

# PROHIBITION OF ANTI-PERSONNEL MINES ACT

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**AN ACT**

**to constitute the Zambia Anti-Personnel Mines Action Centre; to prohibit the use, stockpiling, production, development, acquisition and transfer of anti-personnel mines and ensure the destruction of the mines; to provide for fact-finding missions to Zambia; to provide for international co-operation; to implement the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, of 1997; and to provide for matters connected with and incidental to the foregoing.**

*[23rd July, 2004]*

Act 16 of 2003.

**PART I  
PRELIMINARY**

1. Short title

This Act may be cited as the Prohibition of Anti-Personnel Mines Act.

2. Interpretation

In this Act unless the context otherwise requires—

**“agent”** means a person employed on behalf of the ministry responsible for foreign affairs or the Zambia Police Force to destroy anti-personnel mines or develop and conduct training in mine detection, mine clearance or mine destruction techniques;

**“anti-handling device”** means a device intended to protect a mine and which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with, or otherwise intentionally disturb, the mine;

**“anti-personnel mine”** means—

(a) a mine designed to be exploded by the presence, proximity or contact of a person and to incapacitate, injure or kill one or more persons; and

(b) for the purposes of this Act, a mine other than an antipersonnel mine shall be considered to be an anti-personnel mine if it is designed to be or can be detonated by—

(i) a trip-wire or break-wire;

(ii) a direct or indirect weight less than one hundred and fifty kilograms;

(iii) a sensitive fuse which can be unintentionally activated by the presence, proximity or contact of a person;

(iv) an anti-handling device which can be unintentionally activated by the presence, proximity or contact of a person; or

(v) any other mine or device which performs in a manner consistent with paragraph (a);

**“armed forces”** means —

(a) the Zambia Army;

(b) the Zambia Air Force;

(c) the Zambia National Service; and

(d) the Zambia Intelligence Service.

**“authorised anti-personnel mine”** means an anti-personnel mine authorised under section 11;

**“Centre”** means the Zambia Anti-Personnel Mines Action Centre established by section 5;

**“Committee”** means the Anti-Personnel Mines Committee constituted under section 6;

**“component part”** means any identifiable component of an anti-personnel mine that is designed or adapted to form part of an anti-personnel mine;

**“Convention”** means the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, of 18 September, 1997;

**“customs officer”** has the meaning assigned to it by the Customs and Excise Act;

**“deal in”** means any activity relating to marketing, importation, exportation, conveyance, transfer or manufacturing of antipersonnel mines, whether or not that activity is in exchange for currency or any other commodity or benefit;

**“Director”** means the person appointed as Director under section 8;

**“export”** means—

(a) the entering into an agreement by a person in Zambia to supply another person outside Zambia with an antipersonnel mine, whether or not in exchange for currency or any other commodity or benefit; and

(b) the transfer of an anti-personnel mine from Zambia to any place outside Zambia, or causing an anti-personnel mine to be so transferred, whether or not in exchange for currency or any other commodity or benefit;

**“fact-finding mission”** means a fact-finding mission under Article 8 of the Convention;

**“import”** means to bring an anti-personnel mine into any part of Zambia, whether or not in exchange for currency or any other commodity or benefit;

**“information”** means any record regardless of form or medium;

**“manufacture”** includes the design, development, production and assembly of anti-personnel mines;

**“member”** means a member of the Committee;

**“mine”** means ammunition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle;

**“officer”** has the meaning assigned to it by section 3;

**“person”** means a natural or juristic person and includes a natural or juristic person of foreign nationality present or acting within the borders of Zambia;

**“possess”** means to have an anti-personnel mine under the control of a person or in an area under the control of a person;

**“premises”** means any land, building or structure and includes a vehicle, vessel, aircraft or any other means of conveyance;

**“procure”** means to obtain an anti-personnel mine through purchase, forfeiture, donation, cession, transfer or discovery;

**“transfer”** includes—

- (a) the transfer of title to and control over an anti-personnel mine;
- (b) the selling, hiring, letting, lending, borrowing, donating, giving, purchasing, receiving or parting with or gaining possession of an anti-personnel mine;
- (c) the transit of anti-personnel mines into, out of, or through Zambia by any means but does not include the transfer of any area containing emplaced anti-personnel mines.

### 3. Meaning of “officer”

(1) For the purposes of this Act, “officer” means—

- (a) a member of the Zambia Police Force;
- (b) a member of the armed forces;
- (c) a customs officer;
- (g) a member of staff of the Centre designated as such; or

(h) any person appointed under sub-section (2).

(2) The Minister may, on the advice of the Committee, by statutory order, appoint any person to—

(a) use, develop, produce, otherwise acquire, possess, retain or transfer an authorised anti-personnel mine for the purposes of developing, or training persons in, techniques or mine detection, mine clearance, mine deactivation, or mine destruction;

(b) seize, receive, or acquire an anti-personnel mine for the purposes of deactivating or destroying the mine;

(c) retain an anti-personnel mine pending the deactivation or destruction of the mine;

(d) transfer an anti-personnel mine for the purposes of deactivating or destroying the mine;

(e) deactivate or destroy an anti-personnel mine; or

(f) accompany or assist a member of a fact-finding mission.

