

**THE ZAMBIA SECURITY INTELLIGENCE SERVICE
ACT, 1998**

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GOVERNMENT OF ZAMBIA

ACT

No. 14 of 1998

Date of Assent: 21st April, 1998

An Act to provide for the continued existence of the Zambia Security Intelligence Service, its functions and discipline; to constitute the National Intelligence Council and define its functions; to repeal and replace the Zambia Security Intelligence Service Act, 1973; and to provide for matters connected with or incidental to the foregoing.

[24th April, 1998

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Zambia Security Intelligence Service Act, 1998, and shall come into operation on such date as the President may, by statutory instrument, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires—

Intpretation

" appointed date " means such date as the President may appoint under section *one*;

" classified document or information " means any document or information as the case may be, which is a classified matter within the meaning of the State Security Act;

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" classified matter " shall have the meaning assigned to it in the State Security Act;

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" Council " means the National Intelligence Council constituted under section *fifteen*;

" Court " means a Subordinate Court or the High Court of Zambia;

" Deputy Director " means the person appointed Deputy Director under section *four*;

" Director " means the person appointed Director under section *four*;

" employee " means a person other than an intelligence officer, acting in any post or appointment in the Service and any person performing any clerical or auxiliary duties;

" espionage " means an act constituting the offence of espionage as provided under the State Security Act;

" Executive Director " means the person appointed Executive Director under section *four*;

" intelligence " means any information collected and processed by an intelligence officer which has a bearing on the security interests of the Republic;

" intelligence officer " means an officer of the Service other than an employee;

" repealed Act " means the Zambia Security Intelligence Service Act, 1973;

" sabotage " means—

(a) an act intended to cause damage or injury to—

(i) plant, machinery, or vital installations used for the purposes of communications, transport, water, energy and electricity supply;

(ii) buildings; and

(iii) any other property; with a view to assisting any person, State or organisation that is hostile to the Republic or for purposes of furthering a subversive act;

(b) withholding information or supplying information which has a bearing on the security interests of the Republic knowing that it will result or is likely to result in any government institution arriving at an erroneous decision;

" security " means protection from espionage, subversion and sabotage;

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Act No. 43
of 1973

10. (1) At the time of joining and leaving the Service, every intelligence officer or employee shall make and sign before any officer designated by the President or the Director-General, a declaration in such manner as may be prescribed by regulations.

Declaration
and oath of
allegiance

(2) In addition to the declarations referred to in subsection (1), officers of the rank of Deputy Director and above shall take the oath of allegiance before the President.

(3) Every officer or employee shall, before making the declaration referred to in subsection (1), answer truthfully all questions put to that person as to—

- (a) the officer's or employee's previous and present employment;
- (b) whether the officer or employee has at any time been charged with or convicted of any offence; and
- (c) any other matter the President or the Director-General may consider necessary

(4) Every officer or an employee who, having been required to furnish information or answer questions put to that person, knowingly and willfully gives false or misleading information shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding eight thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

(5) Every person who is, on the commencement of this Act, an employee or an intelligence officer of the Zambia Security Intelligence Service established under the repealed Act, shall be bound by the provisions of this Act and shall sign the declaration referred to in subsection (1), within three months of such commencement.

(6) A person who fails to sign the declaration referred to in subsection (1) within the period specified in subsection (5), shall be deemed to have resigned from the Service.

11. (1) An intelligence officer or employee of the Service shall not without the consent in writing given by or on behalf of the President, publish or disclose to any person, otherwise than in the course of that officer's or employee's duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to that officer's or employee's knowledge in the course of that person's duties or to which that person has had access owing to the position that person holds or has held or through any person who holds or has held any such office.

Prohibition
of publica-
tion or
disclosure of
information
to
unauthorised
persons

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) If any person having any information which to that person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates any such information to any other person, that person shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years or to both.

Prohibition of entry or access to premises and documents of Service

12. (1) Notwithstanding the provisions of any other written law, officers or representatives of Government ministries or departments, organizations, institutions, statutory bodies or any other unauthorised person or individual shall not, without the consent or authority of the President, or any other person designated in writing by the President in that behalf, enter any premises or component of the Service or have any access to books, records, returns or other documents.

(2) The consent of the President or any other person designated in that behalf by the President may be denied if, in the President's opinion, or that of the person designated in that behalf by the President, such access or entry is likely to—

(a) prejudice the security, defence or international relations of the Republic; or

(b) cause damage to or compromise the operational activities of the Service.

Warrant required prior to taking of certain actions

13. (1) Any entry into or interference with any property by an intelligence officer shall be unlawful unless it is authorised by a warrant issued by a court of competent jurisdiction.

(2) The court may, on an application made by the Director-General or an officer of the rank of or above Deputy Director, issue a warrant under this section authorising the taking of such action as may be specified in the warrant in respect of anything so specified if the court considers it necessary for that action to be taken in order to obtain information which—

(a) is likely to be of substantial value to the Service in the discharge of its functions; and

(b) cannot be reasonably obtained through other means.

14. A warrant issued under section *thirteen* shall authorise an intelligence officer to—
- Powers of intelligence officers
- (a) enter the premises or property owned or occupied by a person whom the officer has reasonable cause to believe is using the premises or property for carrying on businesses or activities which are likely to be used for the commission of an offence under this Act, the State Security Act, or any other written law;
 - (b) examine or search any person or persons in whose possession or control the officer believes or suspects are articles, documents or information held in contravention of this Act, the State Security Act or any other written law which articles, documents or information are likely to be used in a manner, or for a purpose, prejudicial to the safety and security interests of the Republic; and
 - (c) seize any articles, books or documents which the officer has reasonable cause to suspect will afford evidence of the commission of an offence under this Act or any other written law.

PART III

THE NATIONAL INTELLIGENCE COUNCIL

15. (1) There shall be a National Intelligence Council which shall consist of the following members:
- Establishment of National Intelligence Council
- (a) the President, who shall be the Chairman; and
 - (b) three other persons appointed by the President.
- (2) The Director-General shall be an *ex-officio* member and the Secretary to the Council, but shall not have the right to vote.
- (3) The members appointed under paragraph (b) of subsection (1) shall serve at the pleasure of the President.

16. The functions of the National Intelligence Council shall be to formulate and review intelligence policy and review intelligence activities.

Functions of National Intelligence Council

17. The Council shall meet for the transaction of business at such places and such times as the President may determine.

Meetings of Council

PART IV

MISCELLANEOUS

18. (1) Subject to the other provisions of this Act, a person who immediately before the appointed date held office as an intelligence officer or employee of the Service shall continue to hold such office

Savings and transitional provisions

as an intelligence officer or employee as the case may be, as if appointed under this Act.

(2) The service of persons referred to in subsection (1) shall be treated as continuous service.

(3) Nothing in this Act affects the rights and liabilities of any person employed or appointed by the Service immediately before the appointed date.

Regulations

19. The President may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act and, without prejudice to the generality of the foregoing, such regulations may make provision with respect to all or any of the following matters:

- (a) the appointment, resignation, removal and retirement of intelligence officers or employees;
- (b) the designation, grading and the appointments in the Service;
- (c) the salaries, allowances, pensions, gratuities, benefits and other conditions of service of the intelligence officers and employees;
- (d) the discipline of intelligence officers and employees;
- (e) declarations to be made by intelligence officers and employees at the time of joining and leaving the Service; and
- (f) any other matter which may, in the opinion of the President, help the Service to operate efficiently.

Repeal of
Act No. 43
of 1973

20. The Zambia Security Intelligence Service Act, 1973, is hereby repealed.
