

ANTI-CORRUPTION ACT, 2016

(Act 2 of 2016)

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ANTI-CORRUPTION ACT, 2016

(Act 2 of 2016)

I assent



A handwritten signature in black ink, appearing to read 'Michel'.

J. A. Michel
President

31st March, 2016

AN ACT to establish the Anti-Corruption Commission; provide for its functions and powers and to create a means by which it can investigate, detect and prevent corrupt practices.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. This Act may be cited as the Anti-Corruption Act, 2016.

Short title and commencement

Interpretation

2. In this Act—

“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 suitable person or institution having the competence to deal with a particular situation.

“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 share; 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;

“Attorney General” means the person appointed as such under Article 76 of the Constitution;

“Chairperson” means the person appointed as Chairperson under section 6;

“Commission” means the Anti-Corruption Commission established under section 4;

“Commissioner” means a person appointed as Commissioner under section 6;

“corrupt” means the acts of soliciting, accepting, obtaining, giving, promising or offering of a gratification by way of a bribe or inducement, or the misuse or abuse of a public office for advantage or benefit for oneself or for another person, and “corruption” shall be construed accordingly;

“Chief Executive Officer” means the Chief Executive Officer of the Commission appointed under section 19;

“document” means any manner in which information is recorded or stored on a device, 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
- (c) an official or agent of a public international organisation formed by two or more States or two or more public international organisations;

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

“gratification” includes —

- (a) money, a gift, loan, fee, reward, commission, security, property, or interest in property of any description, whether movable or immovable;
- (b) any promise for an employment or contract of employment or 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; and
- (f) any aid, vote, consent or influence;

“Minister” means Minister responsible for Public Administration;

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

“principal” includes an employer, beneficiary under a trust, 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 property movable or immovable, money, funds, interests in property, documents or instruments in any form, bank

credits, cheques, shares, securities incorporeal property, whether located in the Republic or elsewhere;

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

“public officer” has the same meaning assigned to it under Section 2 of the Public Officers' Ethics Act;

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

“relative” in relation to a person, means a parent, son, daughter, brother, sister, nephew, niece, uncle, aunt, grandparent or cousin of that person or a spouse of that person;

“Republic” means the Republic of Seychelles;

“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 Chief Executive Officer or an officer of the Commission;

“sporting event” means an event or contest in any sport, between individuals or teams whether involving the participation of any animal or not, or any other form of sports approved by the National Sports Council, and is governed by the provisions of the National Sports Council Act or any other written law;

“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 its acquisition has no satisfactory explanation;

“victim” means a person who suffers damage as a result of an act of corruption.

3.(1) The provisions of this Act shall, notwithstanding anything inconsistent contained in any other written law, for the time being in force, prevail to the extent of the inconsistency.

Act to prevail over other laws

(2) Without prejudice to subsection (1), the provisions of this Act shall be in addition, and not in derogation of any other written law for the time being in force.

PART II - ANTI-CORRUPTION COMMISSION

4.(1) There is hereby established a Commission to be known as the Anti-Corruption Commission which shall be a body corporate with perpetual succession and a common seal capable of suing and being sued in its own name.

Establishment of the Anti-Corruption Commission

(2) The Commission shall be a self-governing, neutral and independent body and shall not be subject to the direction or control of any person or authority.

5.(1) The functions of the Commission are —

Functions of Commission

- (a) to enquire into and conduct investigation of offences;
- (b) to file cases on the basis of enquiry or investigation and to conduct cases;
- (c) to hold enquiry into allegations of corruption on its own motion or on the application of an

- aggrieved person or any person on his or her behalf;
- (d) to perform the functions assigned to the Commission by this Act or under any written law;
 - (e) to review and recognise provisions of laws for the prevention of corruption and submit recommendations to the President for their effective implementation;
 - (f) to raise awareness and promote the values of honesty and integrity among people with a view to prevent corruption;
 - (g) to organise seminars, symposiums, workshops on the subjects falling within the functions and duties of the Commission;
 - (h) to identify various causes of corruption in the context of socio-economic conditions of the Republic and make recommendations to the President;
 - (i) to determine the procedure of enquiry, investigation, filing of cases and also the procedure of according sanction of the Commission for filing cases against corruption;
 - (j) to investigate a public officer's conduct which the Commission has reasonable grounds to believe is connected with corrupt practices;
 - (k) to 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;
- (l) to 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;
 - (m) to adopt and strengthen mechanisms for educating the public to respect the public good and public interest and, in particular —
 - (i) create awareness for the fight against corruption and related offences;
 - (ii) develop educational and other programmes in collaboration with the media;
 - (iii) promote an environment for upholding ethics in governance;
 - (iv) disseminate information and sensitise the public about the negative effects of corruption and related offences;
 - (v) do all such other things that are incidental or conducive to the attainment of its functions; and
 - (n) to perform any other duty as may be considered necessary for the prevention of corruption.

6.(1) The President shall, on the recommendation of the Constitutional Appointments Authority, appoint to the Commission a Chairperson, Vice-Chairperson and three Commissioners.

Appointment to
and
compositions
of the
commission

(2) The recommendation of the Constitutional Appointments Authority shall be on the basis of the qualifications, experience and eligibility specified in subsections (3) and (4) and section 7.

(3) A person who has held or is qualified to hold the post of a Judge of Supreme Court or Justice of Appeal shall be qualified for appointment as Chairperson.

(4) A person to be appointed as Vice-Chairperson or a Commissioner shall have wide experience and knowledge in any one or more of the following fields of services —

- (a) anti-corruption;
- (b) accounting;
- (c) administration;
- (d) law enforcement;
- (e) investigation;
- (f) forensic services.

(5) The term of office, salary allowances of the Chairperson, Vice-Chairperson and the Commissioners shall be such as may be prescribed.

