordance with the law.
Use of proceeds	(5.1) Any proceeds that arise from the disposal of property under subsection (5) may be used to compensate victims of terrorist activities and to fund anti-terrorist initiatives in accordance with any regulations made by the Governor in Council under subsection (5.2).
Regulations	(5.2) The Governor in Council may make regulations for the purposes of specifying how the proceeds referred to in subsection (5.1) are to be distributed.
Order refusing forfeiture	(6) Where a judge refuses an application under subsection (1) in respect of any property, the judge shall make an order that describes the property and declares that it is not property referred to in that subsection.
Notice	(7) On an application under subsection (1), a judge may require notice to be given to any person who, in the opinion of the Court, appears to have an interest in the property, and any such person shall be entitled to be added as a respondent to the application.
Third party interests	(8) If a judge is satisfied that a person referred to in subsection (7) has an interest in property that is subject to an application, has exercised reasonable care to ensure that the property would not be used to facilitate or carry out a terrorist activity, and is not a member of a terrorist group, the judge shall order that the interest is not affected by the forfeiture. Such an order shall declare the nature and extent of the interest in question.
Dwelling-house	<p>(9) Where all or part of property that is the subject of an application under subsection (1) is a dwelling-house, the judge shall also consider</p> <p>(a) the impact of an order of forfeiture on any member of the immediate family of the person who owns or controls the dwelling-house, if the dwelling-house was the member's principal residence at the time the dwelling-house was ordered restrained or at the time the forfeiture application was made and continues to be the member's principal residence; and</p> <p>(b) whether the member appears innocent of any complicity or collusion in the terrorist activity.</p>
Motion to vary or set aside	(10) A person who claims an interest in property that was forfeited and who did not receive notice under subsection (7) may bring a motion to the Federal Court to vary or set aside an order made under subsection (5) not later than 60 days after the day on which the forfeiture order was made.
No extension of time	<p>(11) The Court may not extend the period set out in subsection (10).</p> <p>2001, c. 41, s. 4.</p>
Disposition of property	<p>83.15 Subsection 462.42(6) and sections 462.43 and 462.46 apply, with such modifications as the circumstances require, to property subject to a warrant or restraint order issued under subsection 83.13(1) or ordered forfeited under subsection 83.14(5).</p> <p>2001, c. 41, s. 4.</p>
Interim preservation rights	<p>83.16 (1) Pending any appeal of an order made under section 83.14, property restrained under an order issued under section 83.13 shall continue to be restrained, property seized under a warrant issued under that section shall continue to be detained, and any person appointed to manage, control or otherwise deal with that property under that section shall continue in that capacity.</p>
Appeal of refusal to grant order	<p>(2) Section 462.34 applies, with such modifications as the circumstances require, to an appeal taken in respect of a refusal to grant an order under subsection 83.14(5).</p> <p>2001, c. 41, s. 4.</p>
Other forfeiture provisions unaffected	<p>83.17 (1) This Part does not affect the operation of any other provision of this or any other Act of Parliament respecting the forfeiture of property.</p>
Priority for restitution to victims of crime	<p>(2) Property is subject to forfeiture under subsection 83.14(5) only to the extent that it is not required to satisfy the operation of any other provision of this or any other Act of Parliament respecting restitution to, or compensation of, persons affected by the commission of offences.</p> <p>2001, c. 41, s. 4.</p>

Participating, Facilitating, Instructing and Harbours

Participation in	83.18 (1) Every one who knowingly participates in or contributes to, directly or indirectly, any activity of a terrorist group for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist
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activity of terrorist group

activity is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

Prosecution

- (2) An offence may be committed under subsection (1) whether or not
- (a) a terrorist group actually facilitates or carries out a terrorist activity;
 - (b) the participation or contribution of the accused actually enhances the ability of a terrorist group to facilitate or carry out a terrorist activity; or
 - (c) the accused knows the specific nature of any terrorist activity that may be facilitated or carried out by a terrorist group.

