

THE ANTI-MONEY LAUNDERING (AMENDMENT) ACT, 2012

ARRANGEMENT OF SECTIONS

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THE UNITED REPUBLIC OF TANZANIA



NO. 1 OF 2012

I ASSENT,

President

An Act to amend the Anti-Money Laundering Act.**ENACTED** by Parliament of the United Republic of Tanzania.Short title
Cap.423

1. This Act may be cited as the Anti-Money Laundering (Amendment) Act, 2012 and shall be read as one with the Anti-Money Laundering Act, hereinafter referred to as the “principal Act.”

Amendment
of section 2

2. The principal Act is amended by repealing section 2 and substituting for it the following provision:

“Application

2.-(1) This Act shall, subject to subsection (2), apply to Mainland Tanzania.

(2) This Act shall apply to Tanzania Zanzibar in respect of Part II which relates to Financial Intelligence Unit and the National Multidisciplinary Committee on Anti-Money Laundering.”

Amendment
of section 3

3. The principal Act is amended in section 3 -

- (a) by inserting in its appropriate alphabetical order the following definition:
- “law enforcement agency” means the Police Force, Prevention and Combating of Corruption Bureau, Immigration Services, Tanzania Revenue Authority and any other investigative agency dealing with anti-money laundering and combating the financing of terrorism;”
- (b) by deleting the definition of the word “regulator” and substituting for it the following new definition:
- “regulator” includes, the:
- (a) Bank of Tanzania;
 - (b) Capital Markets and Securities Authority;
 - (c) Tanzania Insurance Regulatory Authority;
 - (d) Gaming Board of Tanzania;
 - (e) Social Security Regulatory Authority;
 - (f) Registrar of Cooperatives;
 - (g) Registrar of Titles;
 - (h) Registrar of Non-Governmental Organisation;
 - (i) Registrar of Political Parties;
 - (j) Energy and Water utilities Regulatory Authority;
 - (k) Tanzania Communication Regulatory Authority;
 - (l) Business Registration and Licensing Agency;
 - (m) Tanzania Investment Centre;
 - (n) Registration, Insolvency and Trusteeship Agency; and
 - (o) any other regulatory authorities or agencies which the Minister may, by Order published in the Gazette, specify.”
- (c) in the definition of the term “predicate offence” by-
- (i) deleting paragraphs (h) and (i) and substituting for them the following:
 - “(h) all corruption and related offences stipulated under the Prevention and Combating of Corruption Act;
 - (i) counterfeiting of currency or goods;

- (ii) inserting immediately after paragraph (w) the following new paragraphs:
 - “(x) fraud and other related offences;
 - (y) murder;
 - (z) grievous bodily harm;
 - (aa) pyramid and other similar schemes;
 - (bb) piracy of goods;”
- (d) by renumbering paragraphs (x) and (y) as paragraphs (cc) and (dd) respectively;
- (e) by deleting paragraph (dd) as renumbered and substituting for it the following:
 - “(dd) any other offences as the Minister may, by notice published in the *Gazette*, declare, whether committed within or outside the boundaries of the United Republic.”
- (f) in the definition of the term “reporting person” by-
 - (i) inserting immediately after paragraph (f) the following:
 - “(g) pension funds managers, securities market intermediaries, financial leasing entities, micro financing institutions and companies and financing housing companies;”
 - (ii) renumbering paragraphs (g) and (h) as paragraphs (h) and (i) respectively.
- (g) in the definition of term “terrorist financing” by:-
 - (i) deleting the word “or” appearing at the end of paragraph (a);
 - (ii) deleting paragraph (b) and substituting for it the following new paragraph:
 - “(b) entering into or facilitating directly or indirectly any financial transaction directed to a dealing in property owned or controlled by or on behalf of any terrorist or entity owned or controlled by a terrorist

Amendment
of section 4

4. The principal Act is amended in section 4, by-
- (a) inserting the words “currency transaction reports, cross border currency reports and electronic funds transfer reports” between the words “reports” and “and” appearing in subsection (2); and
 - (b) adding immediately after subsection (2) the following new subsection:
 - “(3) The FIU shall have operational and budgetary independence as may be necessary for effective discharge of its functions.”

Amendment
of section 5

5. The principal Act is amended in section 5, by inserting immediately after subsection (2) the following new subsections:
- “(3) The Commissioner shall be the Chief Executive Officer as well as the accounting officer of the FIU and shall perform the functions and exercise powers conferred upon him by this Act.
 - (4) The Commissioner shall hold office for a term of five years and may be re-appointed for another one term of five years subject to satisfactory performance.
 - (5) The President may remove the Commissioner from office on the grounds of misconduct, incompetency, or for a ground of mental or physical incapacity.
 - (6) Where the removal of the Commissioner is in question, the President shall form a Committee to inquire into and make recommendation to the President on the matter.
 - (7) Where the Committee recommends that the removal of the Commissioner should not be made, the President shall not remove the Commissioner.