Eligibility of
Commissioners

7.(1) A person having the qualification specified under section 6(4) is eligible to be appointed as the Vice-Chairperson or a Commissioner if that person —

- (a) is a citizen of, and resides permanently in, the Republic;
- (b) is of proven integrity; and
- (c) has distinguished record of public service, or service in a profession or vocation.

(2) A person shall not be appointed as the Vice-Chairman or a Commissioner if that person —

- (a) holds office in, or is an employee of, a political party;
- (b) has been convicted and served a sentence of imprisonment for term of six months or more for an offence involving fraud, dishonesty or moral turpitude, or any other offence under this Act or any other written law.

8.(1) The Chairperson may resign upon giving a two month's written notice, to the President.

(2) The office of the Chairperson shall become vacant —

- (a) if the Chairperson is absent from three consecutive meetings of the Commission, without reasonable excuse;
- (b) if the Chairperson is adjudged bankrupt;
- (c) if the Chairperson is convicted of an offence under this Act or any other written law and sentenced therefor to imprisonment for a term of six months or more, without the option of a fine;
- (d) if the Chairperson is declared to be of unsound mind; or
- (e) upon the Chairperson's death.

(3) Subsections (1) and (2) shall *mutatis mutandis* apply to the Vice-Chairperson and Commissioners.

(4) Where a vacancy arises for any reason whatsoever in the office of the Chairperson, Vice-Chairperson or any

Resignation of
Chairperson, Vice-
Chairperson and
commissioner and
Vacancy of Office

Commissioner before the expiry of the term of office, the person appointed to fill such vacancy shall hold office for the remainder of the term for which his or her predecessor in office would have held office if such vacancy had not occurred.

Termination
of
Appointment

9. (1) Subject to the provisions of subsections (2), (3) and (4) the President may remove from office the Chairperson, Vice-Chairperson or a Commissioner on grounds of gross misbehavior.

(2) Where a complaint, allegation or report of misbehaviour against the Chairperson, Vice-Chairperson or a Commissioner is received and the President is prima facie satisfied that it shall be enquired into, the President shall refer the matter to the Chief Justice of Supreme Court for enquiry and report.

(3) Where a question of removing the Chairperson, Vice-Chairperson or a Commissioner is referred to the Chief Justice, the President may suspend the Chairperson, Vice-Chairperson or the Commissioner, as the case may be, from performing the functions of the Commission but the suspension shall cease to have effect if the Chief Justice recommends to the President that the Chairperson, Vice-Chairperson or the Commissioner, as the case may be, ought not be removed from office.

(4) The Chief Justice shall on a reference made under subsection (2) hold an enquiry and recommend to the President whether the Chairperson, Vice-Chairperson or the Commissioner ought to be removed on such ground or grounds and the President shall act accordingly.

Meetings of
the
Commission

10.(1) The Commission shall meet at least once in every two months at the place and time as the Commission determines.

(2) Where at least two members so request in writing,

the Chairperson may upon giving notice of not less than fourteen days call a meeting of the Commission.

(3) Where the urgency of a particular matter does not permit the giving of a notice in accordance with subsection (2), a special meeting may be called on shorter notice given by three members of the Commission including the Vice-Chairperson.

(4) In the absence of the Chairperson, the Vice-Chairperson shall preside over a meeting of the Commission and in the absence of both the Chairperson and the Vice-Chairperson, such other Commissioner as the Commissioners present elect for the purpose of that meeting shall preside over the meeting.

(5) The Chairperson and two Commissioners shall constitute quorum at any meeting of the Commission.

(6) A decision of the Commission shall be taken by a majority of the Commissioners present and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote.

(7) The Commission may request a person whose presence is in its opinion necessary, to attend and to participate in the deliberations of a meeting of the Commission but such person shall have no right to vote.

(8) An act or a proceeding of the Commission shall not be invalid by the reason of a vacancy in the membership of the Commission, a defect in the appointment of a Commissioner or by reason that a person who took part in the proceedings was not entitled to do so.

11.(1) The Commission may, for the purpose of performing its functions under this Act, establish such committees as it deems necessary and delegate thereto such of its functions as it considers appropriate.

Establishment
of Committees

(2) Subject to subsection (1), the Commission may appoint as members of a committee, persons who are or are not, Commissioners except that at least one member of a committee shall be a Commissioner appointed under Section 6.

(3) A person serving as a member of a committee shall hold office for such period as the Commission may determine.

(4) Subject to any specific or general direction of the Commission, a committee may regulate its own procedure.

Remuneration of Commissioners and members of committee

12. There shall be paid to the member of a committee such remuneration and allowances as may be prescribed.

Declaration of Interests

13.(1) A person who is present at a meeting of the Commission or any committee at which any matter is the subject of consideration, and in which matter that person or spouse of that person, his or her relative, friend or associate is directly or indirectly interested in a private capacity, shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall, unless the Commission or the committee otherwise directs, recuse him or herself from the meeting.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

Confidentiality

14.(1) A person shall not, without the written consent of, or on behalf of, the Commission, publish or disclose to any unauthorised person, otherwise than in the course of that person's duties, the contents of a document, communication or information, if the document relates to or has come to the knowledge of that person 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 SCR200,000 or to imprisonment for a period not exceeding two years, or to both such fine and imprisonment.

(3) A person who, having information which to the knowledge of that person has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding SCR 200,000 or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

15. An action or other proceeding shall not lie or be instituted against the Chairperson, the Vice-Chairperson, a Commissioner or a member of a committee of the Commission for, or in respect of, any act or thing done or omitted to be done in the exercise of a performance, function or duty conferred under this Act if the act or omission was done or omitted in good faith.

Immunity of Commission and members of committees

16. The Commission may establish specialised units to investigate and deal with matters as the Commission considers appropriate.

Establishing of specialised units

17.(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.

Instructions by Commission

(2) A public body shall, not later than ninety days from the receipt of the instructions from the Commission pursuant to sub-section (1), effect 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 are 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 Chief Executive Officer in writing.

