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**THE ANTI-CORRUPTION ACT, 2012**

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## GOVERNMENT OF ZAMBIA

**ACT**

No. 3 of 2012

Date of Assent: 12th April, 2012

**An Act to continue the existence of the Anti-Corruption Commission and provide for its powers and functions; provide for the prevention, detection, investigation, prosecution and punishment of corrupt practices and related offences based on the rule of law, integrity, transparency, accountability and management of public affairs and property; provide for the development, implementation and maintenance of coordinated anti-corruption strategies through the promotion of public participation; provide for the protection of witnesses, experts, victims and other persons assisting the Commission; provide for nullification of corrupt transactions; provide for payment of compensation for damage arising out of corrupt activities; provide for the domestication of the United Nations Convention Against Corruption, the African Union Convention on Preventing and Combating Corruption, the Southern African Development Community Protocol Against Corruption and other regional and international instruments on corruption to which Zambia is a party; repeal and replace the Anti-Corruption Act, 2010; and provide for matters connected with, or incidental to, the foregoing.**

[ 16th April, 2012

ENACTED by the Parliament of Zambia.

Enactment

PART I  
PRELIMINARY

1. This Act may be cited as the Anti-Corruption Act, 2012. Short title
2. All offences under this Act shall be enquired into, tried and otherwise dealt with in accordance with the Criminal Procedure Code and any other written law. Application  
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Interpre-  
tion

3. In this Act, unless the context otherwise requires—

“agent” means a person employed by, or acting for, another and includes an officer of a public body or private body who acts for, or on behalf of, a public body or a private body or any other person, a trustee, an executor or an administrator of an estate of a deceased person;

“appropriate authority” means a person or institution to whom a recommendation is made under section *eight*;

“associate”, in relation to a person, means—

(a) a person who is a nominee or an employee of that person;

(b) a person who manages the affairs of that person;

(c) a former spouse or conjugal partner of that person;

(d) a firm of which that person, or that person’s nominee, is a partner or a person in charge or in control of its business or affairs;

(e) a company in which that person or that person’s nominee, is a director or is in charge or in control of its business or affairs, or in which that person, alone or together with that person’s nominee, holds a controlling interest or shares amounting to more than thirty percent of the total share capital; or

(f) the trustee of a trust, where—

(i) the trust has been created by that person; or

(ii) the total value of the assets contributed by that person before or after the creation of the trust, amounts, at any time, to not less than twenty percent of the total value of the assets of the trust;

“Board” means the Board of the Commission constituted under paragraph 2 of the Schedule;

“casual gift” means any conventional hospitality, on a modest scale or unsolicited gift of modest value, offered to a person in recognition or appreciation of that person’s services, or as a gesture of goodwill towards that person, and includes any inexpensive seasonal gift offered to staff or associates by a public or private body or a private individual on festive or other special occasions, which is not in any way connected with the performance of a person’s official duty so as to constitute an offence under Part III;

- “ Chairperson ” means the person appointed as Chairperson under paragraph 2 of the Schedule;
- “ Commission ” means the Anti-Corruption Commission referred to in section *four*;
- “ Commissioner ” means a person appointed as Commissioner under paragraph 2 of the Schedule;
- “ corrupt ” means the soliciting, accepting, obtaining, giving, promising or offering of a gratification by way of a bribe or other personal temptation or inducement, or the misuse or abuse of a public office for advantage or benefit for oneself or another person, and “ corruption ” shall be construed accordingly;
- “ Deputy Director-General ” means a person appointed as Deputy Director-General under section *twelve*;
- “ Director-General ” means the person appointed as such under section *nine*;
- “ Director of Public Prosecutions ” means the person appointed as such under the Constitution;
- “ document ” means any device by means of which information is recorded or stored, and includes—
- (a) anything on which there is writing;
  - (b) anything in which there are marks, figures, symbols or perforations having meaning for persons qualified to interpret them;
  - (c) anything from which sounds, images or writing can be produced, with or without the aid of anything else; or
  - (d) any of the things referred to in paragraphs (a) to (c) kept or maintained in electronic form;
- “ foreign public official ” means—
- (a) a person holding any executive, legislative, administrative or judicial office at any level of the government of a foreign State;
  - (b) any person performing public functions for a foreign State, or any board, commission, corporation or other body or authority performing a duty or function on behalf of the foreign State;
- or

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(c) an official or agent of a public international organisation formed by two or more States or two or more public international organisations;

“foreign State” means any country other than Zambia;

“Government” includes any Ministry, department, Service or undertaking of the Government;

“gratification” includes—

(a) money, any gift, loan, fee, reward, commission, valuable security, property, or interest in property of any description, whether movable or immovable;

(b) any employment or contract of employment or services and any promise to give employment or render services in any capacity;

(c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;

(d) any service, favour or advantage of any description, such as protection from any penalty or from any action or proceedings of a disciplinary or penal nature, and including the exercise or the omission from the exercise of any right of any official power or duty;

(e) any valuable consideration or benefit of any kind, discount, commission, rebate, bonus deduction or percentage;

(f) any right or privilege; and

(g) any aid, vote, consent or influence;

“head of public institution” means a Chairperson, manager, chief executive or person in charge of a public body;

“illegal activity” means an activity carried out which, under any written law in the Republic, amounts to an offence;

“local authority” has the meaning assigned to it in the Local Government Act;