#### 4. Application

This Act applies to—

(a) all Zambian citizens within and outside Zambia;

(b) all foreign persons living in Zambia and all foreign firms and companies operating in Zambia whether or not registered under the Companies Act;

(c) all bodies corporate registered in Zambia; and

(d) any member of an armed force including any person seconded to the armed forces whether or not such a person is a Zambian.

## **PART II**

### **THE ZAMBIA ANTI-PERSONNEL MINES ACTION CENTRE**

#### 5. Establishment of Centre

(1) There is hereby established the Zambia Anti-Personnel Mines Action Centre which shall be responsible for all humanitarian demining programmes.

(2) The Centre shall be a department in the Ministry responsible for foreign affairs and shall be under the control and supervision of the Minister responsible for foreign affairs.

(3) The expenses of the Centre shall be charged upon and issued out of the general revenues of the Republic.

#### 6. Constitution of Committee

(1) There is hereby constituted the Anti-Personnel Mines Committee which shall consist of the following part-time members appointed by the Minister—

- (a) a representative of the Ministry responsible for foreign affairs, who shall be the Chairperson;
- (b) a representative of the Ministry responsible for defence, who shall be the Vice-Chairperson;
- (c) a representative of the Ministry responsible for home affairs;
- (d) a representative of the Ministry responsible for finance;
- (e) a representative of the Ministry responsible for health;
- (f) a representative of the Ministry responsible for community development and social services;
- (g) a representative of the Ministry responsible for lands;
- (h) a representative of the Ministry responsible for tourism, environment and natural resources;
- (i) a representative of the Ministry responsible for education;
- (j) a representative of the Ministry responsible for labour;
- (k) a representative of the Ministry responsible for information;
- (l) a representative of the Office of the President;
- (m) a representative of the Attorney-General; and
- (n) the Director.

(2) The following persons may be invited to attend meetings of the Committee but they shall have no vote—  
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- (a) a representative of the United Nations Development Programme;
- (b) a representative of the United Nations International Children's Education Fund;
- (c) a representative of the United Nations High Commission for Refugees;
- (d) a representative of the International Committee of the Red Cross; and
- (e) a representative of the Zambia Campaign Against Landmines.

(3) Subject to sub-section (4) a member of the Committee shall hold office for a period of three years from the date of appointment but may be eligible for re-appointment for a further term of three years.

(4) The office of a member shall become vacant—

- (a) if that member is absent without reasonable excuse from three consecutive meetings of the Committee of which the member had notice;
- (b) upon the member's death;
- (c) if the member is adjudged bankrupt;

- (d) on a member ceasing to hold the office by virtue of which the member was appointed;
  - (e) if the member becomes mentally or physically incapable of performing the duties of a member of the Committee; or
  - (f) if the member is convicted of an offence under any written law and sentenced there for to imprisonment for a term exceeding six months.
- (5) Where a vacancy occurs in terms of sub-section (4), the Minister may appoint a new member in accordance with sub-section (1), to hold office for the unexpired part of the outgoing member's term.
- (6) A member of the Committee shall be paid such allowances as the Minister may determine.
- (7) Subject to the other provisions of this Act, the Committee may regulate its own procedure.
- (8) The Committee shall meet for the transaction of business at least once in every three months at such places and times as the Chairperson may determine.
- (9) The *quorum* at any meeting of the Committee shall be seven members of the committee.
- (10) There shall preside at any meeting of the Committee—
- (a) the Chairperson;
  - (b) in the absence of the Chairperson, the Vice-Chairperson; or
  - (c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from their number for the purposes of that meeting.
- (11) The determination of any matter before the Committee shall be according to the votes of the majority of the members present and considering the matter.
- (12) The Committee may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the Committee but such person shall have no vote.
- (13) The Committee shall cause minutes to be kept of the proceedings of every meeting of the Committee.
- (14) The Minister shall assign persons employed at the Centre to perform such secretarial and administrative functions in connection with the Committee as may be necessary for the performance of its functions.

## 7. Functions of Committee

The functions of the Committee shall be—

- (a) to formulate and review anti-personnel mines policy;
- (b) to review activities related to anti-personnel mines;
- (c) to establish an Anti-personnel Mines Trust Fund; and
- (d) to implement the Convention.



## 8. Director and other public officers

(1) There shall be a Director for the Centre who shall be a public officer appointed by the Public Service Commission.

(2) The Director shall, subject to the general or specific directions of the Minister—

- (a) be responsible for the control and administration of the Centre;
- (b) have overall responsibility for matters concerning safety in the possession, use, storage, transfer, importation, exportation and destruction of anti-personnel mines in the Republic; and
- (c) exercise the functions conferred or imposed upon the Director by, or under, this Act.