- (8) The Committee shall consist of:
- (a) a judge of the High Court;
 - (b) a senior police officer;
 - (c) a senior officer from the Bank of Tanzania; and
 - (d) two other prominent persons who have knowledge and experience on the matter which is the subject of inquiry.

(9) Where the inquiry is commended in terms of subsection (6), the Commissioner shall be temporarily relieved from duty pending completion of inquiry and measures taken by the President.

(10) The Committee shall make its own procedure for the conduct of investigation.”

Amendment
of section 6

6. The principal Act is amended in section 6, by-

- (a) adding immediately after paragraph (h) the following new paragraphs:
- “(i) request for or have access to information from any reporting person, regulator or law enforcement agency in the manner provided for in the regulations made under this Act;
 - (j) require any reporting person to report to FIU any suspicious transaction or activity where that reporting person suspect that the transaction of activities involves funds that may have been derived from money laundering or terrorism financing activities;
 - (k) in collaboration with the regulator or on its own, conduct inspection on the reporting person for the purposes of detection of any money laundering or combating financing of terrorism activities in the manner provided for in the regulations made under this Act;
 - (l) prepare and submit periodic quarterly reports on money laundering typologies and trends in the manner provided for in the regulations made under this Act;”

- (b) renaming paragraphs (i) and (j) as paragraphs (m) and (n);
- (c) designating section 6 as section 6(1);
- (d) adding immediately after the designated subsection (1) the following new subsections:

“(2) The Commissioner may, where he has received information from the reporting person pursuant to section 17 and upon reasonable grounds, suspend a suspicious transaction or activities for a period not exceeding five working days to allow time for investigation on the matter.

(3) The suspension under subsection (2) shall lapse after five days”.

Amendment
of section 7

7. The principal Act is amended in section 7, by adding immediately after subsection (4) the following new subsections:

“(5) Every employee of the FIU shall be under the general obligation to keep all information that comes to his knowledge as confidential during his employment and after termination of employment.

(6) A person who contravenes the provisions of subsection (5) commits an offence and shall be liable:

- (a) in the case of an employee, to administrative actions or any other sanctions which may be imposed under section 28B; and
- (b) in the case of former employee, a fine of five million shillings or imprisonment for a term of three years or to both.”

Amendment
of section 8

8. The principal Act is amended in section 8(1), by -

- (a) deleting the word “and” appearing at the end of paragraph (i) and adding the word “and” at the end of paragraph (j);
- (b) adding immediately after paragraph (j) the following new paragraph:
 - “(k) one representative from the Prevention and Combating of Corruption Bureau”.

Amendment
of section 9

9. The principal Act is amended in section 9, by adding immediately after the word “laundering” appearing at the end of paragraph (a) the phrase “and financing of terrorism”.

Amendment
of section 13

10. The principal Act is amended in section 13, by-

- (a) designating section 13 as section 13(1);
- (b) adding immediately after the designated subsection (1) the following new subsection:

“(2) Notwithstanding the provisions of subsection (1), the Financial Intelligence Unit or regulator may apply to the court for an order against a body corporate that has been convicted of an offence under this section, namely -

- (a) barring that body corporate from carrying on business directly or indirectly for a period not exceeding three years;
- (b) placing that body corporate under supervision of the regulator; or
- (c) permanently barring that body corporate from carrying on business in respect of which an offence was committed directly or indirectly.”

Amendment
of section 16

11. The principal Act is amended in section 16, by -

- (a) deleting paragraph (a) appearing in subsection (1), and substituting for it the following new paragraph:

“(a) records of all transactions, accounts, files and business correspondence carried out by that person;”

- (b) repealing subsection (3) and substituting for it the following:

“(3) Records maintained pursuant to this section shall be made available on timely basis to FIU upon request.”

- (c) deleting the words “before the period prescribed by the Minister” appearing in section 18(4); and

- (d) adding immediately after subsection (4), the following subsection:

“(5) Any reporting person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to:

- (a) administrative actions as prescribed in the regulations made under section 19A of this Act; or
 (b) criminal sanctions as provided for under this Act.”

Amendment
of section 17

- 12.** The principal Act is amended in section 17, by -

- (a) inserting between the figure “(1)” and the word “shall” appearing in subsection (4) the phrase “commits an offence and”;
 (b) inserting immediately after subsection (4) the following new subsection:

“(5) Notwithstanding the provisions of subsection (3), the records of other transactions shall be kept in the manner as prescribed in the regulations.”

Addition of
section 19A

- 13.** The principal Act is amended by adding immediately after section 19, the following new section:

“Administrative
sanctions

19A. Where any reporting person fails to comply with the provision of sections 15, 16, 17 or 18 of this Act, the FIU or regulator shall impose administrative actions against that person as prescribed in the regulations made under this Act.”