“officer” means a person appointed under section *thirteen*;

“official emoluments” includes an honorarium, a pension, gratuity or other terminal benefits;

“parastatal” means any company, association, statutory corporation, body or board or any institution of learning, in which the State has a financial interest;



“police officer” means a member of the Zambia Police Force;

“principal” includes an employer, beneficiary under a trust, and a trust estate as though it were a person, and any person beneficially interested in the estate of a deceased person as though the estate were a person, and, in relation to a public officer, the authority or body of persons in which the public office is held;

“private body” means a voluntary organisation, non-governmental organisation, political party, charitable institution, company, partnership, club or any other person or organisation which is not a public body;

“property” includes any real or personal property, money, things in action or other intangible or incorporeal property, whether located in Zambia or elsewhere, and property of corresponding value in the absence of the original illegally acquired property whose value has been determined;

“public body” means the Government, any Ministry or department of the Government, the National Assembly, the Judicature, a local authority, parastatal, board, council, authority, commission or other body appointed by the Government, or established by, or under, any written law;

“public funds” has the meaning assigned to it in the Public Finance Act, 2004;

Act No. 15 of  
2004

“public officer” means any person who is a member of, holds office in, is employed in the service of, or performs a function for or provides a public service for, a public body, whether such membership, office, service, function or employment is permanent or temporary, appointed or elected, full-time or part time, or paid or unpaid, and “public office” shall be construed accordingly;

“public property” means property belonging to or under the control of, or consigned or due to, a public body;

“relative”, in relation to a person, means —

(a) a parent, son, daughter, brother, sister, nephew, niece, uncle, aunt, grandparent or cousin of that person or that person’s spouse; and

(b) a spouse of that person;

“repealed Act” means the Anti-Corruption Act, 2010;

Act No. 38  
of 2010

- “ Secretary ” means the person appointed Secretary under section *thirteen*;
- “ seizure ” means temporarily prohibiting the transfer, conversion, disposition or movement of any property or temporarily assuming the custody or control of property on the basis of an order issued by a court or a notice by the Director-General;
- “ sporting event ” means an event or contest in any sport, between individuals or teams, or in which an animal competes, and which is usually attended by the public and is governed by rules of any sporting body or regulatory body;
- “ staff ” means the staff of the Commission appointed under section *thirteen*;
- “ unexplained property ” means property in respect of which the value is disproportionate to a person’s known sources of income at or around the time of the commission of the offence and for which there is no satisfactory explanation;
- “ valuable security ” means any document —
- (a) creating, transferring, surrendering or releasing any right to, in or over property;
  - (b) authorising the payment of money or delivery of any property; or
  - (c) evidencing the creation, transfer, surrender or release of any right, the payment of money or delivery of any property or the satisfaction of any obligation; and
- “ victim ” means a person who suffers damage as a result of an act of corruption.

## PART II

## THE ANTI-CORRUPTION COMMISSION

Continuation  
of  
Commission  
Act No. 38  
of 2010

4. (1) The Anti-Corruption Commission continued under the repealed Act shall continue to exist as if established under this Act, and shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name and with power, subject to this Act, to do all such acts and things as a body corporate may, by law, do or perform.

(2) The provisions of the State Proceedings Act shall apply to civil proceedings by, or against, the Commission as if, for a reference to the State there were substituted a reference to the Commission. Cap. 71

(3) The provisions of the Schedule apply to the Commission.

5. Subject to the Constitution, the Commission shall not, in the performance of its functions, be subject to the direction or control of any person or authority. Autonomy of  
Commission  
Cap. 1

6. (1) The functions of the Commission are to— Functions of  
Commission

(a) prevent and take necessary and effective measures for the prevention of corruption in public and private bodies, including, in particular, measures for—

(i) examining the practices and procedures of public and private bodies in order to facilitate the discovery of opportunities of corrupt practices and secure the revision of methods of work or procedures which in the opinion of the Commission, may be prone or conducive to corrupt practices;

(ii) advising public bodies and private bodies on ways and means of preventing corrupt practices, and on changes in methods of work or procedures of such public bodies and private bodies compatible with the effective performance of their duties, which the Commission considers necessary to reduce the likelihood of the occurrence of corrupt practices;

(iii) disseminating information on the evil and dangerous effects of corrupt practices on society;

(iv) creation of committees in institutions for monitoring corruption in the institution; and

(v) enlisting and fostering public confidence and support against corrupt practices;

(b) initiate, receive and investigate complaints of alleged or suspected corrupt practices, and, subject to the directions of the Director of Public Prosecutions, prosecute—

(i) offences under this Act; and

(ii) such other offence under any other written law as may have come to the notice of the Commission during the investigation of an offence under this Act:

Provided that nothing in this paragraph shall be considered as precluding any public prosecutor from prosecuting, subject to the directions of the Director of Public Prosecutions, any offence under this Act which has come to the notice of the police during investigation of an offence under any written law;

- (c) investigate any conduct of any public officer which, the Commission has reasonable grounds to believe may be connected with, or conducive to, corrupt practices;
- (d) be the lead agency in matters of corruption;
- (e) co-ordinate or co-operate, as applicable, with other institutions authorised to investigate, prosecute, prevent and combat corrupt practices so as to implement an integrated approach to the eradication of corruption;
- (f) consult, co-operate and exchange information with appropriate bodies of other countries that are authorised to conduct inquiries or investigations in relation to corrupt practices;
- (g) adopt and strengthen mechanisms for educating the public to respect the public good and public interest and, in particular —
  - (i) create awareness in the fight against corruption and related offences;
  - (ii) develop educational and other programmes for the sensitisation of the media;
  - (iii) promote an environment for the respect of ethics; and
  - (iv) disseminate information and sensitise the public on the negative effects of corruption and related offences; and
- (h) do all such things as are incidental or conducive to the attainment of its functions.