Meaning of participating or contributing

- (3) Participating in or contributing to an activity of a terrorist group includes
- (a) providing, receiving or recruiting a person to receive training;
 - (b) providing or offering to provide a skill or an expertise for the benefit of, at the direction of or in association with a terrorist group;
 - (c) recruiting a person in order to facilitate or commit
 - (i) a terrorism offence, or
 - (ii) an act or omission outside Canada that, if committed in Canada, would be a terrorism offence;
 - (d) entering or remaining in any country for the benefit of, at the direction of or in association with a terrorist group; and
 - (e) making oneself, in response to instructions from any of the persons who constitute a terrorist group, available to facilitate or commit
 - (i) a terrorism offence, or
 - (ii) an act or omission outside Canada that, if committed in Canada, would be a terrorism offence.

Factors

- (4) In determining whether an accused participates in or contributes to any activity of a terrorist group, the court may consider, among other factors, whether the accused
- (a) uses a name, word, symbol or other representation that identifies, or is associated with, the terrorist group;
 - (b) frequently associates with any of the persons who constitute the terrorist group;
 - (c) receives any benefit from the terrorist group; or
 - (d) repeatedly engages in activities at the instruction of any of the persons who constitute the terrorist group.

2001, c. 41, s. 4.

Facilitating terrorist activity

83.19 (1) Every one who knowingly facilitates a terrorist activity is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

Facilitation

- (2) For the purposes of this Part, a terrorist activity is facilitated whether or not
- (a) the facilitator knows that a particular terrorist activity is facilitated;
 - (b) any particular terrorist activity was foreseen or planned at the time it was facilitated; or
 - (c) any terrorist activity was actually carried out.

2001, c. 41, s. 4.

Commission of

83.2 Every one who commits an indictable offence under this or any other Act of Parliament for the benefit

offence for terrorist group

of, at the direction of or in association with a terrorist group is guilty of an indictable offence and liable to imprisonment for life.

2001, c. 41, s. 4.

Instructing to carry out activity for terrorist group

83.21 (1) Every person who knowingly instructs, directly or indirectly, any person to carry out any activity for the benefit of, at the direction of or in association with a terrorist group, for the purpose of enhancing the ability of any terrorist group to facilitate or carry out a terrorist activity, is guilty of an indictable offence and liable to imprisonment for life.

Prosecution

(2) An offence may be committed under subsection (1) whether or not

(a) the activity that the accused instructs to be carried out is actually carried out;

(b) the accused instructs a particular person to carry out the activity referred to in paragraph (a);

(c) the accused knows the identity of the person whom the accused instructs to carry out the activity referred to in paragraph (a);

(d) the person whom the accused instructs to carry out the activity referred to in paragraph (a) knows that it is to be carried out for the benefit of, at the direction of or in association with a terrorist group;

(e) a terrorist group actually facilitates or carries out a terrorist activity;

(f) the activity referred to in paragraph (a) actually enhances the ability of a terrorist group to facilitate or carry out a terrorist activity; or

(g) the accused knows the specific nature of any terrorist activity that may be facilitated or carried out by a terrorist group.

2001, c. 41, s. 4.

Instructing to carry out terrorist activity

83.22 (1) Every person who knowingly instructs, directly or indirectly, any person to carry out a terrorist activity is guilty of an indictable offence and liable to imprisonment for life.

Prosecution

(2) An offence may be committed under subsection (1) whether or not

(a) the terrorist activity is actually carried out;

(b) the accused instructs a particular person to carry out the terrorist activity;

(c) the accused knows the identity of the person whom the accused instructs to carry out the terrorist activity; or

(d) the person whom the accused instructs to carry out the terrorist activity knows that it is a terrorist activity.

2001, c. 41, s. 4.

Harbouring or concealing

83.23 Every one who knowingly harbours or conceals any person whom he or she knows to be a person who has carried out or is likely to carry out a terrorist activity, for the purpose of enabling the person to facilitate or carry out any terrorist activity, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

2001, c. 41, s. 4.

