

MEMORANDUM

Proposed amendments to the Police Act, (Act No. 19 of 1990 (Police Act))

Purpose

The purpose of this memo is to:

Provide the rationale behind the proposed amendments to the Police Act, 1990 (Act No. 19 of 1990)

Background

The reviewers from the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) during the review of Namibia in 2022, rated Namibia partially compliant in terms of recommendation 40 on other forms of international cooperation. The reviewers found that there are no legal provisions or other mechanisms for Namibian law enforcement authorities to exchange information for intelligence or investigative purposes relating to money laundering, associated predicate offences or terrorist financing, including the identification and tracing of the proceeds and instrumentalities of crime, indirectly with foreign law enforcement authorities for intelligence and investigative purposes. In an effort to remedy this deficiency, there was a need to amend the Police Act to allow for a provision that provides for the informal sharing of information indirectly with foreign law enforcement authorities for intelligence and investigative purposes relating to money laundering, associated predicate offences or terrorist financing, including the identification and tracing of the proceeds and instrumentalities of crime.

Failure by Namibia to adequately address the above concerns in line with the Action Plan agreed upon will result in the grey listing of the country as a non-cooperative jurisdiction and one whose financial system pose a risk to the international financial system. The listing may result in the country being subjected to various sanctions, which may have a direct effect on the Namibian economy, correspondent banking relationships, foreign direct investments and availability of funds to Namibian Foreign Missions.

Methodology

In coming up with the envisaged amendments, the Namibian Police Force Task Team (NamPol TT) considered the findings of the last Mutual Evaluation Report (MER) relating to Namibia and also compared the current provisions of the Police Act with Financial Action Task Force (FATF) methodology for assessing compliance with its recommendations. Comparative studies with other jurisdictions with closely related legal systems were also undertaken by the NamPol TT.

Suggested amendments

EXPLANATORY NOTE:

_____	Words underlined with a solid line indicate insertions in existing provisions
[]	Words in bold type in square brackets indicate omissions from existing provisions

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To amend the Police Act 1990, No. 19 of 1990, so as to include the informal sharing of information with foreign law enforcement agencies.

BE IT ENACTED as passed by the Parliament, assented to by the President, of the Republic of Namibia as follows:

Amendment of section 14 of Act No 19 of 1990

Powers and duties of members

Section 14 of the Act is hereby amended by insertion of the following subsection after section 14 (7):

“7A. The Inspector-General or any member authorized by the Inspector-General, may spontaneously share information related to the investigation of money laundering and associated predicate offences and any other offences of interest to foreign law enforcement agencies.”