(2) The Commission may establish specialised units to investigate and deal with such matters as the Commission considers appropriate.

Instructions  
by  
Commission

7. (1) The Commission may instruct a public body on practices and procedures that are necessary to prevent, reduce or eliminate the occurrence of corrupt practices.

(2) A public body shall, not later than ninety days from the receipt of the instructions from the Commission pursuant to subsection (1), effect the necessary changes in its practices and procedures.

(3) A public body which considers that the changes in practices and procedures contained in the instructions from the Commission shall be impracticable or otherwise disadvantageous to the effective discharge of its functions shall, within thirty days of the receipt of the instructions, make representations to the Director-General in writing.

(4) The Commission may, after considering the representations of a public body made under subsection (3), confirm, vary or cancel the instruction given to the public body.

(5) The head of a public body which, without any reasonable explanation, fails to comply with the instructions of the Commission commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

(6) In addition to the penalty prescribed in subsection (5), the head of the public body which fails to comply with the instructions of the Commission shall be subject to disciplinary action, including dismissal from office by the relevant authority.

8. (1) The Commission may, after an investigation into an offence under this Act, depending on the findings made, make such recommendation as it considers necessary to an appropriate authority.

Reports and  
recommend-  
ation by  
Commission

(2) An appropriate authority shall, within thirty days from the date of receipt of the recommendation of the Commission under subsection (1), make a report to the Commission on the action taken by the appropriate authority.

(3) The head of a public body which, without reasonable excuse, fails to comply with sub-section (2), commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

9. (1) There shall be a Director-General of the Commission who shall be the chief executive officer of the Commission.

Director-  
General

(2) The Director-General shall be appointed by the President, subject to ratification by the National Assembly, on such terms and conditions as the President may determine.

(3) A person is not qualified to be appointed as Director-General unless the person is qualified to be appointed judge of the High Court.

(4) The Director-General shall be responsible for—

(a) the control, direction, management and administration of the Commission; and

(b) the implementation of any policy matters referred to the Director-General by the Board.

(5) The Director-General may, subject to any specific or general direction of the Board, make standing orders providing for —

(a) the control, direction and administration of the Commission;

(b) the discipline, training, classification and promotion of officers of the Commission;

(c) the duties of officers of the Commission; and

(d) such other matters as the Director-General may consider necessary or expedient for preventing the abuse of power or neglect of duty by officers or other staff.

(6) The Director-General shall not, while holding the office of Director-General, discharge the duties of any other office of emolument in the Republic.

(7) The Director-General shall, before taking office, take an oath or affirmation before the President in the prescribed manner and form.

Tenure of  
office of  
Director-  
General

10. (1) Subject to subsection (2), a person appointed Director-General shall vacate that office on attaining the age of sixty-five years:

Provided that the President may permit a person who has attained that age to continue in office for such period as may be necessary to enable that person to do anything in relation to proceedings that were commenced before the person attained that age.

(2) A person appointed Director-General may be removed from office for inability to perform the functions of office, whether arising from infirmity of body or mind or from any other cause, or for misconduct, and shall not be removed except by, or in accordance with, a resolution passed by the National Assembly pursuant to subsection (3).

(3) If the National Assembly, by resolution supported by a simple majority, resolves that the question of removing the Director-General ought to be investigated, the Speaker of the National Assembly shall send a copy of such resolution to the Chief Justice who shall appoint a tribunal consisting of a chairperson and two other persons to inquire into the matter.

(4) The Chairperson and one other member of the tribunal shall be persons who hold or have held high judicial office.

(5) The tribunal shall inquire into the matter and send a report on the facts of that matter to the President and a copy to the National Assembly.

(6) Where a tribunal appointed under subsection (3) advises the President that the Director-General ought to be removed from office for inability as aforesaid or for misconduct, the President shall remove the Director-General from office.

(7) If the question of removing the Director-General from office has been referred to a tribunal under subsection (2), the President may suspend the Director-General from performing the functions of office, and any such suspension shall cease to have effect if the tribunal advises the President that the Director-General ought to be removed from office.

(8) The Director-General may resign by giving three months' notice, in writing, to the President, of the Director-General's intention to resign.

11. (1) The Director-General may, for the performance of the Commission's functions under this Act —

(a) authorise, in writing, any officer of the Commission to conduct an inquiry or investigation into alleged or suspected offences under this Act;

(b) require the head, of any public body, to produce or furnish within such time as may be specified by the Director-General, any document or a certified true copy of any document which is in that person's possession or under that person's control and which the Director-General considers necessary for the conduct of an investigation into alleged or suspected offences under this Act:

Provided that if the document is classified or falls under the State Security Act, the Commission may apply to a judge in chambers to determine whether the document is likely to —

(i) prejudice the security, defence or international relations of the Republic; or

Powers of  
Director-  
General

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(ii) involve the disclosure of any matter or deliberations of a secret or confidential nature of the Government; or

(c) require any person to answer, to the best of that person's knowledge and belief, questions with respect to the whereabouts or existence of any documents or records that may be relevant to an investigation.

