

THE ANTI – TERRORISM (AMENDMENT) BILL, 2015

MEMORANDUM

1. Object of the Bill

The object of this Bill is to amend the Anti-Terrorism Act, 2002 to harmonise the definition of “funds” with that contained in the International Convention on the Suppression of the Financing of Terrorism, 1999; to amend the definitions of “terrorism” and “acts of terrorism” to include the international aspects envisaged by the Convention; and for related purposes.

2. Defects in the existing law

Uganda has not amended its Anti-Terrorism law to address the Financial Action Task Force (FATF) recommendations on terrorism and terrorism financing. The Bill therefore seeks to provide a suite of measures which are specifically designed to strengthen and improve Uganda’s counter-terrorism legislative framework to comply with Uganda’s international obligations and respond to terrorism threats.

3. Provisions of the Bill

Clause 1 seeks to amend section 2 (Interpretation) of the Anti-Terrorism Act, 2002 to include the definitions of “funds” and “services”.

Clause 2 seeks to replace subsection (1) of section 7 of the principal Act, the effect of which is to prescribe the penalty for persons engaging in terrorism.

Clause 2 further seeks to amend section 7(2) of the principal Act, to expand the definition of an ‘act of terrorism’, to accommodate international organizations, and seeks to amend subsections (2)(b),(c) and (e) to penalise indirect involvement in acts of terrorism.

Finally, clause 2 seeks to replace section 7(2)(d) of the principal Act to include the collection of funds or services and to amend section 7(2)(h) to criminalise the providing of weapons to terrorist organizations and to insert additional acts of terrorism.

Clause 3 seeks to insert a new section 9A in the principal Act to create the offence of terrorist financing and to prescribe appropriate penalties.

Clause 4 seeks to insert new sections 17A and 17B in the principal Act to provide for freezing, seizure and forfeiture of funds or property reasonably linked or intended to be used for terrorist activities.

Clause 5 seeks to insert a new section 32A in the principal Act to empower the Minister to make regulations for the better carrying out of the purposes and provisions of the Act.

Finally, Clause 6 provides for an amendment to the principal Act to substitute for all references to “money” wherever they appear, the word “funds”.

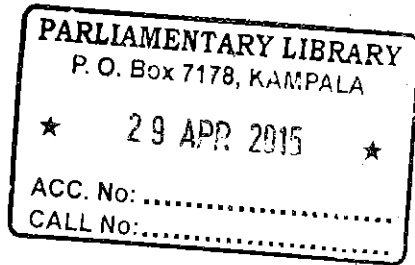
ARONDA NYAKAIRIMA,
Minister of Internal Affairs.

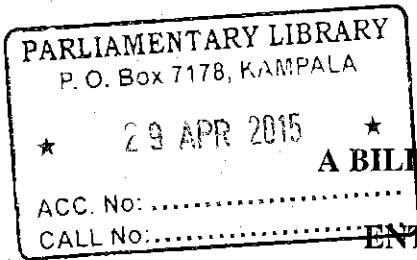
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ARRANGEMENT OF CLAUSES

Clause.

1. Amendment of section 2 of the Anti-Terrorism Act, 2002.
2. Amendment of section 7 of principal Act.
3. Insertion of new section 9A.
4. Insertion of new sections 17A and 17B.
5. Insertion of new section 32A.
6. Miscellaneous amendments to the principal Act.





A BILL for an Act

ENTITLED

THE ANTI - TERRORISM (AMENDMENT) ACT, 2015

An Act to amend the Anti-Terrorism Act, 2002 to harmonise the definition of “funds” with that contained in the International Convention For the Suppression of the Financing of Terrorism, 1999; to amend the definitions of “terrorism” and “acts of terrorism” to include the international aspects envisaged by the Convention; and for related purposes.

BE IT ENACTED by Parliament as follows:

1. Amendment of section 2 of the Anti-Terrorism Act, 2002

The Anti-Terrorism Act, 2002, in this Act referred to as the principal Act, is amended in section 2—

- (a) by inserting immediately after the definition of “explosive or other lethal device” the following definition—

““funds” includes assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts, and letters of credit;”;

- (b) by inserting immediately after the definition of “security officer” the following definition—

““services” includes financial services, or the provision of lodging, training, expert advice or assistance, safe-houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (one or more individuals who may be or include oneself), and transportation;”.