Proceedings and Aggravated Punishment

Attorney General's consent

83.24 Proceedings in respect of a terrorism offence or an offence under section 83.12 shall not be commenced without the consent of the Attorney General.

2001, c. 41, s. 4.

Jurisdiction

83.25 (1) Where a person is alleged to have committed a terrorism offence or an offence under section 83.12, proceedings in respect of that offence may, whether or not that person is in Canada, be commenced at the instance of the Government of Canada and conducted by the Attorney General of Canada or counsel acting

on his or her behalf in any territorial division in Canada, if the offence is alleged to have occurred outside the province in which the proceedings are commenced, whether or not proceedings have previously been commenced elsewhere in Canada.

Trial and punishment (2) An accused may be tried and punished in respect of an offence referred to in subsection (1) in the same manner as if the offence had been committed in the territorial division where the proceeding is conducted.

2001, c. 41, s. 4.

Sentences to be served consecutively

83.26 A sentence, other than one of life imprisonment, imposed on a person for an offence under any of sections 83.02 to 83.04 and 83.18 to 83.23 shall be served consecutively to

(a) any other punishment imposed on the person, other than a sentence of life imprisonment, for an offence arising out of the same event or series of events; and

(b) any other sentence, other than one of life imprisonment, to which the person is subject at the time the sentence is imposed on the person for an offence under any of those sections.

2001, c. 41, s. 4.

Punishment for terrorist activity

83.27 (1) Notwithstanding anything in this Act, a person convicted of an indictable offence, other than an offence for which a sentence of imprisonment for life is imposed as a minimum punishment, where the act or omission constituting the offence also constitutes a terrorist activity, is liable to imprisonment for life.

Offender must be notified (2) Subsection (1) does not apply unless the prosecutor satisfies the court that the offender, before making a plea, was notified that the application of that subsection would be sought.

2001, c. 41, s. 4.

Investigative Hearing

Definition of "judge"

83.28 (1) In this section and section 83.29, "judge" means a provincial court judge or a judge of a superior court of criminal jurisdiction.

Order for gathering evidence (2) Subject to subsection (3), a peace officer may, for the purposes of an investigation of a terrorism offence, apply *ex parte* to a judge for an order for the gathering of information.

Attorney General's consent (3) A peace officer may make an application under subsection (2) only if the prior consent of the Attorney General was obtained.

Making of order (4) A judge to whom an application is made under subsection (2) may make an order for the gathering of information if the judge is satisfied that the consent of the Attorney General was obtained as required by subsection (3) and

(a) that there are reasonable grounds to believe that

(i) a terrorism offence has been committed, and

(ii) information concerning the offence, or information that may reveal the whereabouts of a person suspected by the peace officer of having committed the offence, is likely to be obtained as a result of the order; or

(b) that

(i) there are reasonable grounds to believe that a terrorism offence will be committed,

(ii) there are reasonable grounds to believe that a person has direct and material information that relates to a terrorism offence referred to in subparagraph (i), or that may reveal the whereabouts of an individual who the peace officer suspects may commit a terrorism offence referred to in that subparagraph, and

(iii) reasonable attempts have been made to obtain the information referred to in subparagraph (ii) from the person referred to in that subparagraph.

Contents of order (5) An order made under subsection (4) may

- (a) order the examination, on oath or not, of a person named in the order;
- (b) order the person to attend at the place fixed by the judge, or by the judge designated under paragraph (d), as the case may be, for the examination and to remain in attendance until excused by the presiding judge;
- (c) order the person to bring to the examination any thing in their possession or control, and produce it to the presiding judge;
- (d) designate another judge as the judge before whom the examination is to take place; and
- (e) include any other terms or conditions that the judge considers desirable, including terms or conditions for the protection of the interests of the person named in the order and of third parties or for the protection of any ongoing investigation.