(2) In determining an application under paragraph (b) of subsection (1), the court may —

(a) order the release of the document; or

(b) confirm that the release of the document will prejudice the security, defence or international relations of the Republic or involve the disclosure of a confidential matter of Government.

(3) Notwithstanding any written law to the contrary, the Director-General may, where the Director-General has reasonable grounds to believe that a person who is the subject of an investigation in respect of an offence under this Act is likely to leave Zambia, require such person to surrender their travel document or any other document in that person's possession.

(4) The Commission shall, where a person surrenders that person's travel document pursuant to subsection (1), return the document after the investigation of the offence is completed, and if no criminal proceedings are to be instituted.

(5) A person who is aggrieved with the decision of the Director-General made pursuant to subsection (1) may apply to the High Court.

(6) The High Court may, upon hearing an application made under subsection (3), reverse, vary or dismiss the application or make such other order as the court considers appropriate.

Deputy  
Director-  
General

12. (1) The Commission shall appoint a Deputy Director-General on such terms and conditions as it may determine.

(2) The Deputy Director-General shall assist the Director-General in performing the Director-General's duties under this Act.

(3) A person shall not qualify for appointment as Deputy Director-General unless the person is qualified to be appointed judge of the High Court.

(4) If the office of the Director-General is vacant or the Director-General is absent from duty or unable for any other reason to perform the functions of that office, the Deputy Director-General shall, save where the Commission otherwise directs, act as Director-General.



(5) If both the Director-General and the Deputy Director-General are absent from office or unable for any other reason to perform the functions of their offices, the President shall appoint another person to act as Director-General.

(6) The Deputy Director-General may resign by giving three months' notice, in writing, to the Chairperson, of the Deputy Director-General's intention to resign.

(7) The Deputy Director-General shall, on appointment, take an oath or affirmation before the President in the prescribed manner and form.

13. (1) The Commission may appoint Directors, the Secretary, investigating officers, and such other staff of the Commission, on such terms and conditions as it may determine, to assist the Director-General in the performance of the Director-General's functions under this Act.

Directors,  
Secretary,  
investigating  
officers and  
other staff  
of  
Commission

(2) The Secretary shall be in charge of the general administration and shall keep the records of the Commission.

(3) An officer shall have such powers, functions and duties as provided for, or as delegated to the officer by the Director-General, under this Act.

(4) The Director-General may, if satisfied that it is in the best interest of the Commission, terminate the appointment of any officer of the Commission and shall assign the reasons therefor, subject to any directions by the Commission.

(5) A person aggrieved with the decision of the Director-General to terminate that person's employment pursuant to subsection (3) may appeal against that decision to the Board.

(6) The Commission may, in the exercise of its functions, engage the services of such advisors and experts as it considers necessary.

(7) The Directors, Secretary, advisors, experts and other members of staff of the Commission shall, on appointment, take an oath or affirmation before the Director-General in the prescribed manner and form.

14. The Director-General, Deputy Director-General, officers and Secretary shall, before taking office under this Act and every five years thereafter —

Declaration  
of assets

(a) in the case of the Director-General, Deputy Director-General and Secretary, submit to the Chief Justice a written declaration, in the prescribed form, of all the assets they own or liabilities owed to them; and

(b) in the case of the other staff of the Commission, submit to a magistrate a written declaration, in the prescribed form, of all the assets they own or liabilities owed to them.

Identity card

15. (1) The Director-General shall issue to an officer of the Commission an identity card which shall be *prima facie* evidence of the officer's appointment as such.

(2) An officer shall, in performing any function under this Act—

(a) be in possession of the identity card referred to in subsection (1); and

(b) show the identity card to any person who requests to see it or is subject to an investigation under this Act.

Prohibition of disclosure of information to unauthorised persons

16. (1) A person shall not, without the consent in writing given by, or on behalf of, the Commission, publish or disclose to any person otherwise than in the course of such person's duties, the contents of any document, communication or information which relates to, or which has come to that person's knowledge in the course of that person's duties under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) A person who, having information which to that person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates such information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Immunity of staff

17. (1) No proceedings, civil or criminal, shall lie against the Director-General, Deputy Director-General, Directors, Secretary, an officer or member of staff of the Commission for anything done in good faith in the exercise of the officer's or member of staff's functions under this Act.

(2) Subject to the provisions of this Act, the Director-General, Deputy Director-General, an officer or member of staff of the Commission shall not be called to give evidence before any court or tribunal in respect of anything coming to such person's knowledge in the exercise of such person's functions under this Act.

18. A person who pretends to—

- (a) be an officer of the Commission or to have any of the powers of an officer under this Act, or under any authorisation or warrant issued under this Act; or
- (b) be able to procure an officer of the Commission to do or refrain from doing anything in connection with the duties of such officer;

Impersonation  
and  
procurement  
of officer

commits an offence and is liable, upon conviction, to imprisonment for a period of not less than two years.

### PART III

#### CORRUPT PRACTICES

19. (1) A public officer who, by oneself, or by or in conjunction with, any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for oneself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, anything in relation to any matter or transaction, actual or proposed, with which any public body is or may be concerned, commits an offence.