(4) The Commission, may, after considering the representations of a public body made under sub-section (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 SCR 200,000 or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(6) In addition to the penalty prescribed in sub-section (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 appropriate authority.

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

(2) An appropriate authority shall, within thirty days from the date of receipt of the recommendation of the Commission under sub-section (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, on conviction, to a fine not exceeding SCR 200,000 or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

19.(1) There shall be a Chief Executive Officer of the Commission who shall be appointed by the President on the recommendation of the Commission.

(2) The term of office, salary and allowances of the Chief Executive Officer shall be such as may be prescribed.

Reports and
recommendations
by the
Commission

Appointment
of CEO

(3) The Chief Executive Officer shall not, while holding the office of Chief Executive Officer, discharge the duties of any other office of emolument in the Republic.

20. The President may, on the recommendation of the Commission, terminate the appointment of the Chief Executive Officer, who —

Termination
of
Appointment
of CEO

- (a) has been found guilty of any misconduct, default or breach of trust in the discharge of any duties;
- (b) is an undischarged insolvent or bankrupt;
- (c) is convicted of an offence and sentenced to a term of imprisonment of three months or more;
- (d) is absent from three consecutive meetings of the Board without leave from the Chairperson; or
- (e) is mentally or physically incapable of carrying out the functions under this Act.

21.(1) Subject to the direction, control and supervision of the Commission, the Chief Executive Officer, —

Responsibility
of CEO

- (a) shall be responsible for the implementation of the decisions of the Commission for the effective management and carrying out of the affairs of the Commission;
- (b) may sign documents on behalf of the Commission; and
- (c) may delegate any function of the Chief

Executive Officer to any employee of the Commission.

(2) The Chief Executive Officer shall act in accordance with the directives and instructions as he or she may receive from the Commission in the implementation of policy matters.

Powers of
CEO

22.(1) The Chief Executive Officer may 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 he or she may consider necessary or expedient for preventing the abuse of power or neglect of duty by officers or other staff.

(2) The Chief Executive Officer may, for the performance of the Commission's functions under this Act—

- (a) give an officer written authority to conduct an inquiry or investigation into an alleged or suspected offence under this Act;
- (b) require the head of any public body to produce or furnish within such time as the Chief Executive Officer specifies, 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 Chief Executive Officer considers necessary for the conduct of an investigation into an alleged or suspected offence under this Act.

PART II - CORRUPT PRACTICES

23.(1) A public officer shall not corruptly solicit, accept or obtain, or agree to accept or attempt to receive or obtain, from any person for himself 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.

Unlawful
gratification

(2) A person shall not corruptly give, promise or offer 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.

(3) A person shall not corruptly solicit, accept or obtain, or agree to accept or attempt to receive or obtain, from any person for himself 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 private body is or may be concerned.

(4) A person shall not corruptly give, promise or offer 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.

(5) A person who contravenes the provisions of this section commits an offence.

24.(1) A public officer shall not—

- (a) do, or direct to be done, in abuse of his position, office or authority an arbitrary act if

Abuse of
position

that act is prejudicial to the rights or interests of the Government or a person;

- (b) use his or her position, office or authority or any information that he or she obtains as a result of, or in the course of, the performance of his or her functions to obtain property, profit, an advantage or benefit, directly or indirectly, for himself or herself or another person;
- (c) use his or her position, office or information to obtain, promise, offer or give an undue advantage to himself or herself or to another person, directly or indirectly, in order for him or her to perform or refrain from performing his or her duties; or
- (d) solicit or accept directly or indirectly an undue advantage or benefit for himself or herself or for another person in order for him or her to perform or refrain from performing his or her duties.

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

(3) A public officer shall not corruptly solicit, accept or obtain, or agree to accept or attempt to receive or obtain for himself or herself or for any other person a gratification in relation to a matter or transaction if the matter or transaction falls within, or is connected with his or her jurisdiction, powers, duties or functions.

(4) A person, being concerned with any matter or transaction falling within the scope of authority, or connected

with the jurisdiction, powers, duties or functions of a public officer, shall not corruptly give, promise or offer any gratification, whether directly or indirectly, to such public officer either for himself or herself or for any other person.

(5) A public officer shall not unreasonably delay, refuse, neglect or omit to perform his or her duties or functions in order to procure or induce a person to offer or give gratification to that public officer.

(6) A person who contravenes the provisions of this section commits an offence.

25.(1) Unless the contrary is proved, a public officer shall be liable for the offence of having, or having had under his or her control or possession pecuniary resources or property suspected of having been corruptly acquired if he or she —

Liability for
corrupt
acquisitions

- (a) maintains a standard of living not commensurate with his or her present or past official emoluments or other income;
- (b) is in control or possession of pecuniary resources or property disproportionate to his or her present or past official emoluments; or
- (c) is in receipt of the benefit of any service which he or she is reasonably suspected of having received corruptly or in circumstances which amount to an offence under this Act.

(2) Where a court is satisfied in proceedings for an offence under subsection (1) that, having regard to the closeness of the accused public officer's relationship to the other person who provides the benefit or service to the accused public officer and to other relevant circumstances, there is reason to believe that the other person was holding pecuniary resources or property in trust for or otherwise on behalf of the

accused public officer, or acquired such pecuniary resources or property as a gift, or loan without adequate consideration, from the other person, such pecuniary resource or property shall, unless the contrary is proved, be deemed to have been under the control or in the possession of the accused public officer.

Corruption
by agent and
principal

26.(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 a 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 a person in relation to the principal's affairs or business, commits an offence.

(2) A person, who corruptly gives, promises or offers 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) An agent, who with an intent to deceive the principal, uses a receipt, account or other document in respect of which the principal is interested in or which relate to the principal's affairs or business and which contains any statement which is false or erroneous or defective and which to the agent's knowledge or belief is intended to mislead the principal, commits an offence.

Corruption
concerning
elections to
public or
private
body

27.(1) A person, being a member of a public or private body shall not corruptly solicit, accept or obtain, or agree to accept or attempt to receive or obtain, from a person, 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.

