



Republic of Namibia

MINISTERIAL MOTIVATION

ON THE

PREVENTION OF ORGANISED CRIME AMENDMENT BILL

IN THE NATIONAL ASSEMBLY

BY

THE MINISTER OF JUSTICE

HON. YVONNE DAUSAB, MP

21 JUNE 2023

– To be checked against delivery –

**Honourable Speaker,
Honourable Members,
Members of the Public,**

1. It is my pleasure to introduce the Prevention of Organised Crime Amendment Bill (Bill), which is intended to amend the Prevention of Organised Crime Act 29 of 2004.
2. Following the recent consultations with our Colleagues at the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) in Zambia on 2 September 2022, a Mutual Evaluation Report found that Namibia made substantial progress since its first mutual evaluation in 2005 as far as technical compliance is concerned, was adopted.
5. However, there remains significant room for improvement, especially on the overall level of effectiveness of our nations efforts to combat money laundering and the financing of terrorism, among others.
6. In essence, the Report noted that:

“Namibian law does not provide for stand-alone money laundering provisions, as such, the effectiveness of the competent authorities’ ability to investigate and prosecute all types of money laundering is negatively impacted.

While POCA provides for the forfeiture of instrumentalities of offences, it does not provide for instrumentalities intended for the commission of an offence.

Namibia should ensure that all LEAs, not just the NAMPOL, conduct parallel financial investigations necessary to identify potential ML cases and criminal proceeds, and refrain from putting more focus on predicate offences.

Namibia should enhance the rates of confiscation of proceeds of crime consistent with her ML risks and national Anti-Money Laundering and Combatting the Financing of Terrorism Policies.”

6. Following the adoption of this Report, a letter was received from the FATF President noting that Namibia has met the criteria for the FATF International Cooperation Review Group (ICRG) review and has entered a 12-month observation period which will end at the close of the FATF Plenary in October 2023.

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7. During this 12-month period, Namibia is expected to amend or introduce laws to increase low ratings obtained for Technical Compliance and put measures and actions in place to increase effectiveness of the AML/CFT/CPF policy and legal framework.
8. Should Namibia not be able to demonstrate sufficient progress at the end of the 12-month period, the country may be escalated by the FATF for grey-listing, which we hope to avoid at all costs.

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9. On 13 December 2022 Cabinet approved the National Action Plan aimed at addressing all the deficiencies highlighted in Namibia's MER, which included the amendment of various laws and the introduction or fast tracking of new Bills.
10. Should Namibia be grey listed by the FATF, it will come at a most inopportune time, especially in lieu of the recently signed Green Hydrogen Hyphen agreement and expected investments in Namibia's oil and gas discoveries.

Honourable Speaker,

Honourable Members,

Members of the Public,

11. The Bill provides for the following key amendments:
 - (a) The recognition of “unexplained wealth orders” which put the onus on a particular party to elaborate on the nature and extent of his acquisition of wealth before the courts;
 - (b) The creation of the offence of money laundering, the prevention of the smuggling of migrants into our borders and the illicit trafficking of stolen goods;
 - (c) The extension of the scope of our law enforcement agents by empowering NAMPOL to search any property where there is a reasonable suspicion of a crime in accordance with the Bill;
 - (d) The extension of investigatory authority to the Anti-Corruption Commission which will be responsible for the investigation of crimes in accordance with the Bill;
 - (e) The support of the Financial Intelligence Centre and the relevant supervisory institutions to prevent and curb organised crime;
 - (f) the collaboration between the NAMPOL and the financial institutions to ensure access to information; and finally; and
 - (g) It seeks to ensure the speedy resolution of matters within the office of the Prosecutor-General.
12. This Bill addresses the concerns raised by the relevant institutions and will ensure that Namibia continues to stand guard against corruption and organized crime, avoids international sanctions and steers clear from being grey-listed.
13. These amendments provide Namibia with an opportunity to reflect on the effectiveness of the Prevention of Organised Crime Act 29 of 2004, and the Bills additional safeguards are intended to strengthen our normative

framework, improve the capacity of the institutional arrangements and ensure that the Namibian people are the true beneficiaries.

I thank you and so submit.