

REPUBLIC OF ZAMBIA

THE ORGANISATIONS (CONTROL OF ASSISTANCE) ACT

CHAPTER 116 OF THE LAWS OF ZAMBIA

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CHAPTER 116

ORGANISATIONS (CONTROL OF ASSISTANCE)

11 of 1966
13 of 1994

An Act to regulate the giving of assistance to organisations by foreign governments; to create offences in relation thereto; and to provide for matters incidental to or connected with the foregoing.

[22nd April, 1966]

1. This Act may be cited as the Organisations (Control of Assistance) Act.

Short title

2. (1) In this Act, unless the context otherwise requires-

Interpretation

"assistance" means assistance in the form of cash, gifts, loans, donations, property, travel vouchers or tickets:

Provided that the President may declare any form of assistance to be excluded from the operation of this definition;

"foreign government" means-

(a) a government other than the Government;

(b) any international body or agency;

and any other association or organisation declared by the President to be a foreign government for the purposes of this Act;

"office-bearer", in relation to any organisation, means a member of the governing or executive body of the organisation;

"officer", in relation to any organisation, means any person working for the organisation;

"organisation" means any association of persons, incorporated or unincorporated (and whether or not it has been established or registered in accordance with any written law) having, in the opinion of the President, objects of a political nature and declared by the President to be an organisation for the purposes of this Act;

"Registrar" means the Registrar of Societies.

(2) Where the President declares an organisation to be an organisation for the purposes of this Act, such declaration shall not operate so as to include any branch of the organisation so declared unless such branch is mentioned in the said declaration.

(3) Any reference in this Act to the "Registrar" shall, except in section *six* and subject to the provisions of subsection (2) of section *three*, be deemed to include a reference to a person authorised in pursuance of the provisions of section *three*, and accordingly, where any power is conferred or duty is imposed on the Registrar, such power or duty may be exercised or performed by a person authorised as aforesaid.

3. (1) The President may, by statutory instrument, authorise such number of public officers as he may deem necessary to assist the Registrar in the performance of his functions.

Authorisation of public officers to assist Registrar

(2) The President may attach such conditions as he may deem appropriate to any authorisation given by him under subsection (1) to a public officer.

4. (1) No organisation shall, except with the prior approval of the President in writing, accept assistance from any foreign government or from any agency or person acting on behalf of any foreign government. Prohibition of certain forms of assistance

(2) Acceptance by an office-bearer, or by an officer, of an organisation of assistance, without the prior approval of the President in writing shall, for all purposes, be treated as acceptance by the organisation concerned of such assistance.

(3) The approval of the President under this section may be given generally or in respect of any particular transaction involving the giving of assistance.

5. Where an organisation accepts assistance contrary to the provisions of section *four*, all the office-bearers of the organisation and any officer thereof who accepted assistance shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding two years: Offence

Provided that it shall be sufficient defence if an office-bearer proves to the satisfaction of the court that the assistance was received without his knowledge or consent and that the contravention of section *four* did not arise from want of due care or caution on his part.

6. (1) Where an organisation accepts assistance contrary to the provisions of section *four*, the Attorney-General may make application to the High Court for the purpose of invoking the penalties referred to in subsection (2). Application to High Court to invoke penalties

(2) If on application made to it the High Court is satisfied that an organisation has accepted assistance contrary to the provisions of section *four*, it may by order direct-

(a) that the organisation be wound up; or

(b) that the organisation pay to the Registrar the amount of such assistance or such amount as it considers represents the value of such assistance:

Provided that where application is made under this section in respect of an organisation and an order has been made under this section against the organisation on a previous occasion, the High Court shall, if satisfied as aforesaid, make an order under paragraph (a).

(3) The Chief Justice may, by statutory instrument, make rules prescribing the procedure to be followed in any application made under this section.

7. (1) An order under paragraph (a) of subsection (2) of section *six* shall operate so as to vest the property, real and personal, of the organisation concerned in the Registrar and he shall proceed to wind up the affairs of such organisation, and if, after satisfying and providing for all the debts and liabilities of the organisation and the cost of winding up, there are any surplus assets, the Registrar shall prepare and submit to the Minister responsible for finance a scheme for the application of such surplus assets.

