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The Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 20211201



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**THE PROCEEDS OF CRIME AND ANTI-MONEY
LAUNDERING (AMENDMENT) BILL, 2021**

A Bill for

**AN ACT of Parliament to amend the Proceeds of Crime
and Anti-Money Laundering Act**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Proceeds of Crime and Anti-Money Laundering (Amendment) Act, 2021. Short title.

2. Section 2 of the Proceeds of Crime and Anti-Money Laundering Act, in this Act referred to as the “principal Act”, is amended— Amendment
of section 2
of No. 9 of
2009.

(a) by deleting the definition of “Deputy Director”;
and

(b) in the definition of “designated non-financial businesses or professions” by inserting the following new paragraph immediately after paragraph (fa)—

(fb) advocates, notaries and other
independent legal
professionals who are sole
practitioners, partners or
employees within
professional firms.

(c) in the definition of “financial institution”, by adding the following proviso at the end of paragraph (l)—

“Provided that this applies both to
insurance undertakings and to
insurance intermediaries
including agents and brokers;”.

(d) by inserting the following new definition in proper alphabetical sequence—

“Oversight Board” means
the Asset Recovery
Oversight Board established
under section 55A.

3. Section 25 of the principal Act is amended in—

Amendment
of section
25 of No. 9
of 2009.

- (a) subsection (1), by deleting the words “and a Deputy Director” appearing immediately after the word “Director-General”;
- (b) subsection (2), by deleting the words “and the Deputy Director” appearing immediately after the word “Director-General”;
- (c) subsection (4), by deleting the words “or Deputy Director” appearing immediately after the word “Director-General”; and
- (d) subsection (5), by deleting the words “and the Deputy Director” appearing immediately after the word “Director-General”.

4. Section 26 of the principal Act is amended in subsection (1) by deleting the words “or the Deputy Director” appearing immediately after the word “Director-General”.

Amendment
of section
26 of No. 9
of 2009.

5. Section 27 of the principal Act is amended in—

Amendment
of section
27 of No. 9
of 2009.

- (a) subsection (1) by deleting the words “or Deputy Director”; appearing immediately after the word “Director-General” and
- (b) in subsection (2) by deleting the words “or Deputy Director” appearing immediately after the word “Director-General”.

6. The principal Act is amended by repealing section 30.

Repeal of
section 30
of No. 9 of
2019.

7. Section 32 of the principal Act is amended in subsection (1) by deleting the words “the Deputy Director” appearing immediately after the word “Director-General”.

Amendment
of section
32 of No. 9
of 2019.

8. The principal Act is amended by inserting the following new section immediately after section 44—

Insertion of
a new
section in
No. 9 of
2009.

Intervention by
Centre

44A. (1) Where the Centre,
after consulting a reporting
institution or a person required to

make a report in terms of section 44, has reasonable grounds to suspect that a transaction or a proposed transaction may—

(a) constitute money laundering and related activities; or

(b) involve—

(i) the proceeds of crime or proceeds of unlawful activities or property which is connected to the proceeds of crime or unlawful activities and related activities; or

(ii) the proceeds of, or property which is connected to an offence relating to the financing of terrorism and related activities; or

(iii) property owned or controlled by or on behalf of, or at the direction of a person or entity identified or designated pursuant to the Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2013 and related activities,

the Center may, for purposes of achieving the objectives of the Act, direct the reporting

institution or person, in writing, not to proceed with the transaction or proposed transaction or any other transaction in respect of the funds or property affected by that transaction or proposed transaction for a period not exceeding five working days as may be determined by the Centre, in order to allow the Centre to make the necessary inquiries concerning the transaction and, where the Centre considers it appropriate, to inform and advise an investigating authority, regulatory authority or tax agency.

(2) For the purposes of calculating the period of five working days in subsection (1), Saturdays, Sundays and proclaimed public holidays shall not be taken into account.

9. Section 48 of the principal Act is amended—

Amendment of section 48 of No. 9 of 2009.

- (a) by deleting the word “reporting” appearing immediately after the word “The” in the opening sentence; and
- (b) in paragraph (a) by inserting the words “advocates, notaries and other independent legal professionals who are sole practitioners, partners or employees within professional firms” immediately after the word “accountants”.

10. Section 53 of the principal Act is amended—

Amendment of section 53 of No. 9 of 2009.

- (a) in subsection (2), by inserting the words “upon the recommendation by the Oversight Board” immediately after the words “the Attorney-General shall”;