2. Amendment of section 7 of principal Act.

Section 7 of the principal Act is amended—

- (a) by substituting for subsection (1), the following—

“(1) Subject to this Act, a person who engages in or carries out any act of terrorism commits an offence and is, on conviction—

- (a) liable to suffer death, if the offence directly results in the death of any person; and
(b) in any other case, liable to imprisonment for life.”;

- (b) in subsection (2)—

- (i) by inserting immediately after “Government” the following—

“or an international organization”;

- (ii) by substituting for paragraph (b), the following—

“(b) direct or indirect involvement or complicity in the murder, kidnapping, abducting, maiming or attack, whether actual, attempted or threatened, on the person, official premises, private

accommodation, or means of transport or diplomatic agents or other internationally protected persons.”;

- (iii) in paragraph (c), by inserting immediately after “direct” the following—
- “or indirect”;
- (iv) by substituting for paragraph (d), the following—
- “(d) intentional and unlawful provision or collection of funds or services, or providing or receiving training, whether attempted or actual, with the intention or knowledge that any part of the funds or services or training may be used to carry out any of the terrorist activities under this Act;”;
- (v) in paragraph (e), by inserting immediately after “direct” the following—
- “or indirect”;
- (vi) in paragraph (h), by inserting immediately after “bomb” the following—
- “and generally providing weapons to terrorist organisations;” and
- (vii) by inserting immediately after paragraph (j) the following new paragraphs—
- “(k) any act of violence aimed at causing the death of a civilian not engaged in hostile acts;
- (l) endangering the life of a person, other than the person committing the act of terrorism;
- (m) creating a serious risk to the health or safety of the public or a section of the public;

- (n) causing serious damage to property;
- (o) releasing any dangerous, hazardous, toxic or radioactive substance or microbial or other biological agents or toxins into the environment;
- (p) interfering with an electronic system resulting in the disruption of the provision of communication, financial, transport or other essential or emergency services;
- (q) any act prejudicial to national security or public safety;
- (r) possessing property for commission of acts of terrorism;
- (s) arranging for the retention or control of property belonging to a terrorist;
- (t) knowingly dealing in property owned or controlled by terrorist organisations;
- (u) soliciting or giving support to terrorist organisations;
- (v) committing an act of terrorism in a foreign state;
- (w) promoting any offence under this Act;
- (x) unlawful possession of materials for promoting terrorism such as audio or video tapes, written literature or electronic literature;
- (y) any act that constitutes a crime in accordance with agreements, protocols and treaties described in the annex to the International Convention For the Suppression of the Financing of Terrorism, 1999.”

3. Insertion of new section 9A.

The principal Act is amended by inserting immediately after section 9, the following—

“9A. Terrorism financing.

(1) A person who willingly collects or provides funds, directly or indirectly, by any means, with the intention that such funds will be used, or in the knowledge that such funds are to be used, in full or in part, by a person or a terrorist organisation, to carry out a terrorist act, commits an offence.

(2) A person commits an offence under this section regardless of whether the funds are actually used to commit an offence or not, and regardless of whether the funds are linked to a specific act of terrorism or not.

(3) A person who attempts to participate or participates, by inciting, aiding, organizing or directing others to commit, or conspiring to commit an offence under this section, commits an offence.

(4) A person who commits an offence under this section is, on conviction, liable to imprisonment for twenty years or to a fine not exceeding five hundred thousand currency points, or both.”

4. Insertion of new sections 17A and 17B.

The principal Act is amended by inserting immediately after section 17, the following—

“17A. Freezing or seizure of funds and property.

(1) The Inspector General of Police shall, if he or she has reason to believe that any account held in any financial institution has funds on the account which are reasonably linked or intended for terrorism activities, direct in writing a financial institution at which the account is maintained to freeze the account in accordance with the directive.

(2) Where funds or property are reasonably linked or intended for terrorism activities and the funds are not held in an account held by a financial institution, the Inspector General of Police shall seize the funds or property.

(3) A financial institution acting in compliance with a directive under subsection (1) shall not incur any liability solely as a result of that action.

(4) The Inspector General of Police shall, upon issuing a directive under subsection (1) or seizing funds or property under subsection (2), immediately refer the matter to the Director of Public Prosecutions, and the Director of Public Prosecutions shall, if satisfied that the directive or the seizure has merit, apply to court within forty eight hours of issuing the directive or seizing the funds or property, for an order confirming the directive or the seizure.

(5) The court may, at any time, on the application of the Director of Public Prosecutions, revoke a directive made under subsection (1) or a seizure under subsection (2) where the court is satisfied that the funds are, or the property is, not linked or intended for terrorism activities.

17B. Forfeiture of funds or property on conviction

(1) Where a person is convicted of an offence under this Act, the court may order that the funds or property used to commit the offence, be forfeited to the State.

(2) The court shall, before making an order under subsection (1), give a person who has an interest in the funds or property, an opportunity to be heard.

(3) A court shall not make an order under subsection (1), where a person claiming an interest in the funds or property applies to be heard unless an opportunity has been given to that person to show cause why the order should not be made.

(4) Any funds or property forfeited to the State under this section may be sold or otherwise disposed of as the Minister may, by statutory order, direct.”

5. Insertion of new section 32A.

The principal Act is amended by inserting immediately after section 32, the following—

“32A. Regulations.

The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes and provisions of this Act.”

6. Miscellaneous amendments to the principal Act.

The principal Act is amended by substituting for all references to “money” wherever they appear, the word “funds”.