(3) There shall be appointed by the Public Service Commission such public officers as shall be necessary to assist the Director in the performance of the Director's functions under this Act:

Provided that an officer from—

- (a) the armed forces;
- (b) the Zambia Police Forces;
- (c) the Customs Division of the Zambia Revenue Authority; or
- (d) the Public Service;

may be seconded to the Centre.

(4) Any function conferred by or under this Act on the Director may be performed by any person acting as Director if the Director is unable to perform any function due to any cause.

(5) There shall be paid—

- (a) to an officer who is injured; or
- (b) in respect of the estate of an officer who dies;

in the course of duty under this Act, such compensation as the Minister may, on the recommendation of the Committee, by statutory instrument, determine.

## **PART III**

### **PROHIBITION OF ANTI-PERSONNEL MINES**

## 9. Prohibition of antipersonnel mines

(1) Subject to section 11 a person shall not—

- (a) use an anti-personnel mine;
- (b) develop, produce, or otherwise acquire an anti-personnel mine;
- (c) possess, retain or stockpile an anti-personnel mine;

- (d) transfer to anyone, directly or indirectly, an anti-personnel mine;
- (e) deal in an anti-personnel mine;
- (f) import or export an anti-personnel mine;
- (g) possess, procure, manufacture, stockpile, transfer, deal in, import or export a component part;
- (h) possess, procure, manufacture, stockpile, transfer, deal in, import or export plans or designs for the purposes of manufacturing an anti-personnel mine or a component part; or
- (i) assist, encourage or induce, in any way, any person to engage in conduct referred to in paragraph (a) to (h).

(2) Any person who contravenes sub-section (1) commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.

(3) A court, convicting any person of an offence under this section may declare any vehicle, equipment, real or other property or object in respect of which the offence was committed or which was used for, in or in connection with the commission of the offence, forfeited to the State.

(4) Where—

(a) the court proposes to order any vehicle, equipment, real or other property to be forfeited under this section; and

(b) a person claiming to have an interest in it applies to be heard by the court;

the court shall not order any vehicle, equipment, real or other property to be forfeited unless that person has been given opportunity to show cause why the order should not be made.

## 10. Jurisdiction of courts

(1) Any court may, with the written consent of the Director of Public Prosecutions, try a person for an offence under this Act, notwithstanding the fact that the act or omission to which the charge relates, was committed outside Zambia.

(2) For the purpose of conducting trials within Zambia, criminal proceedings for any act prohibited in terms of this Act that is committed outside Zambia may be instituted and the offence shall be deemed as having been committed in Zambia.

(3) Notwithstanding the provisions of any law to the contrary, any magistrate's court of the first class and above has jurisdiction to impose any penalty provided for in terms of this Act.

## 11. Exemptions to prohibitions

(1) Notwithstanding sub-section (1) of section 9—

(a) an officer may, in the course of the officer's employment or duties, use, develop, produce, or otherwise acquire, possess, retain, or transfer of an authorized anti-personnel mine for the purposes of developing, or training persons in, techniques of mine deactivation or mine destruction;

(b) a person may possess an anti-personnel mines until an officer collects deactivates, or destroys the mine, and a person may make an anti-personnel mine available to an officer for collection, deactivation or destruction if the person-

(i) complies with section 29; and

(ii) as soon as practicable after becoming aware that the person possesses the mine, takes all reasonable steps to ensure the mine will not be exploded before an officer collects, deactivates or destroys it;

(c) an officer may, in the course of the officer's employment or duties, seize, receive or acquire an anti-personnel mine for the purposes of deactivating or destroying the mines, or retain an anti-personnel mine for the purposes of deactivating or destroying the mine, or deactivate or destroy an anti-personnel mine;

(d) a customs officer may possess an anti-personnel mine that has been seized in the course of that officer's duties and in the exercise of that person's powers under the Customs and Excise Act:

Provided that if the customs officer is not an officer in terms of section 3 the customs officer shall, as soon as practicable after seizing the mine, hand over such mine to an officer; and

(e) a person may receive, possess, move or transfer an antipersonnel mine for the purposes of any proceedings under this Act or of any criminal investigation or other criminal proceedings in which the anti-personnel mine in question is or may be evidence.

(2) The provisions of the Explosives Act shall apply, with necessary modification, to the use, storage and transfer of anti-personnel mines retained for the purposes stated in this section.

## 12. Transfer of antipersonnel mines

Subject to any other written law on arms transfers, with the written authorisation of the Minister, an officer may, in the course of employment or duties transfer an anti-personnel mine to and from Zambia for the purposes of developing or training persons in techniques of mine detection, mine clearance, mine deactivation or mine destruction.

## 13. Conduct that is permitted

(1) In proceedings for an offence under section 9 it shall be a defence for the accused to prove that the accused's conduct was prevented from being a contravention of that section by the provisions of section 11.