Effect of order under section 6

(2) Where it is necessary that any entry be made in or on any book, register, title deed or other document in order to effect the vesting of any property in the Registrar in pursuance of an order made under the provisions of paragraph (a) of subsection (2) of section *six*, such entry shall, on the production of such order, be made, by the person whose duty it is to make such entry, without the payment of any fee or duty in respect thereof.

(3) A scheme submitted to the Minister responsible for finance under subsection (1) may be varied or amended by him in such manner as he may think proper in the circumstances of the case, and the approval of the Minister to such scheme shall be denoted by the endorsement thereon of such approval signed by the Permanent Secretary, Ministry of Finance, and thereupon the surplus assets, the subject of the scheme, shall be held by the Registrar upon the terms and for the purposes thereby prescribed.

(4) For the purposes of winding up the affairs of an organisation under the provisions of this section, the Registrar shall have all the powers vested in the Official Receiver for the purpose of discovering the property of a debtor and the realisation thereof.

8. Any amount ordered to be paid under the provisions of paragraph (b) of subsection (2) of section *six* shall be recoverable in every respect as if it were compensation ordered to be paid under section *one hundred and seventy-five* of the Criminal Procedure Code.

Recovery of amount ordered to be paid Cap. 88

9. (1) The President may give to any person directions requiring him, within such time and in such manner as may be specified in the directions, to furnish to the President or to any person designated in the directions, any information in his possession or control which in the opinion of the President is required for the purpose of securing compliance with, or detecting evasion of, this Act.

Evidence and information

(2) A person required by any such directions as aforesaid to furnish information shall also produce such books, accounts or other documents in his possession or control as may be required for the said purpose by the President or by the person designated by the President.

(3) Nothing in this section shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

10. (1) Any person who-

Offences

- (a) fails to give information or produce books, accounts or other documents when required to do so under the provisions of section *nine*;
- (b) with intent to evade the provisions of this Act, destroys, mutilates, defaces, secretes or removes any books, accounts or other documents;
- (c) obstructs any person lawfully performing any functions under this Act;

shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(2) On the conviction of a person for failing to give information or produce books, accounts or other documents when required so to do under the provisions of section *nine*, the court may direct such person within such period as may be specified in the direction to comply with the requirement to give the information or produce the books, accounts or other documents.

(As amended by Act No. 13 of 1994)

11. Any document purporting to be a direction given under section *nine*, or to be a copy thereof, shall be receivable in evidence to prove the matter stated therein.

Legal proceedings

SUBSIDIARY LEGISLATION

ORGANISATIONS (CONTROL OF ASSISTANCE)

CAP. 116

SECTION 6 (3)-THE ORGANISATIONS (CONTROL OF ASSISTANCE) (PENALTIES) RULES

*Statutory Instrument
206 of 1967*

Rules by the Chief Justice

1. These Rules may be cited as the Organisations (Control of Assistance) (Penalties) Rules.

Title

2. In these Rules, "application" means an application made under section *six* of the Act.

Interpretation

3. An application shall be made by notice in the form set out in the Schedule.

Form of notice

The Laws of Zambia

4. A copy of the notice shall, not less than fourteen days before the date set down for the hearing of the application, be served on the organisation against which an order is sought. Such service may be effected by leaving the notice at, or sending it by registered post to, the registered office of the organisation, or where there is no such registered office, a place where the organisation ordinarily carries out its functions. Service of notice

5. The application may be supported by oral evidence, provided that, in its discretion, the High Court may allow evidence on affidavit. Procedure

The Laws of Zambia
SCHEDULE
(Rule 3)

NOTICE

Application Number
IN THE HIGH COURT HOLDEN AT
BETWEEN:

THE ATTORNEY-GENERAL,
and

Applicant
Respondent

An application for the purpose of invoking the penalties referred to in subsection (2) of section 6 of the Organisations (Control of Assistance) Act.

TAKE NOTICE that the High Court will be moved on the day of, 19..... at the hour of o'clock in the noon or as soon thereafter as Counsel can be heard for an order that the (*name of organisation*) be wound up or be subject to the penalty set out in paragraph (b) of subsection (2) of section 6 of the Organisations (Control of Assistance) Act on the ground that the said..... (*name of organisation*) has on or between (*here set out date or dates*) accepted assistance from a foreign government, namely, (*name of government*) as follows:

..... } (*here set out particulars of the assistance alleged to have been accepted*)
..... }
..... }

Signed
Attorney-General or Counsel

Dated at this day of, 19.....
.....

Registrar of the High Court