

COUNTER TERRORISM (AMENDMENT) ACT, 2022

No. 11



of 2022

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. General Amendment of sections 15 to 21 of Cap. 08:08
3. Amendment of section 2 of the Act
4. Amendment of section 3 of the Act
5. Amendment of section 4 of the Act
6. Amendment of section 5 of the Act
7. Amendment of section 8 of the Act
8. Amendment of section 10 of the Act
9. Amendment of section 11 of the Act
10. Deletion of section 12 of the Act
11. Deletion of section 12A of the Act
12. Amendment of section 17 of the Act
13. Amendment of section 24 of the Act
14. Amendment of section 27 of the Act
15. Amendment of section 28 of the Act
16. Amendment of Part VII of the Act
17. Insertion of section 47 in the Act

An Act to amend the Counter Terrorism Act.

Date of assent: 25.02.2022

Date of commencement: 25.02.2022

ENACTED by the Parliament of Botswana.

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| <p>1. This Act may be cited as the Counter Terrorism (Amendment) Act, 2022.</p> <p>2. The Counter Terrorism Act (herein after referred to as “the Act”) is amended by substituting for the words “Investigating Officer”, the words “Police Officer” wherever they appear in sections 15 to 21.</p> <p>3. Section 2 (1) of the Act is amended —</p> <p style="margin-left: 2em;">(a) by substituting for paragraph (g), the following paragraph —</p> <p style="margin-left: 4em;">“(g) involves the proliferation of NBC weapons”;</p> | <p>Short title</p> <p>General Amendment of sections 15 to 21 of Cap. 08:08</p> <p>Amendment of section 2 of the Act</p> |
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- (b) by inserting in the correct alphabetical order, the following new definition —
“proliferation” means the use, manufacture, acquisition, possession, development, export, transshipment, brokering, transportation, transfer or stockpiling of NBC weapons and their means of delivery and related materials;
- (c) by substituting the following definitions —
(i) “Committee” means the National Coordinating Committee on financial intelligence established under the Financial Intelligence Act,
(ii) “funds” has the same meaning assigned to it under the Proceeds and Instrument of Crime Act, and
(iii) “property” has the same meaning assigned to it under the Proceeds and Instrument of Crime Act; and
- (d) by deleting the definition of “investigating officer”.
- 4.** Section 3 of the Act is amended in subsection 2 by substituting for paragraph (b) the following paragraph —
“(b) a fine of P10 000 000 or to a term of imprisonment for life, where the act does not result in death.”
- 5.** Section 4 of the Act is amended in subsection —
(a) (1) (b) by inserting immediately after the word “to” the words “a fine of P10 000 000 or to”;
(b) (2) by inserting immediately after the word “to” the words “a fine of P10 000 000 or to”; and
(c) (3) by inserting immediately after the word “to” the words “a fine of P10 000 000 or to”
- 6.** Section 5 of the Act is amended —
(a) in subsection (1) by inserting —
(i) the following new paragraph —
“(h) finances proliferation of NBC weapons”;
(ii) immediately after the word “offence”, the words “of financing of terrorism”; and
(b) in subsection (2), by inserting immediately after the word “offence”, the words “of financing of terrorism”; and
(c) in subsection (3), by inserting immediately after the word “offence”, the words “of financing of terrorism”.
- 7.** Section 8 of the Act is amended in subsection (1) by inserting immediately after the word “to” the words “a fine of P 5 000 000 or to”.
- 8.** Section 10 of the Act is amended in subsection (1) by inserting immediately after the word “to” the words “a fine of P5 000 000 or to”.
- 9.** Section 11 of the Act is amended in subsection (3) by inserting immediately after the word “to” the words “a fine of P5 000 000 or to”.
- 10.** The Act is amended by deleting section 12, of the Act.