Corrupt  
practices by,  
or with,  
public  
officers

(2) A person who, by oneself, or by, or in conjunction with, any other person, corruptly gives, promises or offers any gratification to any public officer, whether for the benefit of that public officer or of any other public officer, as an inducement or reward for doing or forbearing to do, anything in relation to any matter or transaction, actual or proposed, with which any public body is or may be concerned, commits an offence.

20. (1) A person who, by oneself, or by, or in conjunction with, any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for oneself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for and having done or forborne to do, anything in relation to any matter or transaction actual or proposed, with which any private body is or may be concerned, commits an offence.

Corrupt  
transactions  
by, or with,  
private  
bodies

(2) A person who, by oneself, or by, or in conjunction with, any other person, corruptly gives, promises or offers any gratification to any person, whether for the benefit of that person or of any other person, as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, anything in relation to any matter or transaction, actual or proposed, with which any private body is or may be concerned, commits an offence.

Abuse of  
authority of  
office

21 (1) A public officer commits an offence who —

- (a) does, or directs to be done, in abuse of the public officer's position, office or authority any arbitrary act prejudicial to the rights or interests of the Government or any other person;
- (b) uses that public officer's position, office or authority or any information that the public officer obtains as a result of, or in the course of, the performance of that public officer's functions to obtain property, profit, an advantage or benefit, directly or indirectly, for oneself or another person;
- (c) uses the public officer's position, office or information to obtain, promise, offer, or give an undue advantage to oneself or another person, directly or indirectly, in order for the public officer to perform or refrain from performing the public officer's duties; or
- (d) solicits or accepts directly or indirectly an undue advantage or benefit for oneself or for another person in order for the public officer to perform or refrain from performing the public officer's duties.

(2) For the purposes of subsection (1), a public officer shall be presumed, until the contrary is proved, to have used that public officer's position, office or information for an advantage or benefit where the public officer takes any decision or action in relation to any matter in which the public officer or a relative or associate of that public officer, has a direct or indirect interest.

(3) A public officer who, being concerned with any matter or transaction falling within, or connected with, that public officer's jurisdiction, powers, duties or functions, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain for oneself or for any other person any gratification in relation to such matter or transaction, commits an offence.

(4) A person who, being concerned with any matter or transaction falling within the scope of authority, or connected with the jurisdiction, powers, duties or functions of any public officer, by oneself, or by, or in conjunction with, any other person, corruptly gives, promises or offers any gratification, whether directly or indirectly, to such public officer either for oneself or for any other person, commits an offence.

(5) A public officer who unreasonably delays, refuses, neglects or omits to perform that public officer's duties or functions in order to procure or induce a person to offer or give gratification to that public officer, commits an offence.

22. (1) Subject to the Constitution, any public officer who — Possession of unexplained property
- (a) maintains a standard of living above which is commensurate with the public officer's present or past official emoluments or other income;
  - (b) is in control or possession of pecuniary resources or property disproportionate to the public officer's present or past official emoluments; or
  - (c) is in receipt of the benefit of any services which the public officer may reasonably be suspected of having received corruptly or in circumstances which amount to an offence under this Act;

shall, unless the contrary is proved, be liable for the offence of having, or having had under the public officer's control or in the public officer's possession pecuniary resources or property reasonably suspected of having been corruptly acquired, or having misused or abused the public officer's office, as the case may be.

(2) Where a court is satisfied in proceedings for an offence under subsection (1) that, having regard to the closeness of the public officer's relationship to the accused and to other relevant circumstances, there is reason to believe that any person was holding pecuniary resources or property in trust for or otherwise on behalf of the accused, or acquired such pecuniary resources or property as a gift, or loan without adequate consideration, from the accused, such pecuniary resources or property shall, unless the contrary is proved, be deemed to have been under the control or in the possession of the accused.

23. (1) An agent who, with or without the principal's knowledge or concurrence, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for oneself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, anything in relation to the principal's affairs or business, or for showing or having shown favour or disfavour to any person in relation to the principal's affairs or business, commits an offence. Corrupt transactions by, or with, agents

(2) A person who corruptly gives, promises or offers any gratification to an agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, anything in relation to the principal's affairs or business, or for showing or having shown favour or disfavour to any person in relation to the principal's affairs or business, commits an offence.

(3) A person who gives to an agent, or any agent who, with intent to deceive the principal, uses any receipt, account or other document in respect of which the principal is interested or which

relates to the principal's affairs or business and which contains any statement which is false or erroneous or defective in any material particular, and which to the agent's knowledge or belief is intended to mislead the principal, commits an offence.

Corruption  
of members  
of public or  
private  
bodies with  
regard to  
meetings

24. (1) A person who being a member of any public or private body by oneself, or by, or in conjunction with, any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for oneself or for any other person, any gratification as an inducement or reward for—

(a) that person's voting or abstaining from voting at any meeting of such public or private body in favour of, or against, any measure, matter, resolution or question submitted to such public or private body;

(b) that person's performing or abstaining from performing, or for that person's aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act by such public or private body; or

(c) that person's aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person; commits an offence.

(2) A person who, by oneself or by, or in conjunction with, any other person, corruptly gives, promises or offers any gratification to a member of any public or private body in any circumstance referred to in subsection (1), commits an offence.