(2) It is not a contravention of section 9 for a person to participate in the transfer of an anti-personnel mine if —

(a) the person does so with the intention that it will be used only for the purposes permitted by section 11; and

(b) the transfer in question is authorized by the Director for the purposes of that section.

(3) It is not a contravention of section 9 for a person—

(a) to participate in the transfer of an anti-personnel mine for the purpose of enabling it to be destroyed;  
or

(b) to have such a mine in the person's possession for the purpose with or without such a transfer, or securing its destruction.

(4) It is not a contravention of section 9 for a person to have an anti-personnel mine in the person's possession if-

(a) the person has the mine in the person's possession with the intention that it will be used only for the purposes permitted by section 11; and

(b) it is a mine which the Director has authorized that person to have in that person's possession for the purpose of this sub-section.

(5) It is not a contravention of section 9 for a person to participate in the acquisition of an anti-personnel mine if-

(a) the acquisition that has been made, agreed or arranged is an acquisition by means of a transfer which is permitted by virtue of sub-section (2) or (3); and

(b) the person participates in that acquisition—

(i) with the intention that the mine will be used only for purposes permitted by section 11; or

(ii) for the purpose, with or without a further transfer, of enabling the mine to be destroyed.

(6) It is not a contravention of section 9 for a person at any time to assist, encourage or induce any conduct if, at that time, the person has reasonable cause to believe—

(a) that the conduct in question is conduct which is or will be prevented by the provisions of this section from being a contravention of section 9; or

(b) that it will be so prevented if it were not otherwise prevented from being such a contravention.

(7) No person shall be authorized by the Minister for the purposes of sub-section (2) or (4) to transfer, or to have in the person's possession, any anti-personnel of any description in numbers in excess of what is necessary for the purposes permitted by section 11.

#### 14. Restriction on the number of antipersonnel mines to be retained

(1) The total number of anti-personnel mines retained in Zambia by the persons referred to in section 11, shall not exceed such number of anti-personnel mines, as the Minister may, on the advice of the Committee, by statutory order, specify:

Provided that in each instance the number specified shall be limited to that which is absolutely necessary for the purposes stated in sub-section (1) of section 11.

(2) Notwithstanding the other provisions of this Act, the number of components commonly used in other mines will not be limited.

## 15. Control over, possession and use of antipersonnel mines

(1) The armed forces, the Zambia Police Force, the Centre and any other person that the Minister may, in writing authorise, shall possess and have control over anti-personnel mines that the Minister has authorised to be retained for the development of and training in mine detection, mine deactivation, mine clearance or mine destruction techniques.

(2) An officer or an employee of the Centre specifically designated as an officer and tasked for that purpose may in the course of that employee's employment or duties seize, receive, possess, move, destroy or transfer anti-personnel mines for the purposes stated in sub-section (1).

(3) A police officer may seize, receive, possess, move or transfer anti-personnel mines for the purposes of enforcing any law.

## 16. Mine clearance activities by Zambian persons

(1) A Zambian person may undertake mine clearance activities outside Zambia if such a person is authorised by the Minister.

(2) Any person referred to in sub-section (1) may—

(a) subject to sub-section (1) of section 9, sub-section (1) of section 11, section 12, and sub-section (2) and (3) of section 13, in the course of that person's employment or duties possess and transfer a limited number of anti-personnel mines, for the purposes of—

- (i) training persons in mine detection, mine clearance or mine destruction techniques;
- (ii) developing mine detection, mine clearance or mine destruction techniques; and
- (iii) destruction;

(b) shall if engaging in any activity contemplated in sub-section (1) of section 17 within the borders of Zambia—

(i) obtain written authority from the Minister to possess or transfer anti-personnel mines for such purposes; and

(ii) maintain a written record in the prescribed form of all anti-personnel mines retained or destroyed by that person.

## 17. Military activities

(1) A member of the armed forces may in the course of that member's duties participate in operations, exercises or other military activities with armed forces of a State that is not a party to the Convention:

Provided that the operation, exercise or military activity is not in contravention of the Convention and that such participation does not amount to active assistance in any activity prohibited by the Convention and this Act.

(2) If such a contravention occurs, the Minister shall review and may terminate further involvement of a member of the armed forces referred to in sub-section (1) in such operation, exercise or other military activity or may take other appropriate action as the Minister may consider necessary.

(3) A military force of another State visiting Zambia in terms of an international obligation or an agreement between that State and the Government of Zambia, and the members of such a force, shall be bound by the provisions of this Act.

(4) Any agreement concluded between that State and the Government of Zambia shall, where appropriate, make reference to this Act.

## **PART IV**

### **DESTRUCTION AND CLEARANCE OF ANTI-PERSONNEL MINES**

#### **18. Surrender of antipersonnel mines and forfeiture to State**

(1) Unless authorised by the Minister in terms of this Act or otherwise provided for in this Act, any person knowingly in possession of an anti-personnel mine, or a component part thereof, shall, as soon as practicable, but not later than six months, after the commencement of this Act, take all reasonable steps to notify the Director or an officer of such possession and arrange for its collection.

