

**THE ANTI-TERRORISM (AMENDMENT)
BILL, 2015**

MEMORANDUM

The object of this Bill is to amend the Anti-Terrorism Act, 2007,
so as to—

- (a) establish the National Anti-Terrorism Centre and provide
for its functions; and
- (b) provide for matters connected with, or incidental to,
the foregoing.

A. C. Mwansa,
Solicitor-General

GOVERNMENT OF ZAMBIA

A BILL

ENTITLED

An Act to amend the Anti-Terrorism Act, 2007

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Anti-Terrorism (Amendment) Act, 2015, and shall be read as one with the Anti-Terrorism Act, 2007, in this Act referred to as the principal Act.

Short title
Act No. 21
of 2007

5 2. Section *two* of the principal Act is amended by—

Amendment
of section 2

(a) the insertion, in the appropriate places, of the following new definitions:

“anti-terrorism officer” means a person appointed as such under section *four I*;

10 “authorised officer” means the person appointed as such under section *four G*;

“Centre” means the National Anti-Terrorism Centre established under section *four A*;

15 “Committee” means the Central Joint Operations Committee established under section *four D*;

“Executive Director” means the person appointed Executive Director under section *four B*;

“funds” means—

20 (a) property applied or used for the commission or furtherance of or in connection with, acts of terrorism;

25 (b) the proceeds of the commission of acts of terrorism or of activities in furtherance of or in connection with such acts; or

(c) the property of a declared terrorist organisation, an entity owned or controlled directly or indirectly by a declared terrorist organisations or terrorist or a person or entity acting on behalf of, or at the direction of a terrorist organisation of or individual terrorist;

(b) the deletion of the definition of “property” and the substitution thereof of the following:

“property” includes any real or personal property, money, things in action or other intangible or incorporeal property, whether located in Zambia or elsewhere, and property of corresponding value in the absence of the original illegally acquired property whose value has been determined.

Insertion of new Part IA

3. The principal Act is amended by the insertion, immediately after Part I, of the following new Part:

PART IA

THE NATIONAL ANTI-TERRORISM CENTRE 20

Establishment of National Anti-Terrorism Centre

4A. (1) There is established the National Anti-Terrorism Centre which shall be responsible for the enforcement of this Act.

(2) The Centre shall be a unit based in the Ministry responsible for national security and shall be under the control and supervision of the Minister responsible for national security.

(3) The expenses of the Centre shall be charged upon and issued out of the general revenues for the Republic.

Functions of Centre

4B. (1) The Centre shall detect, respond to, mitigate and investigate terrorist incidents and threats to national security.

(2) Without prejudice to the generality of subsection (1), the functions of the Centre are to—

(a) draw up plans and coordinate actions for counter terrorism;

(b) integrate and analyse intelligence pertaining to terrorism;

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- 5 (c) maintain a database of terrorists modules and gangs, their associates, friends, families and supporters and other relevant information pertaining to terrorists;
- 5 (d) prescribe counter terrorism priorities;
- (e) provide law enforcement agencies access to the intelligence support necessary to execute counter-terrorism plans and accomplish their assigned tasks;
- 10 (f) coordinate with investigation and intelligence agencies to ensure effective detection and prosecution of terrorism;
- (g) prepare daily threat assessment reviews and disseminate them to the appropriate levels in the Government;
- 15 (h) develop and promote the adoption of best practices for coordination of law enforcement agencies, government institutions and the general public in combatting of terrorism;
- 20 (i) enhance the State's capacity to—
- (i) prevent the creation of safe havens for terrorists;
- (ii) detect chemical, biological, radioactive or nuclear materials;
- 25 (iii) search, confiscate and establish safe control of chemical, biological, radioactive or nuclear materials;
- (iv) account for, control and provide physical protection of chemical, biological, radioactive or nuclear materials;
- 30 (v) provide security of civilian and non-civilian institutions from chemical, biological, radioactive or nuclear threats;
- 35 (vi) respond to, mitigate and investigate chemical, biological, radioactive or nuclear incidents;
- 40 (vii) facilitate national, regional and global sharing of information for countering terrorism; and

- (viii) ensure ratification and implementation of international conventions on terrorism; and
- (j) provide centralised services to law enforcement agencies, Government institutions and the general public in matters of national security or public interest in the following:
 - (i) forensic criminal investigations;
 - (ii) scene of crime investigations;
 - (iii) forensic accounting investigations;
 - (iv) visual technical surveillance of public places to help in investigations of crime;
 - (v) laboratory analysis of chemical, biological, radioactive and nuclear materials, whether connected to crime or not; and
 - (vi) maintenance of criminal records and a general national database.