Amendment of section 3 of the Act

Amendment of section 4 of the Act

Amendment of section 5 of the Act

Amendment of section 8 of the Act

Amendment of section 10 of the Act

Amendment of section 11 of the Act
Deletion of section 12 of the Act

11. The Act is amended by deleting section 12A, of the Act.	Deletion of section 12A of the Act Amendment of section 17 of the Act
12. Section 17 is amended by substituting for the word “funds” the word “property”.	
13. Section 24 of the Act is amended by inserting immediately after the word ‘to’ the words ‘a fine of P5 000 000 or to’.	Amendment of section 24 of the Act
14. Section 27 (1) (a) is amended by substituting for the words ‘within closed doors’ the words ‘in camera’.	Amendment of section 27 of the Act
15. Section 28 of the Act is amended by substituting for the definition of “examination officer” the following definition — “examination officer” means member of Botswana Police Service, member of Botswana Defence Force, an officer of the Directorate of Intelligence and Security, an immigration officer, and an officer of Botswana Unified Revenue Service authorised to implement revenue laws;”.	Amendment of section 28 of the Act
16. The Act is amended by substituting for Part VII the following Part —	Amendment of part VII of the Act
<i>“Part VII – Establishment of the Counter-Terrorism, Analysis and Fusion Division (ss 39-43)</i>	
39. For the purposes of this Part –	Interpretation of Part VII
(a) “Division” means the Counter-Terrorism Analysis and Fusion Division of the Directorate, continued under section 40; and	
(b) “Directorate” means the Directorate of Intelligence and Security.	
40. The Counter-Terrorism Analysis and Fusion Agency Established under the repealed Part VII is hereby continued as the Counter-Terrorism and Fusion Division of the Directorate.	Establishment of Division
41. The Division shall be responsible for —	Functions of Division
(a) providing intelligence for the formulation of strategic operational plans for the civilian and military counter-terrorism efforts of the Botswana Government and for the effective integration of counter-terrorism intelligence and operations across investigating authorities;	
(b) developing strategies for combining terrorist travel intelligence operations and law enforcement planning and operations into a cohesive effort to intercept terrorists, find terrorist travel facilitators and constrain terrorist mobility;	
(c) having primary responsibility within Botswana for conducting net assessments of terrorist threats:	
Provided that the conduct of net assessments of terrorist threats by the Division shall not limit the powers of an investigating authority to conduct its own net assessments of terrorist threats;	

- (d) conducting strategic operational planning for counter-terrorism activities and to assign roles and responsibilities to investigating authorities, as appropriate, but shall not direct the execution of any operations carried out by an investigating authority;
- (e) integrating all intelligence possessed or acquired by the Government pertaining to terrorism and counter-terrorism;
- (f) maintaining a comprehensive data base of terrorists and terrorist groups, and to serve as a central and shared knowledge bank on known and suspected terrorists and terrorist groups;
- (g) disseminating terrorism information, including current terrorism threat levels;
- (h) developing and implement a national approach to counter-terrorism within a broad regional and international strategy;
- (i) ensuring that the counter-terrorism programme recommendations and budget proposals of investigating authorities conform to the priorities established by the National Security Policy;
- (j) disseminating intelligence information on terrorism and counter-terrorism to the relevant national bodies;
- (k) ensuring that investigating authorities have access to and receive intelligence support needed to execute their counter-terrorism plans;
- (l) monitoring the implementation of strategic operational plans and obtain information from each investigating authority relevant for the monitoring of progress of such authority in implementing strategic operational plans;
- (m) coordinating the sharing of information amongst investigating authorities regarding investigations of terrorism cases to ensure effective response to counter-terrorism; and
- (n) supporting investigating authorities in the fulfilment of their responsibilities to disseminate terrorism intelligence or information.

Re-designation
of the Director
General of
Fusion Agency

42. The position of the Director General of the Counter-Terrorism Analysis and Fusion Agency, under the repealed Part VII, is hereby re-designated as Director under the Directorate, and the provisions of section 8 (4) of the Intelligence and Security Service Act shall apply to the Director.

Continuation
of staff of
Fusion Agency
as employees
of Directorate

43. (1) The Director and any person who was an officer or employee of the Agency or seconded to the Agency immediately before the coming into operation of this Act shall continue as Director, Officer, employee or secondee of the Directorate for the period for which, and subject to the conditions under which he or she was appointed as an officer in the Agency.

(2) Any enquiry or disciplinary proceedings which, before the coming into operation of this Act, were pending at Counter-Terrorism Analysis and Fusion Agency, under the repealed Part VII, shall be continued or enforced by or against the Directorate in the same manner as they would have been continued or enforced before the coming into operation of this Act.

(3) Any decision or action taken or purported to have been taken or done by the Director General of the Counter-Terrorism Analysis and Fusion Agency, under the repealed Part VII, shall, in so far as it is not inconsistent with the provisions of the Intelligence and Security Service Act, be deemed to have been taken or done under by the Directorate.”.

Cap. 23:02

17. The Act is amended by inserting immediately after section 46, the following new section —

Insertion of section 47 in the Act

“Savings provision

47. Notwithstanding the repeal of section 12A —
- (a) decisions of the National Counter Terrorism Committee are hereby saved and shall be deemed to be decisions of the National Coordinating Committee on Financial Intelligence;
 - (b) authority delegated by the Chairperson of National Counter Terrorism Committee shall be deemed to have been delegated by the Chairperson of National Coordinating Committee on Financial Intelligence;
 - (c) authority delegated by the Chairperson of National Counter Terrorism Committee to the Director General of the Counter-Terrorism Analysis and Fusion Agency shall be deemed to have been delegated to the Director General of the Directorate of Intelligence and Security; and
 - (d) guidelines issued by the National Counter Terrorism Committee shall be deemed to have been issued by the National Coordinating Committee on Financial Intelligence.”.

PASSED by the National Assembly this 1st day of February, 2022.

BARBARA N. DITHAPO,
Clerk of the National Assembly.