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

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

Interference
with witnesses

(2) A person, who 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.

(3) A witness, who by himself or herself 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 himself or herself or for another person, any gratification as an inducement or reward whether for the benefit of witness 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:

Corrupt practices by, or with foreign public official

29.(1) A person shall not by himself or herself or by, or in conjunction with any other person, corruptly promise, offer or give 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.

(2) A foreign public official shall not, by himself or herself or by, or in conjunction with, any other person corruptly solicit, accept or obtain, or agree to accept or attempt 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.

(3) A person shall not unlawfully promise, offer, or give 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 anything which he would otherwise do in exercise of his or her official duties in order that the person obtains or retains business or other undue advantage in relation to the conduct of international affairs or business.

(4) A foreign public official shall not solicit or accept, 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.

(5) A person who contravenes the provisions of this section commits an offence.

30. A person commits an offence and is liable to fine not exceeding SCR 200, 000 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment, if he or she directly or indirectly—

Corruption in relation to sporting events

- (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
- (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.

31.(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.

Disclosure of interest

(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 proceeding or process of that public body relating to such decision.

(3) A public officer who contravenes the provisions of this section commits an offence.

32.(1) A public officer commits an offence and is liable, on conviction, to a fine not exceeding SCR 300,000 or to imprisonment for a term not exceeding seven years or to both

Gratification for giving assistance etc with regards to contracts

such fine and imprisonment if he or she directly or indirectly, by himself or herself, 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 himself or herself 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.

(2) A person shall not corruptly give, promise or offer 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.

(3) A person shall not directly or indirectly, by himself, or herself or by, or in conjunction with, any other person, corruptly solicit, accept or obtain, or agree to accept or attempt to receive or obtain from any person for himself or herself or for any other person, 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 for the performance of any work, the provision of any service, the doing of anything or the supplying of any article, material or substance.

(4) A person shall not give, promise or offer gratification to any other person as an inducement or reward for, or on account of, the withdrawal of a tender, or the refraining from making of a tender for a contract.

(5) A person who contravenes subsections (2), (3) or (4) commits an offence.

33.(1) A person shall not by use of corrupt means or with intent to pervert the course of justice, interfere with the exercise of official duties by a judge, magistrate, judicial officer or any other arbiter or law enforcement officer.

Interference
with official
duties

(2) A person shall not accept or obtain, agree to accept or attempt to obtain, or offer or give, a gratification for himself or herself or for any other person so that the person —

- (a) conceals an offence;
- (b) shields any other person from legal proceedings for an offence;
- (c) does not proceed against any other person in relation to an alleged offence; or

- (d) abandons or withdraws, or obtains or endeavors to obtain the withdrawal of, a prosecution against any other person.

(3) A person who contravenes the provisions of this section commits an offence.

Corruption
and bidding

34.(1) A person shall not, directly or indirectly by himself or herself or in conjunction with, any other person, corruptly solicit, accept or obtain, or agree to accept or attempt to receive or obtain, from any person for himself or herself or for any other person, gratification as an inducement or reward for, or 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.

(2) A person shall not corruptly give, promise or offer any gratification to any other person as an inducement or reward for, or on account of, that other person's refraining or having refrained from bidding at an auction.

(3) A person who contravenes the provisions of this section commits an offence.

Corruption
concerning
investment

35. A public officer commits an offence and is liable, on conviction, to a fine not exceeding SCR 300,000 or to imprisonment for a term not exceeding seven years, or to both such fine and imprisonment if he or she 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 —

- (a) abstains from performing any act in his or her 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.

36.(1) A person commits an offence if he or she or through another person unlawfully —

Unlawful
acquiring of
public funds
and public
property

- (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 a purpose other than for what it is intended, for himself or herself or for another person's benefit;
- (c) mortgages, charges or disposes of any public property for his or her 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.

(2) A person whose functions concern the administration, custody, management, receipt or use of 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;
- (ii) goods not supplied or not supplied in full; or
- (iii) services not rendered or not adequately rendered; or

- (b) willfully fails to comply with a 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.

Concealment
of Property

37. A person commits an offence and is liable, upon conviction, to imprisonment for a period not exceeding 10 years if he or she —

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

Destruction,
mutilation or
falsification of
books

38.(1) A person shall not, with intent to defraud or to conceal the commission of an offence under this Part, or with intent to obstruct an officer in the investigation of any offence —

- (a) destroy, alter, mutilate or falsify a book, document or be privy to the destruction, alteration, mutilation or falsification of a

book, 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;

- (b) make or be 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.

(2) A person who contravenes subsection (1) omits an offence.

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 seventy-two 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 SCR 10,000 or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Reporting an
instance of
gratification

(2) 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.

(4) A person subject to a search under subsection (3) shall only be searched by a police officer of the same sex or an officer of the Commission of the same sex or by a person of the same sex authorised in that behalf by a police officer or officer of the Commission.

(5) Whoever contravenes subsection (4) commits an offence and shall be liable on conviction for a fine not exceeding SCR 10,000.

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

41.(1) A Public Officer being in a position of authority shall not request sexual favour from a person in consideration for—

- (a) considering a job application;
- (b) considering land application;
- (c) considering a request for an increment in salary
- (d) any other request made by a person.

(2) A public officer shall not persistently make sexual advances or requests which he or she knows, or has reasonable grounds to know are unwelcome in an attempt to instill fear in an employee or a fellow worker thereby compelling the employee to feel uncomfortable in a workplace or to resign.

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

(4) A person may file a complaint with the Commission pertaining to an act of sexual harassment stated in subsection (2).

Conspiring with a person to commit an offence and attempt to commit an offence

Sexual favour as consideration

(5) A charge concerning a complaint of sexual harassment in subsection (3) shall contain the following—

- (a) that the submission or rejection by the person to whom advances or requests are made is intended to be used as basis of employment or of a decision relevant to the career of the alleged victim or of a service due to a member of the public in the case of a public officer;
- (b) such advances or requests have the effect of interfering with the alleged victim's work or educational performance or creating an offensive working or learning environment for the alleged victim or denial of a service due to the member of the public from a public office.