Central Joint
Operations
Committee

4C. (1) There is established the Central Joint Operations Committee which shall consist of the following members appointed by the President:

- (a) the Zambia Army Commander, who shall be the Chairperson; (b) the Inspector-General of Police, who shall be the Vice-Chairperson;
- (c) the Director-General of the Security Intelligence Service;
- (d) the Zambia Air Force Commander;
- (e) the Zambia National Service Commandant; and
- (f) the Commissioner of Drug Enforcement Commission.

(2) A person qualifies to be appointed as a member of the Committee if that person has served as head of the Zambia Army, Zambia Air Force, Zambia National Service, Zambia Security Intelligence Service, Zambia Police Force and the Drug Enforcement Commission.

(3) A person shall not be nominated or appointed as a member of the Committee if that person—

- (a) is not a citizen of Zambia;

(b) has physical or mental disability that makes the person incapable of discharging the functions of office;

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(c) has been convicted of an offence under any written law;

(d) is a Member of Parliament or an officer or employee of a local authority; or

(e) is an officebearer or employee of a political party.

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(4) The Executive Director shall be the Secretary to the Committee.

4D. Subject to the other provisions of this Act, the functions of the Committee are to—

Functions of Committee

(a) carry out the functions of the Centre;

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(b) issue policy directives regarding obligations and measures to detect, prevent and deter the commission of terrorist acts;

(c) enter into and facilitate cooperation agreements with foreign authorities and law enforcement agencies; and

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(d) perform such other functions as are necessary to give effect to this Act.

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4E. (1) The Committee may, for the purpose of performing its functions under this Act, constitute any sub-committee and delegate to the sub-committee such of its functions as it thinks fit.

Sub-committees

(2) The Committee may appoint, as members of a sub-committee constituted under subsection (1), persons who are or are not members of the Committee and such persons shall hold office for such period as the Committee may determine.

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(3) A sub-committee may regulate its own procedure.

4F. The Committee may, by direction, in writing, and subject to such terms and conditions as it considers necessary, delegate any of the functions of the Centre to the Executive Director, a member or sub-committee.

Delegation of functions of Committee

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4G. (1) The Public Service Commission shall appoint, as a public officer, the Executive Director of the Centre.

Executive Director, Deputy Executive Director and other staff

(2) The Executive Director shall, subject to the general or specific directions of the Minister—

- (a) be responsible for the administration of the Centre;
- (b) be responsible to the Minister for matters concerning the Centre; and
- (c) exercise the functions conferred or imposed upon the Executive Director by or under this Act. 5

(3) There shall be appointed by the Public Service Commission such other officers as shall be necessary to assist the Executive Director in the performance of the Executive Director's functions under this Act.

- (4) An officer may be seconded to the Centre from— 10
- (a) the Zambia Army;
 - (b) the Zambia Air Force;
 - (c) the Zambia Police Force;
 - (d) the Zambia National Service;
 - (e) the Drug Enforcement Commission; 15
 - (f) the Customs Division of the Zambia Revenue Authority; or
 - (g) the Public Service.

(5) Any function conferred by or under this Act on the Executive Director may be performed by any person acting 20 as Executive Director if the Executive Director is unable to perform any function due to any cause.

(6) The Executive Director may issue orders and instructions for the general administration of the Centre in relation to duties, distribution, inspection, transfer, training, arms, 25 clothing, equipment, transport and places of residence and such other orders necessary to promote efficiency and discipline of the Centre.

(7) The command and control of the Centre in any place or area shall vest in the authorised officer who is appointed 30 by the Executive Director to be in charge of the Centre in that place or area.

(8) The Executive Director may request specialised agencies in law enforcement, intelligence, national security to second skilled staff to work at the Centre. 35

4H. (1) The Committee shall, in order to ensure compliance with the provisions of this Act, appoint such anti-terrorism officers as may be necessary for that purpose.

Anti-
terrorism
officers

(2) An anti-terrorism officer shall be provided with a certificate of appointment which shall be *prima facie* evidence of the anti-terrorism officer's appointment as such.

5 (3) An anti-terrorism officer or authorised officer carrying out any functions under this Act shall, on demand by any person who is affected by the exercise of power by the anti-terrorism officer, produce for inspection the certificate referred to in subsection (2).

10 (4) An anti-terrorism officer shall have the power, on production of the certificate of appointment issued under subsection (2), to demand the production of, and to inspect or make copies of any documents or accounts kept by a person, pursuant to the provisions of this Act.

15 (5) An anti-terrorism officer may, upon probable cause shown on oath to a magistrate court, obtain a warrant to enter upon and search or examine the premises prescribed in the warrant in order to ascertain whether an offence is being or has been committed in such premises and shall have the power to make such examination, inspection and inquiry and do such things as the anti-terrorism officer may consider necessary for ascertaining whether or not the provisions of this Act are being complied with.

