



REPUBLIC OF NAMIBIA

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Our Ref: **POCA Amendments**

COMMENTS/PROPOSED AMENDMENTS ON THE DRAFT BILL: PREVENTION OF ORGANISED CRIME BILL FEBRUARY 2023

#	INSTITUTION	PROVISION OF AMENDMENT BILL	COMMENT	PROPOSED AMENDMENT	RESPONSE FROM INITIATOR
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1	NAMFISA	Section 58A (2)	In terms of section 51 of the Principal Act, the wording used is that the Court must make the order	The wording “may” should be replaced with “must” to align the wording of the Act	Unexplained wealth orders do not automatically provide for seizure of the property, only seek to declare property an unexplained asset, at this point, property can still be in possession of the owner or custodian as there is no preservation order. As such, amendment should retain the current wording “may”.
2	NAMFISA	Section 1	Include definition of Director- General of the ACC because section 83 provides for appointment of authorised officers by the Director- general of the ACC.	Define Director- General of the ACC	Proposal has been included in the amendment. Inserted definition of Director- general as defined in the ACC Act.
3	Office of the prosecutor- General	Section 58A (4)	Not clear how the 21 days’ time period will be calculated. When does the time period start to run?	“... must within 21 days of service on him or her, deliver the affidavit under subsection (1) to the Prosecutor- General”	Proposed wording has been included in the amendment. <u>(4) A person against whom the unexplained wealth order is made, must within 21 days after service of the unexplained wealth order, deliver the affidavit under subsection (1) to the Prosecutor- General.</u>
4	Financial Intelligence Centre	Overall comment	Inclusion of authorised officers of the Anti-Corruption Commission under section 83 (1) extends powers of ACC outside of the ACC Act., as such, ACC Act should also be amended to ensure alignment of laws.	ACC Act must also be amended to ensure alignment of laws.	ACC officials have indicated that such amendments will be made.