(2) An officer shall register and inform the Director of such notification and take all reasonable and immediate steps to ensure the collection of such mines.

(3) In the instance of a military operation deployment outside Zambia, a military officer, police officer, or any other person designated for this purpose, may be notified and such military officer, police officer or person shall take possession of any anti-personnel mine.

(4) In the instance of a military deployment outside Zambia, a military officer, police officer, or any other person designated for this purpose, may be notified and take possession of any anti-personnel mine.

(5) All anti-personnel mines collected or seized shall, without notice, be forfeited to the State.

## **PART V**

### **FACT-FINDING MISSIONS**

#### **19. Fact-finding mission**

A member of a fact-finding mission shall have the right, and every person shall permit a member of the fact-finding mission, to—

- (a) enter any premises in accordance with the Convention;
- (b) inspect the premises in accordance with the Convention; and
- (c) exercise, in connection with a fact-finding mission a function contemplated, or a power provided for, in the Convention.

## 20. Officers who may accompany member of fact-finding mission

(1) To facilitate a fact-finding mission, a member of a fact-finding mission may be accompanied by any officer.

(2) Notwithstanding sub-section (1), a person appointed by the Minister under sub-section (2) of section 3 may not accompany a member of a particular fact-finding mission unless that person is appointed under paragraph (f) of sub-section (2) of section 3 to accompany or assist that member.

## 21. Minister may issue directions

(1) The Minister may, by notice in writing, issue directions to any person for the purposes of facilitating a fact-finding mission under the Convention.

(2) The Minister may, under sub-section (1), direct a person to provide to a fact-finding mission, by speaking to a member of the mission or otherwise, any information relating to a compliance issue specified in a direction, within such reasonable period as is specified in the direction.

(3) Any person who wilfully fails to comply with the direction given by the Minister under this section commits an offence and shall be liable, on conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

## 22. Identification certificates

(1) The Minister may issue a certificate identifying any member of a fact-finding mission or any officer who may accompany a member of a fact-finding mission.

(2) The certificate referred to in sub-section (1) shall—

(a) identify the member by name and indicate the member's status and authority to conduct a fact-finding mission in Zambia;

(b) state that the member enjoys the privileges and immunities under Article VI of the Convention on the Privileges and Immunities of the United Nations, adopted on 13th February, 1946; and

(c) set out such other information and any conditions attached to the member's fact-finding activities in Zambia as the Minister considers necessary.

## 23. Search warrants

(1) A Judge or Magistrate who, on an application, is satisfied that there are reasonable grounds for believing that entry to any premises by a member of a fact-finding mission is necessary for the purposes of exercising any function contemplated, or any power provided for, in the Convention, may issue a search warrant in respect of the premises.

(2) An application under sub-section (1)—

(a) may not be made unless the consent of the person is not, or may not be, obtainable;

(b) shall be made by an officer in writing; and

(c) shall include a copy of relevant Articles of the Convention and a copy of the documents, if any, authorising the fact-finding mission.

(3) For the purposes of paragraph (a) of sub-section (2), “consent” means consent to a member of fact-finding mission, and any officer who may accompany the member, entering the premises to exercise any function contemplated, or any power provided for, in the Convention.

(4) A warrant issued under sub-section (1)—

(a) shall authorise the member of the fact-finding mission, and any officer who may accompany the member, to enter the premises at any time within fourteen days of the issue of the warrant or within such further period of time as a Judge or Magistrate may specify in the warrant, for the purposes of exercising any function contemplated, or any power provided for, in the Convention;

(b) shall authorise an officer who may accompany the member of a fact-finding mission to use such force as is reasonable in the circumstance for effecting entry to, or inspection of, the premises specified in the warrant, including force to break down the door or break open anything in the premises; and

(c) may be issued without conditions or subject to any conditions the judge or magistrate thinks fit.

#### 24. Obligations of officer accompanying member of fact-finding mission

(1) Every officer who accompanies a member of a fact-finding mission on an inspection—

(a) shall carry any identification certificate issued to the officer under section 22 or another means of identifying oneself as an officer who may accompany a member of a fact-finding mission;

(b) shall produce the identification certificate or other means of identification to any person appearing to be in charge of any premises entered—

(i) on entering the premises, if such a person is present; and

(ii) at any reasonable time afterwards, if asked to do so by the person;

(c) shall have any warrant issued under section 23 or otherwise, authorising entry to the premises with the officer and produce it if required to do so; and

(d) if anything is seized, shall ensure that an occupier or person in charge of the premises is given a written inventory of all things seized. (2) If there is no person appearing to be in charge of the premises at any time between the time of entry and the time the inspection concerned has been completed, every officer who accompanies a member of a fact-finding mission on the inspection shall, as soon as practicable after the inspection is completed, ensure that an occupier or person in charge of the premises is given a written notice stating that the premises have been entered, and specifying—

(a) the time and date of entry;

(b) the circumstances and purpose of entry; and

(c) the name of every person entering.