Execution of order	(6) An order made under subsection (4) may be executed anywhere in Canada.
Variation of order	(7) The judge who made the order under subsection (4), or another judge of the same court, may vary its terms and conditions.
Obligation to answer questions and produce things	(8) A person named in an order made under subsection (4) shall answer questions put to the person by the Attorney General or the Attorney General's agent, and shall produce to the presiding judge things that the person was ordered to bring, but may refuse if answering a question or producing a thing would disclose information that is protected by any law relating to non-disclosure of information or to privilege.
Judge to rule	(9) The presiding judge shall rule on any objection or other issue relating to a refusal to answer a question or to produce a thing.
No person excused from complying with subsection (8)	(10) No person shall be excused from answering a question or producing a thing under subsection (8) on the ground that the answer or thing may tend to incriminate the person or subject the person to any proceeding or penalty, but <ul style="list-style-type: none"> (a) no answer given or thing produced under subsection (8) shall be used or received against the person in any criminal proceedings against that person, other than a prosecution under section 132 or 136; and (b) no evidence derived from the evidence obtained from the person shall be used or received against the person in any criminal proceedings against that person, other than a prosecution under section 132 or 136.
Right to counsel	(11) A person has the right to retain and instruct counsel at any stage of the proceedings.
Order for custody of thing	(12) The presiding judge, if satisfied that any thing produced during the course of the examination will likely be relevant to the investigation of any terrorism offence, shall order that the thing be given into the custody of the peace officer or someone acting on the peace officer's behalf.

2001, c. 41, s. 4.

Arrest warrant

83.29 (1) The judge who made the order under subsection 83.28(4), or another judge of the same court, may issue a warrant for the arrest of the person named in the order if the judge is satisfied, on an information in writing and under oath, that the person

- (a) is evading service of the order;
- (b) is about to abscond; or
- (c) did not attend the examination, or did not remain in attendance, as required by the order.

Execution of warrant	(2) A warrant issued under subsection (1) may be executed at any place in Canada by any peace officer having jurisdiction in that place.
Person to be brought before judge	(3) A peace officer who arrests a person in the execution of a warrant issued under subsection (1) shall, without delay, bring the person, or cause the person to be brought, before the judge who issued the warrant or another judge of the same court. The judge in question may, to ensure compliance with the order, order that the person be detained in custody or released on recognizance, with or without sureties.

2001, c. 41, s. 4.

Attorney General's
consent required to
lay information

83.3 (1) The consent of the Attorney General is required before a peace officer may lay an information under subsection (2).

Terrorist activity

(2) Subject to subsection (1), a peace officer may lay an information before a provincial court judge if the peace officer

(a) believes on reasonable grounds that a terrorist activity will be carried out; and

(b) suspects on reasonable grounds that the imposition of a recognizance with conditions on a person, or the arrest of a person, is necessary to prevent the carrying out of the terrorist activity.

Appearance

(3) A provincial court judge who receives an information under subsection (2) may cause the person to appear before the provincial court judge.

Arrest without warrant

(4) Notwithstanding subsections (2) and (3), if

(a) either

(i) the grounds for laying an information referred to in paragraphs (2)(a) and (b) exist but, by reason of exigent circumstances, it would be impracticable to lay an information under subsection (2), or

(ii) an information has been laid under subsection (2) and a summons has been issued, and

(b) the peace officer suspects on reasonable grounds that the detention of the person in custody is necessary in order to prevent a terrorist activity,

the peace officer may arrest the person without warrant and cause the person to be detained in custody, to be taken before a provincial court judge in accordance with subsection (6).

Duty of peace officer

(5) If a peace officer arrests a person without warrant in the circumstance described in subparagraph (4)(a)(i), the peace officer shall, within the time prescribed by paragraph (6)(a) or (b),

(a) lay an information in accordance with subsection (2); or

(b) release the person.