Amendment
of section 20

- 14.** The principal Act is amended in section 20, by-

- (a) deleting the words “shall, on conviction” appearing in subsection (2) and substituting for them the words “commits an offence, and shall on conviction”; and
 (b) deleting subsection (3).

Amendment
of section 21

15. The principal Act is amended in section 21, by-

- (a) designating section 21 as subsection (1) of that section;
- (b) adding immediately after the designated subsection (1) the following new subsection:

“(2) For the purpose of subsection (1), a bank or financial institution may, on matters related to money laundering or financing of terrorism, share any information relating to its customers.”

Amendment
of section 22

16. The principal Act is amended in section 22, by deleting subsection (1) and substituting for it the following:

“(1) Notwithstanding any other written law, no criminal, civil or administrative proceedings for breach of banking or professional secrecy or contract shall be instituted against a bank or a financial institution, cash dealer, designated non-financial businesses or professions or their respective staff or partners who, in good faith, submitted a report or supplied information in compliance with this Act.”

Amendment
of section 23

17. The principal Act is amended in section 23, by-

- (a) deleting the phrase “be subject to customs authorities which” appearing in section (1) and substituting for it the phrase “declare to customs authority such amount of money or a bearer negotiable instrument and the customs authority”;
- (b) inserting immediately after subsection (2), the following new subsection:

“(3) The FIU shall open a special account into which all the seized cash or bearer negotiable instruments shall be kept.”

- (c) deleting the words “competent authority” appearing in subsection (3) and substituting for them the words “law enforcement agency”;
- (d) renumbering subsection (3) as subsection (4);

(e) adding after subsection (4) as renumbered, the following new subsections:

“(5) Any person who contravenes the provisions of subsection (1) or otherwise, commits an offence and shall be liable to a penalty provided for in section 28B.

(6) Any person who, knowingly makes false or wrong reporting of cash or a bearer negotiable instruments commits an offence and shall be liable to a penalty provided for under section 28B, and in addition, the court may order confiscation of cash or a bearer negotiable instrument in respect of which an offence was committed.”

(f) adding immediately after section 23 the following new section:

“Regulator’s
obligation

23A.-(1) The regulator shall-

- (a) enforce compliance by their regulated entities in accordance with the requirements of this Act;
- (b) conduct onsite and offsite examinations for the purpose of monitoring and ensuring compliance by regulated entities; and
- (c) impose administrative sanctions for non-compliance.”

(2) For the purpose of this section, “regulated entities” means all reporting persons, save for regulators.

Amendment
of section 26

18. The principal Act is amended in section 26, by inserting immediately after the words “on the account” appearing at the end of subsection (2) the following phrase “and submit the report to the Minister, who shall lay it before the National Assembly.”

Addition of
new sections
28A, 28B
and 28C

19. The principal Act is amended by adding immediately after section 28, the following new sections:

“Disclosure
of
information

28A. Any person who is or was engaged in the administration of this Act and discloses any information acquired by that person by virtue of his position to unauthorised person, commits an offence.

General
penalty

28B.-(1) Where a person contravenes any provisions of this Act or regulations made under this Act and no specific penalty is stipulated for that offence, that person shall, on conviction:

- (a) in case of an individual person, be liable to a fine not exceeding five hundred million shillings and not less than one hundred million shillings or be ordered to pay the amount equivalent to the total amount of money involved or market value of the property, whichever amount is greater or imprisonment for a term not exceeding three years;
- (b) in case of a body corporate, be liable to a fine of not less than five hundred million shillings or be ordered to pay the amount equivalent to the total amount of money involved or market value of the property, whichever amount is greater.

(2) For purpose of sub-section (1), every director, manager, controller or principal officer of the company, partner, or a principal officer of the partnership shall be deemed to have committed the offence.

Court
jurisdiction
over a
foreigner

28C.-(1) The High court shall have jurisdiction to try a person from a foreign state for an offence committed outside the United Republic which would constitute an offence under this Act.

(2) A person from a foreign state shall not be prosecuted except with the consent of the Director of Public Prosecutions.

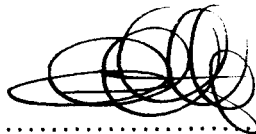
(3) For the purpose of subsection (1), prosecution against a person who commits an offence outside the United Republic shall only be conducted where that person cannot be extradited to a foreign state where the offence was committed.”

Amendment
of section 29

20. The principal Act is amended in section 29(2), by-

- (a) inserting new paragraph (b):
 - “(b) manner and procedure of carrying out customer due diligence;” and
- (b) re-naming paragraph (b) as paragraph (c).

Passed in the National Assembly on the 3rd February, 2012.



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Clerk of the National Assembly