(3) If an officer who is not a member of the police discovers any offence or suspected offence under this Act as a result of accompanying a member of a fact-finding mission on an inspection, the officer shall report that offence or suspected offence to the police as soon as practicable after the completion of that inspection.

## 25. Obstruction of member of fact-finding mission

(1) Any person who wilfully obstructs, hinders, resists or deceives any member of a fact-finding mission who is exercising in Zambia any function contemplated, or any power provided for, in this Act, the Convention or this Act, commits an offence and shall be liable, on conviction, to fine not exceeding five thousand penalty units, or to imprisonment for a term not exceeding six months, or to both.

(2) Nothing in sub-section (1) applies to a refusal to give consent to entry by a member of a fact-finding mission who is not acting pursuant to a search warrant issued under section 23.

## 26. Privileges and immunities for fact-finding missions

(1) Members of a fact-finding mission shall enjoy—

(a) immunity from suit and legal process in respect of things done or omitted to be done by them in the carrying out of their functions under this Act, the Convention or this Act;

(b) the like immunity from personal arrest or detention and the like inviolability for all papers and documents as, in accordance with the 1961 Articles, are accorded to a diplomatic agent; and

(c) the like exemptions and privileges in respect of their personal baggage as, in accordance with Article 36 of the 1961 Articles, are accorded to a diplomatic agent.

(2) The immunities, privileges and exemptions accorded to members of fact-finding missions by virtue of paragraphs (b) and (c) of sub-section (1) shall be enjoyed by them at any time when they are in Zambia—

(a) for the purpose of carrying out in Zambia any of the functions of the mission; or

(b) while in transit to, or from, a country or territory in connection with the carrying out, in that country or territory, of any of the functions of the mission.

(3) If any of the immunities, privileges or exemptions accorded to a member of a fact-finding mission under this section is waived in any particular case by the Secretary-General of the United Nations, this section shall have effect in that case as if it did not confer that immunity, privilege or exemption on that member of the mission.

(4) If in any proceedings a question arises whether a person is or is not entitled to any immunity, privilege or exemption by virtue of this section, a certificate issued by or under the authority of the Minister stating any fact relating to that question shall be conclusive evidence of that fact.

(5) In this section “the 1961 Articles” means the Articles of the Vienna Convention on Diplomatic Relations of 1961 which are set out in the First Schedule to the Diplomatic Immunities and Privileges Act.

## 27. Reimbursement of expenditure

The Minister may reimburse any person in respect of expenditure incurred in connection with the carrying out of the functions of a fact-finding mission.

28. Conditions imposed on member of fact-finding mission

(1) The Minister may impose conditions on a member of a fact-finding mission relating to—

- (a) the protection of sensitive equipment, information or areas;
- (b) the protection of the constitutional obligations of Government with regard to property rights, search and seizure and any other constitutional rights; and
- (c) the physical protection and safety of the member of the fact-finding mission.

(2) Any condition of appointment may provide that the member is not authorised to exercise specified powers whilst on specific premises.

(3) In the event that the Minister imposes any condition on any member of a fact-finding mission, the Minister shall make every reasonable effort to demonstrate through alternative means Zambia's compliance with the Convention.

(4) Members of a fact-finding mission shall adhere to commonly accepted safety standards and practices relevant to anti-personnel mines.

## **PART VI**

### **INFORMATION AND DOCUMENTS**

29. Supply of information

(1) Any person who uses, develops, produces, otherwise acquires, possesses, retains, or transfers an anti-personnel mine shall—

(a) notify the Minister of the anti-personnel mine as soon as practicable after this Act commences by giving written notice in a form approved by the Director and containing the information required by the form;

(b) keep records in relation with an anti-personnel mine and the purpose for which the anti-personnel mine is kept;

(c) prepare, from those records, periodic reports relating to antipersonnel mines in a form approved by the Director; and

(d) send those periodical reports to the Director at intervals specified by the Minister by regulations made under this Act.

(2) The records and reports referred to in paragraphs (b) to (d) of sub-section (1) shall be sufficient to enable the Minister to determine whether the Convention and the provisions of this Act and any regulations made under this Act are being complied with.

(3) Every person who, without reasonable excuse, refuses or fails to comply with sub-section (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units, or to imprisonment for a term not exceeding one year, or to both.

### 30. Director may seek information

(1) The Director may, by notice in writing given to a person, require the person to give to the Director such information as is specified in the notice, when such reasonable period and in such manner as is specified in the notice.

(2) Information required by a notice under sub-section (1) shall be given, in writing, and—

(a) if given by a natural person, shall be signed by the person; or

(b) if given by a body corporate, shall be signed by an officer authorised to sign on behalf of the body corporate.

(3) The Director may, by notice in writing, given to a person, require the person to give to the Director a particular document or documents of a particular kind, specified in the notice, within such reasonable period as shall be specified in the notice.