42.(1) Any person who being in a position of trust takes advantage of his or her position and induces or seduces a person in their care to have sexual intercourse with him or her or commits any other offence under this Act, such sexual intercourse not amounting to the offence of rape or defilement, shall be guilty of an offence of abuse of position of trust and shall be liable on conviction to imprisonment for a term of not less than ten years.

Abuse of position of trust

(2) Conduct by a person which would otherwise be an offence under this Act against another person is not an offence under subsection (1) if, immediately before the position of authority or trust arose, a sexual relationship existed between that person and the other person.

(3) Subsection (1) does not apply if at that time sexual intercourse between such persons would have been lawful.

(4) In proceedings for an offence under this section it is for the accused person to prove that such a relationship existed at that time.

Embezzlement

43.(1) A public officer shall not steal or misappropriate funds placed in his or her trust or belonging to his or her employer.

(2) A public officer shall not use his or her influence to favour relatives or friends, especially in providing them employment and in consideration of job applications.

(3) A public officer who contravenes the provisions of this section commits an offence.

Penalty

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

- (a) on first conviction, to a fine not exceeding SCR 300,000 or to imprisonment for a term not exceeding 7 years or to both such fine and imprisonment;
- (b) on a second or subsequent conviction, to a fine not exceeding SCR 500,000 or to imprisonment for a term of not less than 10 years or to both such fine and imprisonment; and
- (c) in addition to any other penalty imposed under this Act, to forfeiture to the Republic of any pecuniary resource, property, advantage, profit or gratification received in the commission of an offence under this Act.

(2) Where a person is convicted of an offence under this Part, the court may, in addition to the sentence that it may impose under subsection (1), order the convicted person to pay to the rightful owner where he is not implicated in giving the gratification, 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.

(3) 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 Consolidated Fund.

45. A fine imposed under the provisions of this Part and the amount or value of any gratification ordered to be paid under section 43 may be recovered in accordance with the provisions of the Criminal Procedure Code.

Fine to be recovered in accordance with provisions of Criminal Procedure

46.(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.

Recovery by Principal of gratification as civil debt

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

47. In any proceeding 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.

Certifying Value of gratification

48.(1) If in any proceeding 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 —

Defence

Suspension of
public officer
charged with
corruption

- (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.

49.(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, with effect from the date of the charge.

(2) The eligibility for salary or allowances of a person suspended under subsection (1) shall be governed by the law and procedure concerned or the terms of appointment of that person.

(3) This section does not derogate the 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.

(5) 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.

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

(7) A public officer shall be dismissed if —

- (a) the time prescribed for appealing against the

conviction expires without the conviction being appealed; or

- (b) the conviction is upheld on appeal.

50.(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.

Disqualification
of public officer

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

(3) A court may, where it convicts a person of an offence under this Act, set aside any transaction that occurred in circumstances that gave rise to the conviction, unless the transaction was with a third party acting in good faith.

(4) A transaction set aside under subsection (3) shall be void ab initio and shall not give rise to a claim for damages.

51. Where an offence under this Act is committed by a body corporate or unincorporate body, every director or manager of the body corporate or unincorporate body shall be liable, upon conviction, as if the director or manager had personally committed the offence, unless the director or manager proves to the satisfaction of the court that the act constituting the offence was done without the knowledge, consent or connivance of the director or manager or that the director or manager took reasonable steps to prevent the commission of the offence.

Offences by
body
corporate or
body
unincorporate

PART III - INVESTIGATION OF CORRUPT PRACTICES

52.(1) A person who alleges that another person has engaged or is about to engage in a corrupt practice may lodge a

Lodging of
complaint
concerning
corrupt
practices

complaint with the Commission in the prescribed manner and form.

(2) The Commission may investigate a matter under this Act on receipt of a complaint or on its own initiative.

(3) The Commission may refer any offence that comes to its notice in the course of an investigation under subsection (2) to any other appropriate investigation authority or agency.

(4) The Chief Executive Officer shall, upon receipt of a complaint under sub section (1), examine each alleged corrupt practice and decide whether or not an investigation in relation to the allegation is warranted.

(5) The Chief Executive Officer may, in deciding whether to investigate an alleged corrupt practice, consider —

- (a) the seriousness of the conduct or involvement to which the allegation relates;
- (b) whether or not the allegation is frivolous or vexatious;
- (c) whether or not the conduct or involvement to which the allegation relates is or has been the subject of an investigation or other action by any other appropriate authority under any other written law; and
- (d) whether or not, in all the circumstances, the carrying out of an investigation for the purpose of this Act in relation to the allegation will disclose the commission or likelihood of the commission of an offence under this Act.

(6) The Chief Executive Officer shall, where he or she determines that an investigation into an allegation is

warranted, decide whether the Commission shall carry out the investigation or whether the allegation should be referred to another appropriate authority for investigation or action.

(7) The Commission may seek the assistance of the Commissioner of Police, Finance Intelligence Unit, Seychelles Revenue Commission or any other authority in investigating an offence under this Act.

(8) The Chief Executive Officer may, for the purpose of performing the functions under this section —

- (a) make such preliminary inquiry as he or she considers necessary; and
- (b) consult any other appropriate authority.

(9) The Chief Executive Officer shall inform the complainant, in writing, of the decision of the Commission in relation to the allegation.

(10) A person commits an offence and is liable, on conviction, to a fine not exceeding SCR300,000 or to imprisonment for a term not exceeding seven years, or to both such fine and imprisonment if he or she in bad faith, makes a frivolous or vexatious complaint to the Commission.