Corruption  
of witness

25. (1) A person who, directly or indirectly, corrupts a witness so as to induce false testimony, an advantage or benefit for oneself or another person from the witness in a trial, hearing or other proceeding before any court, tribunal, judicial officer, committee, commission or any officer authorised by law to hear evidence or take testimony commits an offence and is liable, upon conviction, to imprisonment for a period not exceeding seven years.

(2) A person who, by oneself, or by, or in conjunction with, any other person, corruptly promises, offers or gives any gratification to any witness whether for the benefit of that witness or any other person, with intent to influence the witness to be absent from trial, to give false testimony or withhold testimony, commits an offence and is liable, upon conviction, to imprisonment for a period not exceeding seven years.

(3) A witness who, by oneself or by, or in conjunction with, any other person, corruptly solicits, accepts or receives, or agrees to accept or attempts to receive or obtain, from any person for oneself or another person, any gratification as an inducement or reward whether for the witness's benefit or any other person, in order for the witness to be absent from trial or to give false testimony or withhold testimony, commits an offence and is liable, upon conviction, to imprisonment for a period not exceeding seven years.

26. (1) A person who, by oneself or by, or in conjunction with, any other person, corruptly promises, offers or gives any gratification to any foreign public official, whether for the benefit of that foreign public official or any other person, as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, anything in relation to any matter or transaction, actual or proposed, with which any foreign public body is or may be concerned, commits an offence.

Corrupt  
practices by,  
or with,  
foreign  
public  
official

(2) A foreign public official who, by oneself or by, or in conjunction with, any other person corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for oneself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, anything in relation to any matter or transaction, actual or proposed, with which any foreign public body is or may be concerned, commits an offence.

(3) A person who unlawfully promises, offers, or gives to a foreign public official, directly or indirectly, an undue advantage, for the benefit of the foreign public official or another person, in order that the public official may do or forbear to do, in the exercise of the official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international affairs or business, commits an offence.

(4) A foreign public official who solicits or accepts, directly or indirectly, an undue advantage, for the benefit of the foreign public official or another person, in order that the foreign public official may act or refrain from acting in the exercise of official duties, commits an offence.

27. A person who, directly or indirectly, corruptly —

- (a) solicits or accepts or agrees to accept any gratification, whether for the benefit of that person or any other person, as an inducement or reward for a person influencing or having influenced the run of play or the outcome of any sporting event; or

Corruption  
in relation to  
sporting  
events

(b) offers or gives or agrees to give to any other person any gratification as an inducement to influence or as a reward for influencing or having influenced the run of play or the outcome of a sporting event;

commits an offence.

Conflict of interest

28. (1) Where a public body in which a public officer is a member, director, employee or is otherwise engaged proposes to deal with any person or company, partnership or other undertaking in which that public officer has a direct or indirect private or personal interest, that public officer shall forthwith disclose, in writing to that public body, the nature of such interest and shall not take part in any proceedings or process of that public body relating to such decision.

(2) Where a public officer or a relative or associate of such public officer has a personal interest in a decision to be taken by a public body, that public officer shall forthwith disclose, in writing to that public body, the nature of such interest and shall not vote or take part in any proceedings or process of that public body relating to such decision.

(3) A public officer who contravenes subsection (1) or (2) commits an offence.

Gratification for giving assistance, etc., with regard to contracts

29. (1) A public officer who, directly or indirectly, by oneself, or by, or in conjunction with, any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for oneself or for any other person, any gratification as an inducement or reward for or otherwise on account of, that public officer giving assistance or using influence in, or having given assistance or used influence in—

(a) the promotion, execution or procurement of—

(i) any contract with a public body or private body for the performance of any work, the provision of any service, the doing of anything or the supplying of any article, material or substance; or

(ii) any sub-contract to perform any work, provide any service, do anything or supply any article, material or substance required to be performed, provided, done or supplied under any contract with a public body or private body; or

(b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in any contract or sub-contract;

commits an offence.



(2) A person who corruptly gives, promises or offers any gratification to any public officer as an inducement or reward for, or otherwise on account of, such public officer giving assistance or using influence in, or having given assistance or used influence in—

- (a) the promotion, execution or procurement of; or
- (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in;

any contract or sub-contract commits an offence.

**30.** (1) A person who, directly or indirectly, by oneself, or by, or in conjunction with, any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain from any person for oneself or for any other person, any gratification as an inducement or reward for, or otherwise on account of, the withdrawal of a tender, or the refraining from the making of a tender for any contract with a public body or private body for the performance of any work, the provision of any service, the doing of anything or the supplying of any article, material or substance, commits an offence.

Gratification  
for  
procuring  
withdrawal  
of tender

(2) A person who corruptly gives, promises or offers any gratification to any other person as an inducement or reward for, or otherwise on account of, the withdrawal of a tender, or the refraining from making of a tender for a contract, commits an offence.

**31.** (1) A person who, by use of corrupt means or with intent to pervert the course of justice, interferes with the exercise of official duties by a judge, magistrate, judicial officer or any other arbiter or law enforcement officer, commits an offence and is liable, upon conviction, to imprisonment for a period not exceeding seven years.