25 (6) All books, records and documents required to be kept by a person under any written law shall be open to inspection at all reasonable times by an anti-terrorism officer or authorised officer.

(7) An anti-terrorism officer or an authorised officer may seize—

30 (a) an apparatus which the anti-terrorism officer or police officer has reasonable cause to believe is being used by, or is in the possession of, or under the control of, a person in contravention of this Act; and

35 (b) any book, record or document which the anti-terrorism officer or an authorised officer has reasonable cause to suspect will afford evidence of the commission of an offence under this Act.

40 (8) An anti-terrorism officer may order a person to cease using, pending inquiry by the Centre, an apparatus which is being operated in contravention of this Act.

(9) A person who obstructs or hinders an anti-terrorism officer or an authorised officer in the exercise of any powers under this Act or who neglects or fails to comply with an order commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

Powers of anti-terrorism officers
Cap. 112
Cap. 111

4I. (1) An anti-terrorism officer shall, in the exercise of a function and performance of a duty, have all the powers conferred on a police officer or authorised officer by or under this Act, the Preservation of Public Security Act and the Emergency Act.

(2) Notwithstanding anything to the contrary contained in any other law, an anti-terrorism officer may, while on duty, carry such small arms as may be prescribed under this Act and may, in the course of duties, use such arms in circumstances where the use of arms is necessary and justifiable.

Entry by anti-terrorism officer or other authorised persons

4J. (1) An anti-terrorism officer or any person authorised by the Centre for the purpose may, at any reasonable time, enter any site or premises and inspect the site or premises, after giving reasonable notice to the person responsible for the site or premises, for the purpose of ensuring compliance with this Act.

(2) Notwithstanding subsection (1), an anti-terrorism officer may enter a site or premises for purposes of this Act, with warrant, if the anti-terrorism officer has reasonable grounds to believe that a provision of this Act has been or is about to be contravened or the site or premises have been used or are being used for the commission of an offence.

(3) An anti-terrorism officer or a person authorised by the Centre shall, where requested by a person responsible for any site or premises, produce evidence of the authorisation or permission to enter the site or premises.

(4) A person exercising any power under this section shall do so with reasonable care and in such a manner as to cause as little damage as possible.

Duty to provide information to anti-terrorism officer

4K. (1) A person responsible for a site or premises shall, on demand by an anti-terrorism officer—

(a) provide to the anti-terrorism officer information that is within that person's knowledge in all matters relating to an inspection or investigation done under this Act; and

(b) produce for inspection, any document or record relating to any matter that is the cause for the inspection or investigation.

5 (2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonments not exceeding one year, or to both.

10 4L. A member of staff of the Centre shall, at the time of joining and leaving the Centre, make and sign an oath of allegiance and prescribed declarations before the Executive Director or an officer appointed by the Executive Director.

Oath of allegiance and declarations

15 4M. (1) A person shall not, without the consent, in writing, given by or on behalf of the Committee, publish or disclose to an unauthorised person, otherwise than in the course of duties of that person, the contents of any document, communication or information that relates to or which has come to the knowledge of that person in the course of that person's duties under this Act.

Prohibition of publication of or disclosure of information to unauthorised persons

20 (2) A person who contravenes sub-section (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

25 (3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of sub-section (1), unlawfully publishes or communicates the information to another person commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

30 4. The principal Act is amended by the repeal of section *twenty* and the substitution therefor of the following:

Repeal and replacement of section 20

35 20. (1) A person who—
 (a) finances or participates in the financing of terrorism, irrespective of an occurrence of a terrorist act or whether the funds have actually been used to commit that act;
 (b) invites another person to provide or make available money or other property for purposes of terrorism; and

Terrorism financing and other support

(c) intends that any money or other property should be used for the purposes of terrorism;

commits an offence and is liable, upon conviction, to imprisonment for life.

(2) A person who— 5

(a) provides or makes available funds or other property; or

(b) knows that the funds or other property provided shall or may be used for the purposes of terrorism; 10

commits an offence and is liable, upon conviction, to imprisonment for life.

(3) A reference in this section to the provision of money or other property is a reference to its being given, lent or otherwise made available, whether or not for consideration. 15

(4) In this section—

“financing of terrorism” means an act by any person who by any means, directly or indirectly, wilfully provides or collects funds or attempts to do so with the 20 intention that the funds should be used or knowing that they are to be used in full or in part:

(a) to carry out a terrorist act;

(b) by a terrorist; or 25

(c) by a terrorist entity.

Amendment of section 22

5. Section *twenty-two* of the principal Act is amended by the deletion of subsection (3).

General Amendment of Act

6. The principal Act is amended by the deletion of the word “money” wherever it appears and the substitution therefor of the 30 word “funds”.