53.(1) The Chief Executive Officer may, by notice, in writing, require a person whose affairs are being investigated or any other person who he or she has reason to believe may have information or documents relevant to an investigation to —

- (a) attend before the Chief Executive Officer as may be specified in the notice;
- (b) answer questions with respect to a matter or supply information that may be relevant to the investigation; or

Attendance of
person being
investigated

- (c) produce for inspection any documents which are specified in the notice.

(2) Subsection (1) shall apply without prejudice to a person's rights under any other law relating to privilege.

(3) Where a notice issued under subsection (1) is not complied by a person without reasonable cause, the Chief Executive Officer may cause the arrest and compel the attendance of that person.

(4) Any person who fails to comply with a notice issued under subsection (1) commits an offence and shall be liable on conviction for fine of SCR 10,000 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Entering and
searching
premises

54.(1) An officer of the Commission may, if the owner, occupier of the premises or other person in control of the premises consents to the entry, search, seizure and removal of the record, return, book, document or article where the officer reasonably suspects that an offence is being, has been or is about to be committed under this Act, without a warrant, enter and search premises, other than a private dwelling except if the private dwelling is used for business purposes, for the purpose of attaching and removing, if necessary, any record, return, report, document or article.

(2) An officer of the Commission exercising any power under this section shall, before entering and searching any premises, ensure that the owner, occupier or person in control of the premises is present.

CEO
application
for a warrant

55.(1) The Chief Executive Officer, or an officer of the Commission, in the performance of his or her duties, may apply for a warrant to a judge or a magistrate.

(2) A judge or magistrate to whom an application for a

warrant is made under subsection (1) may issue the warrant where—

- (a) there are reasonable grounds to believe that—
- (i) a person has failed to produce the documents required for purposes of this Act;
 - (ii) a person has failed to answer any questions asked for purposes of an investigation or that any answer given to any question is false or misleading in a material particular or is incomplete;
 - (iii) it is not practicable to serve a notice on a person by reason of the fact that the person cannot be located or is absent from the Republic, or that the service of a notice might prejudice an investigation; or
- (b) there are reasonable grounds to believe that any document or other thing relevant to an investigation or that may be evidence of an offence under this Act is placed, deposited or concealed in the premises to which the warrant relates.

(3) A warrant issued under subsection (2) shall confer on the Chief Executive Officer or an officer of the Commission power to—

- (a) access all the books, records, returns, reports and other documents relating to the work of any public or private body;
- (b) enter and search, at any time, the premises of any public or private body or any vessel, boat, aircraft or other conveyance, where the Chief

Executive Officer or an officer of the Commission has reasonable grounds to believe that any property or thing corruptly acquired has been placed or deposited;

- (c) search for and remove any document or other thing that may be relevant to an investigation or may be evidence of an offence;
- (d) where necessary, take copies of any document or extracts from documents that the person executing the warrant believes on reasonable grounds may be relevant to an investigation; and
- (e) where necessary, to require any person to reproduce, or to assist to reproduce, in usable form, any information recorded or stored in any documents.

(4) In the exercise of powers of entry and search conferred under paragraph (b) of subsection (3), the Chief Executive Officer or an officer of the Commission, may use such reasonable force as is necessary and justifiable in the circumstances, and may be accompanied or assisted by such other persons as they consider necessary to assist them to enter into, or upon, any premises, or upon any vessel, boat, aircraft or other conveyance, as the case may be.

(5) A person who accompanies or assists the Chief Executive Officer or an officer of the Commission to enter into premises or vessel, boat, aircraft or other conveyance, as the case may be, shall, during the period of such accompaniment or assistance, enjoy the same immunity as is conferred on an officer of the Commission.

56.(1) The Chief Executive Officer or an officer of the Commission may, with a court order, investigate any bank

Investigation
of bank
accounts,
etc

account, share account, purchase account, expense account or any other account or safe deposit box in any bank.

(2) An order made under subsection (1) shall be sufficient for the disclosure or production by any person of all or any information, account, document or article that may be required by an officer of the Commission so authorised.

57.(1) If the Chief Executive Officer or an officer of the Commission authorised by the Chief Executive Officer in that behalf, has reasonable grounds to believe that a person has committed or is about to commit an offence under this Act, the Chief Executive Officer or the officer of the Commission, as the case may be, may request any police officer to arrest that person without a warrant.

Arrest of
person without
warrant

(2) Where a person is arrested without warrant under subsection (1), that person shall be dealt with in accordance with section 101 of the Criminal Procedure Code (Cap 54).

58.(1) Where in the course of an investigation into an offence under this Act, the Chief Executive Officer or an officer of the Commission has reasonable grounds to suspect that any movable or immovable property is derived or acquired from corrupt practices, is the subject matter of an offence or is evidence relating to an offence, the officer shall, with a warrant, seize the property.

Seizure of
property

(2) An officer who seizes any property pursuant to subsection (1) shall prepare an inventory, in triplicate, of all the movable or immovable property seized under that subsection with details of the places in which the property is found, in the presence of the officers, if any, assisting that officer, a representative of the accused person or the accused person himself if present and an independent witness, and the same shall be signed by all of them.

(3) The officer who prepares the inventory or list referred to in subsection (2) shall serve a copy of the same on

the owner of the property or on the person from whom the property was seized, then and there itself, and if the owner or the person from whom the property was seized refuses to accept the same or refuses to sign the inventory the a copy of the inventory as signed by the other persons specified in subsection (2) shall be delivered to the owner or the person from whom the property was seized by registered post.

(4) For the purpose of this section, "property" means property of any description and includes money, share, title, certificate of ownership or registration of vehicle or any other interest in the property.

Custody and
release of
seized
property

59.(1) The Chief Executive Officer or an officer of the Commission, who initiates the seizure shall effect the seizure by removing the movable property from the custody or control of the person from whom it is seized and placing it under the custody of such other person or authority and at such place as that officer may determine.

(2) The officer shall, where it is not practicable or otherwise not desirable to effect the removal of any property under subsection (1), leave it at the premises in which it is seized under the custody of such person as the officer may determine.