When person to be
taken before judge

(6) A person detained in custody shall be taken before a provincial court judge in accordance with the following rules:

(a) if a provincial court judge is available within a period of twenty-four hours after the person has been arrested, the person shall be taken before a provincial court judge without unreasonable delay and in any event within that period, and

(b) if a provincial court judge is not available within a period of twenty-four hours after the person has been arrested, the person shall be taken before a provincial court judge as soon as possible,

unless, at any time before the expiry of the time prescribed in paragraph (a) or (b) for taking the person before a provincial court judge, the peace officer, or an officer in charge within the meaning of Part XV, is satisfied that the person should be released from custody unconditionally, and so releases the person.

How person dealt
with

(7) When a person is taken before a provincial court judge under subsection (6),

(a) if an information has not been laid under subsection (2), the judge shall order that the person be released; or

(b) if an information has been laid under subsection (2),

(i) the judge shall order that the person be released unless the peace officer who laid the information shows cause why the detention of the person in custody is justified on one or more of the following grounds:

(A) the detention is necessary to ensure the person's appearance before a provincial court judge in order to be dealt with in accordance with subsection (8),

(B) the detention is necessary for the protection or safety of the public, including any witness, having regard to

all the circumstances including

(I) the likelihood that, if the person is released from custody, a terrorist activity will be carried out, and

(II) any substantial likelihood that the person will, if released from custody, interfere with the administration of justice, and

(C) any other just cause and, without limiting the generality of the foregoing, that the detention is necessary in order to maintain confidence in the administration of justice, having regard to all the circumstances, including the apparent strength of the peace officer's grounds under subsection (2), and the gravity of any terrorist activity that may be carried out, and

(ii) the judge may adjourn the matter for a hearing under subsection (8) but, if the person is not released under subparagraph (i), the adjournment may not exceed forty-eight hours.

Hearing before judge

(8) The provincial court judge before whom the person appears pursuant to subsection (3)

(a) may, if satisfied by the evidence adduced that the peace officer has reasonable grounds for the suspicion, order that the person enter into a recognizance to keep the peace and be of good behaviour for any period that does not exceed twelve months and to comply with any other reasonable conditions prescribed in the recognizance, including the conditions set out in subsection (10), that the provincial court judge considers desirable for preventing the carrying out of a terrorist activity; and

(b) if the person was not released under subparagraph (7)(b)(i), shall order that the person be released, subject to the recognizance, if any, ordered under paragraph (a).

Refusal to enter into recognizance

(9) The provincial court judge may commit the person to prison for a term not exceeding twelve months if the person fails or refuses to enter into the recognizance.

Conditions -- firearms

(10) Before making an order under paragraph (8)(a), the provincial court judge shall consider whether it is desirable, in the interests of the safety of the person or of any other person, to include as a condition of the recognizance that the person be prohibited from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all of those things, for any period specified in the recognizance, and where the provincial court judge decides that it is so desirable, the provincial court judge shall add such a condition to the recognizance.

Surrender, etc.

(11) If the provincial court judge adds a condition described in subsection (10) to a recognizance, the provincial court judge shall specify in the recognizance the manner and method by which

(a) the things referred to in that subsection that are in the possession of the person shall be surrendered, disposed of, detained, stored or dealt with; and

(b) the authorizations, licences and registration certificates held by the person shall be surrendered.

Reasons

(12) If the provincial court judge does not add a condition described in subsection (10) to a recognizance, the provincial court judge shall include in the record a statement of the reasons for not adding the condition.

Variance of conditions

(13) The provincial court judge may, on application of the peace officer, the Attorney General or the person, vary the conditions fixed in the recognizance.

Other provisions to apply

(14) Subsections 810(4) and (5) apply, with any modifications that the circumstances require, to proceedings under this section.

2001, c. 41, s. 4.