Obstruction  
of justice

(2) A person who accepts or obtains, agrees to accept or attempts to obtain, or offers or gives, a gratification for oneself or for any other person in consideration of that person —

- (a) concealing an offence;
- (b) shielding any other person from legal proceedings for an offence;
- (c) not proceeding against any other person in relation to an alleged offence; or
- (d) abandoning or withdrawing, or obtaining or endeavoring to obtain the withdrawal of, a prosecution against any other person;

commits an offence and is liable, upon conviction, to imprisonment for a period not exceeding seven years.

Gratification  
with regard  
to bidding at  
auction sale

**32.** (1) A person who, directly or indirectly by oneself, or by, or in conjunction with, any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for oneself or for any other person, any gratification as an inducement or reward for, or otherwise on account of, that person refraining or having refrained from bidding at any sale by auction conducted by, or on behalf of, any public body or private body, commits an offence.

(2) A person who corruptly gives, promises or offers any gratification to any other person as an inducement or reward for, or otherwise on account of, that other person's refraining or having refrained from bidding at an auction commits an offence.

Coercion of  
investor

**33.** A public officer who —

(a) performs or abstains from performing any act in that public officer's capacity as a public officer;

(b) expedites, delays, hinders or prevents the performance of any act; or

(c) assists, favours, hinders or delays any person in the transaction of any business with a public body;

in order that an investor or potential investor is coerced, compelled or induced to abandon the investment or induced to abandon the investment to the advantage of another person, commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Corrupt  
acquisition  
of public  
property  
and revenue

**34.** (1) A person who, by oneself or with or through another person, fraudulently or unlawfully —

(a) acquires public funds or property or a public service or benefit for that person's or another person's benefit;

(b) diverts any public property for purposes other than for what it is intended, for that person's or another person's benefit;

(c) mortgages, charges or disposes of any public property for that person's or another person's benefit; or

(d) obtains any exemption, remission, reduction or abatement from payment of any tax, fee, levy or charge required to be paid under any law;

commits an offence.

(2) A person whose functions concern the administration, custody, management, receipt or use of any public revenue or public property or in whom any public revenue or public property is vested by virtue of that person's position or office, commits an offence if that person —

(a) fraudulently facilitates or makes payment from the public revenue for —

- (i) sub-standard or defective goods;
  - (i) goods not supplied or not supplied in full; or
  - (ii) services not rendered or not adequately rendered;
- or

(b) willfully fails to comply with any law or applicable procedure or guideline relating to the procurement, allocation, sale or disposal of property, tendering of contracts, management of funds or incurring of public expenditure.

(3) A person who administers, keeps, manages, receives or uses any private funds or property, who fraudulently or unlawfully —

(a) acquires private funds or property for that person's or another person's benefit; or

(b) misappropriates the private funds or property;

commits an offence.

**35.** (1) The Commission has jurisdiction to investigate and prosecute any offence of bribery prescribed under section *seventy-nine* of the Electoral Act, 2006.

Electoral  
corruption

Act No. 12 of  
2006

(2) A person who uses any funds acquired through illegal or corrupt practices to fund a political party or for any purpose related to an election commits an offence.

**36.** A person who —

(a) converts, transfers or disposes of property, knowing that such property is the proceeds of corruption or related offences for the purpose of concealing or disguising the illicit origin of the property or of helping any other person who is involved in the commission of the offence to evade the consequences of that person's action;

(b) conceals or disguises the true nature, source, location, disposition, movement or ownership of, or rights with respect to, property which is from the proceeds of corruption or related offences; or

Concealment  
of property

(c) acquires, possesses or uses any property with the knowledge at the time of receipt, that such property is from the proceeds of corruption or related offences;

commits an offence and is liable, upon conviction, to imprisonment for a period not exceeding two years.

Dealing with,  
using and  
concealing  
gratification

37. (1) A person who, directly or indirectly, whether on that person's behalf or any other person, knowingly —

(a) enters into, or causes to be entered into, any dealing in relation to any proceeds of crime; or

(b) uses or causes to be used, or receives, holds, controls or conceals any property or any part thereof, which was obtained as gratification, or derived from the proceeds of crime obtained in the commission of an offence under this Part;

commits an offence.

(2) For purposes of subsection (1), “dealing” includes —

(a) any purchase, sale, loan, charge, mortgage, lien, pledge, transfer, delivery, assignment, subrogation, transmission, gift, trust, settlement, deposit, withdrawal, transfer between accounts or extension of credit;

(b) any agency or grant of power of attorney; or

(c) any act which results in any right, interest, title or privilege, whether present or future or whether vested or contingent, in the whole or in part of any property being conferred on any person.

Concealment  
of offence

38. A person commits an offence who, with intent to defraud or to conceal the commission of an offence under this Part, or to obstruct an officer in the investigation of any offence —

(a) destroys, alters, mutilates or falsifies any book, document, valuable security, account, computer system, disk, computer printout or other electronic device which belongs to, or is in the possession of, or has been received by that person or that person's employer, or any entry in such book, document, account or electronic device, or is privy to any such act;

(b) makes or is privy to the making of any false entry in any book, document, account or electronic device; or

(c) omits or is privy to the omission of any information from any book, document, account or electronic device.

39. (1) A public officer to whom any gratification is corruptly given, promised or offered shall make a full report of the circumstances of the case to an officer of the Commission or a police officer within twenty-four hours of the occurrence of the event, and if the public officer fails to do so without reasonable cause, the public officer commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Public officer's duty to report

(2) An officer of the Commission or a police officer may arrest without warrant any person in respect of whom a report is made under subsection (1).