(3) Where property is seized under subsection (2), the officer who conducted the seizure shall make a record in writing specifying in detail the circumstances of, and the reason for, the seizure of the property and subsequent actions taken thereon including leaving of the property at the premises.

Restriction
on disposal
of property

60.(1) The Chief Executive Officer or an officer of the Commission may, by written notice to the person who is subject to an investigation in respect of an offence alleged or suspected to have been committed under this Act, or against whom a prosecution for an offence has been instituted, direct that person not to dispose of, or otherwise deal with, any

property specified in such notice without the consent of the Chief Executive Officer or the officer of the Commission, as the case may be.

(2) The Chief Executive Officer or other officer of the Commission shall furnish a copy of the notice issued under subsection (1) to the Licensing Authority, Registrar appointed under the Land Registration Act (Cap 107) or any other statutory authority concerned requiring them not to effect transfer or other transaction of the property specified in the notice without the consent of the Chief Executive Officer or other officer of the Commission, as the case may be.

(3) A notice issued under subsection (1) may be served by delivering it personally to the person to whom it is addressed or may, where the Chief Executive Officer or the officer of the Commission is satisfied that the person to whom the notice is to be served cannot be found, or is not in the Republic, be served on or brought to the knowledge of that person in such other manner as the Chief Executive Officer or the officer of the Commission may decide.

(4) A notice issued under subsection (1) shall —

- (a) in respect of an investigation within the jurisdiction, have effect from the time of service and shall continue to be in force for a period of nine months or until cancelled by the Chief Executive Officer or the officer of the Commission, whichever is earlier; and
- (b) in respect of an investigation outside the jurisdiction, have effect from the time of service and shall continue in force for a period of twelve months or until cancelled by the Chief Executive Officer or the officer of the Commission, whichever is earlier:

Provided that the Chief Executive Officer or the

officer of the Commission may issue a fresh notice upon the expiry of the previous one for a further final term of six months to facilitate the conclusion of an investigation.

(5) A person who, having been served with, or having knowledge of a notice issued under subsection (1), disposes of or otherwise deals with, any property specified in the notice other than in accordance with the consent of the Chief Executive Officer or the officer of the Commission, commits an offence, and is liable, on conviction, to imprisonment for a term not exceeding 10 years.

(6) A person aggrieved with the directive of the Chief Executive Officer or the officer of the Commission issued under subsection (1) may apply to the Supreme Court for an order to reverse or vary the directive.

(7) Where an application is made under subsection (6) the Supreme Court shall give notice to the Chief Executive Officer or the officer of the Commission, as the case may be, of the day appointed for the hearing of the application.

(8) The Supreme Court may, on hearing of an application under subsection (5)—

- (a) confirm the directive;
- (b) reverse the directive and consent to the disposal of, or otherwise dealing with, any property specified in the notice, subject to such terms and conditions as it thinks fit; or
- (c) vary the directive as it thinks fit.

61.(1) The Commission may under the hand and seal of the Chief Executive Officer, where it has reasonable grounds to believe that a third party is holding a property, including money in a bank account for, or on behalf of, or to the order of a

Restriction
on disposal
of property
by third
party

person who is under investigation, by notice, in writing, serve a notice on the third party directing that the third party shall not dispose of, or otherwise deal with, any property specified in the notice.

(2) A notice issued under subsection (1) shall be served on the third party to whom it is directed and on the person being investigated.

(3) The Commission may, in issuing a notice under this section impose such conditions as it may determine.

(4) A notice issued under subsection (1) shall—

- (a) in respect of an investigation within the jurisdiction, have effect from the time of service upon the person and shall continue in force for a period of nine months or until cancelled by the Chief Executive Officer, whichever is earlier; and
- (b) subject to subsection (5), in respect of an investigation outside the jurisdiction, have effect from the time of service upon the person and shall continue in force for a period of twelve months or until cancelled by the Chief Executive Officer, whichever is earlier

(5) The Chief Executive Officer may in respect of an investigation outside the jurisdiction issue a fresh notice upon the expiry of the previous one for a further final term of six months to facilitate the conclusion of an investigation.

(6) A third party on whom a notice is served under subsection (1) shall not dispose of, or otherwise deal with, the property specified in the notice except in accordance with the terms of the notice.

(7) A person who contravenes subsection (6) commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 10 years.

Forfeiture of unexplained property

62. The Commission may commence proceedings for forfeiture of unexplained property under this section against a person where—

- (a) after due investigation, the Commission is satisfied that the person has unexplained assets; and
- (b) the person has, in the course of the exercise by the Commission of its powers of investigation or otherwise, been afforded a reasonable opportunity to explain the disproportion between the assets concerned and the person's known legitimate sources of income and the Commission is not satisfied that an adequate explanation of that disproportion has been given.

False testimony

63. A person commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 2 years if he—

- (a) knowingly makes, or causes to be made, to the Commission, false testimony or a false report in any material particular on any offence or matter under investigation;
- (b) knowingly misleads the Chief Executive Officer, or officer of the Commission by giving any false information or statement or making a false allegation;
- (c) obstructs, assaults, hinders or delays the Chief Executive Officer or officer of the

Commission in the lawful exercise of the powers conferred on the officer under this Act;

- (d) refuses or fails, without reasonable cause, to give to the Chief Executive Officer or officer of the Commission on request, a document or information required for the purpose of this Act;
- (e) fails to comply with any lawful demand of the Chief Executive Officer, or officer of the Commission under this Act; or
- (f) destroys anything to prevent the seizure of any property or document or securing of the property or documents.

PART IV - POWERS OF THE ATTORNEY GENERAL

64. No prosecution for an offence under Part III shall be instituted except by, or with, the consent of the Attorney General.

Prosecution by Attorney General

65. If any person, against whom investigations or proceedings for an offence under Part III are pending, is preparing, or about to leave the Republic, whether temporarily or permanently, the Attorney General or any officer authorised in that behalf, may apply to any court for an order requiring such person to furnish bail of any sum, or, if already admitted to bail, of 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 may consider appropriate.