(4) The power of the Director under this section to require a person to give information or documents to the Director shall be in addition to any obligation to give information or documents that the person may have under section 29.

(5) This section applies if the Director considers that any person is capable of giving information that is relevant to—

(a) a report or clarification required to be given by Zambia to the Secretary-General of the United Nations under the Convention; or

(b) the implementation of the Convention or the enforcement of this Act.

### 31. Failure to supply information an offence

Any person who, without reasonable excuse, fails to comply with a notice under section 30 commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand penalty units, or to imprisonment for a term not exceeding one year, or to both.

### 32. False or misleading statements or documents

Any person who, in any document prepared under this Part, makes a statement or omits any matter knowing that, or being reckless as to whether, the statement or omission makes a document false or misleading in a material particular commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand penalty units, or to imprisonment for a term not exceeding one year, or to both.

**PART VII**  
**INTERNATIONAL CO-OPERATION**

33. International co-operation

(1) Any international co-operation or assistance rendered or received by the Republic under Article 6 of the Convention shall take place in terms of a formal agreement between the Republic and the other party or parties to the agreement.

(2) The agreement shall specify—

- (a) the nature and conditions of the assistance or co-operation;
- (b) the obligations of all parties, including obligations in terms of costs and reimbursements;
- (c) any diplomatic privileges and immunities to be enjoyed by any person; and
- (d) procedures for the settlement of disputes.

(3) The agreement may provide for—

(a) the exchange of equipment, material and scientific and technological information concerning the implementation of the Convention;

(b) humanitarian de-mining, including—

- (i) assistance for mine clearance;
- (ii) victim assistance;
- (iii) mine awareness programmes;
- (iv) land mine impact surveys;
- (v) demining; and
- (vi) any other related activities;

(c) the care, rehabilitation and social and economic reintegration of mine victims;

(d) assistance through the United Nations systems, other international or regional organisations or institutions, nongovernmental organisations or institutions, or on a bilateral basis, or by contributing to any United Nations fund established for assistance in mine action; and

(e) any other matter relating to the implementation of the Convention.

**PART VIII**  
**POWERS OF THE DIRECTOR OF PUBLIC PROSECUTIONS**

34. Consent of Director of Public Prosecutions

(1) No prosecution for an offence under Part III shall be instituted except by and with the written consent of the Director of Public Prosecutions.

(2) Notwithstanding sub-section (1), a person may be charged with an offence under Part III and may be arrested for that offence or a warrant for the arrest of the person may be issued and executed, and any such person may be remanded by the court, in custody or on bail notwithstanding that the written consent of the Director of Public Prosecutions to the institution of the prosecution for the offence for which the person is charged has not been obtained:

Provided that no person shall be remanded in custody or on bail for a period longer than seven days on any charge unless in the meantime the written consent of the Director of Public Prosecutions referred to in this sub-section has been obtained.

(3) When a person is brought before a court before the written consent of the Director of Public Prosecutions to the institution of a prosecution against the person is obtained, the charge shall be explained to the accused person but the person shall not be called upon to plea.

### 35. Power of Director of Public Prosecutions to obtain information

(1) If, in the course of any investigation into, or proceedings relating to, an offence under Part III, the Director of Public Prosecutions has reasonable grounds to believe that it would assist or expedite such investigation or proceedings, the Director of Public Prosecutions may, by notice, require the Commissioner to furnish all information in the Commissioner of Taxes, possession relating to the affairs of any suspected person and to produce or furnish any document or a certified true copy of any document relating to such suspected person, which is in the possession or under the control of the Commissioner.

(2) In this section "Commissioner of Taxes" means the Commissioner responsible for direct taxes under the Customs and Excise Act.

### 36. Bail where suspect or accused person is about to leave Zambia

(1) If any person, against whom investigations or proceedings for any offence under Part III are pending, is preparing or about to leave Zambia, whether temporarily or permanently, the Director of Public Prosecutions or any officer authorised by the Director of Public Prosecutions in that behalf may apply to any court for an order requiring such person to furnish bail in any sum, or, if the person has already been admitted to bail, in such greater sum and on such additional conditions, as the case may be, with or without sureties; and in any such application the court may make such order as it considers fit.

(2) Every order made under this section, whether originally or on review, shall be reviewed within thirty days by the court which made the order.

(3) Every order made under this section shall be appealable to and may be revised by a higher court.

### 37. Forfeiture in case of conviction

(1) The court by or before which a person is convicted of an offence under this Act may order that anything shown to the court's satisfaction to relate to the offence shall be forfeited and either destroyed or otherwise dealt with in such manner as the court may order. (2) In particular, the court may order that the thing is to be dealt with as the Director may see fit; and, in such a case, the powers of the Director shall include power to direct the destruction of that thing or to secure its disposal in any other way that appears to the Director to be appropriate.