[Annual report \(sections 83.28 and 83.29\)](#)

83.31 (1) The Attorney General of Canada shall prepare and cause to be laid before Parliament and the Attorney General of every province shall publish or otherwise make available to the public an annual report for the previous year on the operation of sections 83.28 and 83.29 that includes

(a) the number of consents to make an application that were sought, and the number that were obtained, by virtue of subsections 83.28(2) and (3);

(b) the number of orders for the gathering of information that were made under subsection 83.28(4); and

(c) the number of arrests that were made with a warrant issued under section 83.29.

Annual report (section 83.3)

(2) The Attorney General of Canada shall prepare and cause to be laid before Parliament and the Attorney General of every province shall publish or otherwise make available to the public an annual report for the

previous year on the operation of section 83.3 that includes

(a) the number of consents to lay an information that were sought, and the number that were obtained, by virtue of subsections 83.3(1) and (2);

(b) the number of cases in which a summons or a warrant of arrest was issued for the purposes of subsection 83.3(3);

(c) the number of cases where a person was not released under subsection 83.3(7) pending a hearing;

(d) the number of cases in which an order to enter into a recognizance was made under paragraph 83.3(8)(a), and the types of conditions that were imposed;

(e) the number of times that a person failed or refused to enter into a recognizance, and the term of imprisonment imposed under subsection 83.3(9) in each case; and

(f) the number of cases in which the conditions fixed in a recognizance were varied under subsection 83.3(13).

Annual report (section 83.3)

(3) The Solicitor General of Canada shall prepare and cause to be laid before Parliament and the Minister responsible for policing in every province shall publish or otherwise make available to the public an annual report for the previous year on the operation of section 83.3 that includes

(a) the number of arrests without warrant that were made under subsection 83.3(4) and the period of the arrested person's detention in custody in each case; and

(b) the number of cases in which a person was arrested without warrant under subsection 83.3(4) and was released

(i) by a peace officer under paragraph 83.3(5)(b), or

(ii) by a judge under paragraph 83.3(7)(a).

Limitation

(4) The annual report shall not contain any information the disclosure of which would

(a) compromise or hinder an ongoing investigation of an offence under an Act of Parliament;

(b) endanger the life or safety of any person;

(c) prejudice a legal proceeding; or

(d) otherwise be contrary to the public interest.

2001, c. 41, s. 4.

Sunset provision

83.32 (1) Sections 83.28, 83.29 and 83.3 cease to apply at the end of the fifteenth sitting day of Parliament after December 31, 2006 unless, before the end of that day, the application of those sections is extended by a resolution -- the text of which is established under subsection (2) -- passed by both Houses of Parliament in accordance with the rules set out in subsection (3).

Order in Council

(2) The Governor General in Council may, by order, establish the text of a resolution providing for the extension of the application of sections 83.28, 83.29 and 83.3 and specifying the period of the extension, which may not exceed five years from the first day on which the resolution has been passed by both Houses of Parliament.

Rules

(3) A motion for the adoption of the resolution may be debated in both Houses of Parliament but may not be amended. At the conclusion of the debate, the Speaker of the House of Parliament shall immediately put every question necessary to determine whether or not the motion is concurred in.

Subsequent extensions

(4) The application of sections 83.28, 83.29 and 83.3 may be further extended in accordance with the procedure set out in this section, with the words "December 31, 2006" in subsection (1) read as "the expiration of the most recent extension under this section".

Definition of "sitting day of Parliament"

(5) In subsection (1), "sitting day of Parliament" means a day on which both Houses of Parliament sit.

2001, c. 41, s. 4.

Transitional provision

83.33 (1) In the event that sections 83.28 and 83.29 cease to apply pursuant to section 83.32, proceedings

commenced under those sections shall be completed if the hearing before the judge of the application made under subsection 83.28(2) began before those sections ceased to apply.

Transitional provision (2) In the event that section 83.3 ceases to apply pursuant to section 83.32, a person detained in custody under section 83.3 shall be released when that section ceases to apply, except that subsections 83.3(7) to (14) continue to apply to a person who was taken before a judge under subsection 83.3(6) before section 83.3 ceased to apply.

2001, c. 41, s. 4.