(3) An officer of the Commission or a police officer may search any person arrested for an offence under this Act and take possession of all the articles found upon that person which the police officer or officer of the Commission believes upon reasonable grounds to constitute evidence of the commission of an offence by that person under this Part:

Provided that a person shall not be searched except by a police officer, or officer of the Commission or by any person authorised in that behalf by a police officer or officer of the Commission, of the same sex.

40. (1) A person who aids, abets or counsels or conspires with any person to commit an offence under this Part, commits an offence and is liable, upon conviction, to a sentence as if that person committed the offence.

Attempts and conspiracies

(2) A person who attempts to commit an offence under this Act commits an offence and is liable, upon conviction, to a sentence as if that person committed the offence.

41. A person who is convicted of an offence under this Part, for which no penalty is provided, is liable —

General penalty

- (a) upon first conviction, to imprisonment for a period not exceeding fourteen years;
- (b) upon a second or subsequent conviction, to imprisonment for a term of not less than five years but not exceeding fourteen year; and
- (c) in addition to any other penalty imposed under this Act, to forfeiture to the State of any pecuniary resource, property, advantage, profit or gratification received in the commission of an offence under this Act.

Restitution **42.** Where a person is convicted of an offence under this Part, the court may, in addition to the sentence that it may impose under section *forty-one*, order the convicted person to pay to the rightful owner the amount or value, as determined by the court, of any gratification actually received by that person, and such order shall be deemed to form part of the sentence:

Provided that where, after reasonable inquiry, the rightful owner cannot be ascertained or traced, or where the rightful owner is implicated in the giving of the gratification, the court shall order that the amount or value thereof be paid into the general revenues of the Republic.

Recovery of gratification by distress, etc.  
Cap. 88 **43.** Any fine imposed under the provisions of this Part and the amount or value of any gratification ordered to be paid under section *forty-two* may be recovered in accordance with the provisions of sections *three hundred and eight* and *three hundred and nine* of the Criminal Procedure Code by distress and sale of the movable and immovable property of the person sentenced.

Recovery of gratification corruptly received by agent **44.** (1) Where a person gives gratification to, or for, or on account of, an agent in contravention of any provision of this Act, the principal may recover, as a civil debt, the amount or value of such gratification from the agent, and the acquittal of the agent or such person in respect of an offence under this Part shall not operate as a bar to any proceedings for such recovery.

(2) Nothing in subsection (1) shall be deemed to prejudice or affect any right which any principal may have under any written law or rule to recover from the agent any money or property.

Certificate of Government valuation officer or other specialist valuer **45.** In any proceedings under this Act, a certificate by a Government valuation officer or other specialist valuer with respect to the value of any gratification or of any movable or immovable property shall be sufficient proof of such value, unless the contrary is proved.

Certain matters not to constitute defence **46.** (1) If in any proceedings for an offence under any section of this Part, it is proved that the accused person accepted any gratification believing or suspecting or having reasonable grounds to believe or suspect that the gratification was given as an inducement or reward for, or otherwise on account of, the accused person's doing or forbearing to do, or having done or forborne to do, any act referred to in that section, it shall not be a defence that —

(a) the accused person did not actually have the power, right or opportunity to do so or forbear;

(b) the accused person accepted the gratification without intending to do so or forbear; or

(c) the accused person did not in fact do so or forbear.

(2) If, in any proceedings for an offence under any section of this Part it is proved that the accused person offered any gratification to any other person as an inducement or reward for, or otherwise on account of, that other person's doing or forbearing to do, or having done or forborne to do, any act referred to in that section, believing or suspecting or having reasonable grounds to believe or suspect that such other person had the power, right or opportunity to do so or forbear, it shall not be a defence that such other person did not have such power, right or opportunity.

47. (1) Subject to the applicable legal and administrative procedures relating to the right to justice and a fair hearing applicable to public officers under their conditions of service, a public officer who is charged with corruption shall be suspended, at half pay, with effect from the date of the charge.

Suspension of public officer charged with corruption

(2) A public officer ceases to be suspended if the proceedings against the public officer are discontinued or if the public officer is acquitted.

(3) This section does not derogate from any administrative power, disciplinary code, regulation, law or any other inherent powers of an employer under which the public officer may be suspended without pay or dismissed.

(4) This section does not apply with respect to an office in respect of which the Constitution limits or provides for the grounds upon which a holder of the office may be removed or the circumstances in which the office shall be vacated.

Cap. 1

48. (1) A public officer who is convicted of an offence shall be suspended without pay with effect from the date of the conviction pending the outcome of any appeal.

Suspension of public officer convicted of corruption

(2) A public officer ceases to be suspended if a conviction is overturned on appeal.

(3) A public officer shall be dismissed if—

(a) the time period for appealing against the conviction expires without the conviction being appealed; or

(b) the conviction is upheld on appeal.

49. (1) A person convicted of an offence under this Part shall, by reason of such conviction, be disqualified for a period of five years from the date of such conviction, from being elected or appointed to, or from holding or continuing to hold, any office or position in any public body.

Effect of conviction

(2) Notwithstanding subsection (1), the State shall endeavour to ensure the implementation of effective measures for the re-integration into society, of a person convicted of an offence under this Act.