(3) Where—

- (a) the court proposes to order anything to be forfeited under this section; and
- (b) a person claiming to have an interest in it applies to be heard by the court; the court shall not order it to be forfeited unless that person has been given an opportunity to show cause why the order should not be made.

### 38. Offences by bodies corporate, etc.

(1) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) a director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity, that person, as well as the body corporate; commits an offence and shall be liable, upon conviction—
  - (i) in the case of a director, manager, secretary or other similar officer, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both; or
  - (ii) in the case of a body corporate, to a fine not exceeding one hundred thousand penalty units.

## **PART IX ENFORCEMENT PROVISIONS**

### 39. Power of inspection and entry

(1) An officer duly authorised, in writing, by the Director to act under this section may, with a warrant, enter upon any premises for the purposes of—

- (a) investigating and enforcing compliance with this Act;
- (b) carrying out the provisions of this Act;
- (c) preventing or detecting any offence under this Act; or
- (d) assisting or accompanying a member of a fact-finding mission investigating alleged non-compliance with the Convention:

Provided that no private dwelling house shall be entered pursuant to this section except in the presence of the occupier or of a person over the apparent age of eighteen years who resides therein as a member of the occupier's family.

(2) The Minister shall issue to every officer a certificate of appointment identifying the officer by name, indicating the officer's status and authority to conduct inspections and setting out such other information and any conditions attached to the officer's duties or powers.

(3) In this Part "warrant" has the meaning assigned to it in the Criminal Procedure Code.

#### 40. Right of search

(1) If any officer duly authorised in writing by the Director has reasonable grounds for believing that any person has committed, is committing, or is about to commit, an offence under this Act, the officer may, with a warrant, inspect and search any person or any building, tent or any baggage, wagon, caravan, vehicle, boat or aircraft in the possession or under the control of that person.

(2) If the officer in accordance with sub-section (1) finds any antipersonnel mine or component part which has been used or is about to be used in contravention of this Act, the officer may seize and detain such mine or component part:

Provided that the officer shall adhere to commonly accepted safety standards and practices relevant to anti-personnel mines.

(3) An officer may seize, lock up, seal, mark, fasten or otherwise secure any premises, equipment or goods if the officer has reason to believe that any contravention under this Act has been or is intended to be committed in respect thereof or in connection therewith

(4) Any officer who seizes or detains any anti-personnel mine or component part under sub-section (2) shall give to the person from whom such mine or component part has been seized a receipt in the prescribed form signed by the officer.

(5) In the event of—

(a) the Director being advised in writing by the Director of Public Prosecutions that no prosecution consequent upon any search and seizure made under sub-sections (1) and (2) respectively should be instituted; or

(b) any prosecution having been finally concluded;

then, in either event, any anti-personnel mine or component part so seized and detained under sub-section (2) shall be destroyed within such period as the Director may determine from the date of receipt by the Director of the advice that no prosecution should be instituted or from the date any prosecution has been finally concluded, as the case maybe.

#### 41. Power to arrest

(1) When any person is found committing any offence or is reasonably suspected of having committed an offence under this Act, any officer may demand that person's name and address, and if that person refuses to furnish such information, or fails to furnish such information to the satisfaction of the officer, or if the officer has reasonable grounds for believing that unless arrested the person will escape or cause unreasonable amount of delay, trouble or expense in being made answerable to justice, that officer may arrest such person without warrant and keep that person in custody.

(2) Subject to sub-section (3), any person arrested under sub-section (1) shall be taken as soon as practicable before a court, and shall not be detained for longer than is reasonably necessary for the purpose.

#### 42. Obstruction of officer

Any person who, obstructs an officer or knowingly makes a false statement to an officer in the exercise of the officer's duties under this Part commits an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

#### 43. Immunity of officer

An officer shall not be held liable for damages or otherwise for any act done or omitted to be done in good faith in the exercise of the duties and powers of the officer under this Act.

#### 44. Prosecution by officer

(1) The Director of Public Prosecutions may, at the request of the Director, in writing, appoint by name or rank any officer to undertake and prosecute criminal proceedings in respect of any offence alleged to have been committed by any person in contravention of this Act, and may at any time, without assigning any reason, cancel any such appointment.

(2) In undertaking or prosecuting any proceedings under sub-section (1), the officer shall act in accordance with the general or special instructions of the Director of Public Prosecutions, and shall for the purpose of any such prosecution have the powers of a public prosecutor appointed under any law for the time being in force.

#### 45. Regulations

(1) The Minister may, in consultation with the Committee, by statutory instrument, make regulations for the proper administration of this Act.

(2) Without prejudice to the generality of sub-section (1), regulations made under that sub-section may provide for—

(a) the regulation of the importation, exportation or transfer of anti-personnel mines by inland waters, rail or road;

(b) the regulation of the storage and use of anti-personnel mines; or

(c) the regulation of the possession of anti-personnel mines.

(3) The regulations made under this section may provide in respect of any contravention that the offender commits an offence and is liable, upon conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.