Bail where suspect or accused person about to leave Republic

PART V - EVIDENCE, PRESUMPTIONS AND OTHER MATTERS

66.(1) Where, in a proceeding for an offence under this Act, it is proved that the accused person offered or accepted

Unlawful gratification

gratification, the gratification shall, unless the contrary is proved, be presumed to have been offered or accepted as an inducement or reward, as is alleged in the particulars of the offence.

(2) The presumption of corrupt intent shall, in relation to an offence under this Act, include—

- (a) misuse of position, office or authority; and
- (b) breach of procurement procedure or wilful failure to comply with applicable procedures or guidelines relating to the management of funds or incurring of public expenditure.

(3) Where, in any proceedings for an offence under this Act, it is proved that a person offered, gave, solicited, accepted or obtained or agreed to accept or attempted to receive or obtain, a payment in any of the circumstances set out in the relevant section under which the person is charged, such payment shall, in the absence of evidence to the contrary, be presumed to have been offered, given, solicited, accepted, obtained or agreed to be accepted, received or obtained corruptly.

(4) For the purposes of subsection (3), “payment” means any corrupt payment, whether by cash or in kind, in respect of an offence under this Act.

(5) Where, in a proceeding under this Act, it is proved that a gratification has been offered, given, accepted or received by a person with the knowledge and acquiescence or consent of the accused person, and the court is satisfied, having regard to that person's relationship to the accused person or to any other circumstances that such person has offered, given, accepted or received the gratification for, or on behalf of, the accused person, or otherwise on account of, or in connection with, the office or duties of the accused person, or otherwise on

account of, or in connection with, the office or duties of the accused person, the gratification, in the absence of evidence to the contrary, shall be presumed to have been offered, given, accepted or received by the accused person.

67.(1) The fact that an accused person cannot reasonably account for any pecuniary resources or property of which the accused person is in possession disproportionate to the accused person's official emoluments or other income may be taken by the court—

- (a) as corroborating the testimony of any witness giving evidence in such proceedings that the accused person accepted or solicited any pecuniary resources or property; and
- (b) as showing that such possession of pecuniary resources or property was accepted or solicited as an inducement or reward.

(2) For the purposes of subsection (1), an accused person shall be deemed to be in possession of pecuniary resources or property if—

- (a) held by the accused person's relative or associate and the accused person, relative or associate is unable to reasonably account as to how such ownership, possession, custody or control came about; or
- (b) the accused person entered into any dealing for the acquisition of any property and the accused person is unable to reasonably account for the consideration used to acquire such property.

68.(1) The Attorney-General may, at any time, with a view to obtaining at a trial the evidence of any person directly or indirectly concerned with or privy to an offence under Part III, offer indemnity to such person on condition that the person

Presumption
of corrupt
intent

Grant of
indemnity by
Attorney
General

makes a full and true disclosure of all facts or circumstances within that person's knowledge relating to the offence and to every other person involved in the commission thereof, whether as principal or in any other capacity, together with the delivery of any document or thing constituting evidence or corroboration of the commission of the offence by the person to be charged or the accused person, as the case may be.

(2) The indemnity offered under subsection (1) shall be in accordance with the procedure set out in 61A of the Criminal Procedure Code.

(3) A person accepting indemnity under this section may be examined as a witness at the trial.

(4) Where a person who has accepted indemnity under this section has, either by wilfully concealing anything material to the case, or by giving false evidence, not complied with the condition on which the indemnity was made, that person may be prosecuted for the offence in respect of which the indemnity was tendered or for any other offence which the person appears to have committed in connection with the same matter.

(5) A person to whom indemnity has been offered under subsection (1), and has made a true and full disclosure of all things as to which that person is lawfully examined, shall be entitled to receive a certificate of indemnity under the hand of the Attorney-General stating that the person has made a true and full disclosure of all things as to which the person was examined, and such certificate shall be a bar to all legal proceedings against that person in respect of all such things as aforesaid.

69.(1) The Commission shall ensure that a person or a public servant who has made a disclosure under this Act is not victimised on the ground that such person or a public servant has made a disclosure or rendered assistance in inquiry under this Act.

Protection of
whistle
blowers,
victims,
experts, etc.

(2) Where it appears to the Chief Executive Officer that as a result of assisting the Commission or the court, the safety of a witness, expert, victim or other person may be prejudiced or the witness, expert, victim or other person may be subject to threats, intimidation or harassment, the Chief Executive Officer shall make such arrangements as are necessary to protect —

- (a) the safety of such witness, expert or victim; or
- (b) any other person from threats, intimidation or harassment.

(3) For the purposes of subsection (2), "assisting the Commission or court" includes —

- (a) appearance or impending appearance before the Commission or the court to give evidence or produce a document or other thing;
- (b) production or proposed production of a document or other thing to the Commission or the court under this Act; or
- (c) assisting or having assisted the Commission or the court in some other manner in accordance with the provisions of this Act.

(4) The Chief Executive Officer may, in providing the arrangements referred to in subsection (2), collaborate with other law enforcement agencies and authorities.

(5) The law enforcement agencies and authorities shall, as far as reasonably possible, assist the Chief Executive Officer in the provision of arrangements for the protection of the persons referred to in subsection (2).

(6) In a trial for an offence under this Act, a witness shall not be obliged to —

- (a) disclose the identity or address of an informer or person assisting or who assisted the Commission in an investigation into an alleged or suspected offence under this Act; or
- (b) state any matter which may disclose the identity or address of an informer or person referred to in paragraph (a).

(7) Where a document which is in evidence or is to be inspected in any civil or criminal proceeding under this Act contains an entry in which an informer is named or described or which might lead to the person being discovered, the court before which the proceeding is held shall cause such entry to be concealed from view or to be obliterated in such a manner as, in the opinion of the court, shall not disclose the identity of the informer.

(8) An action or proceeding, including disciplinary action, shall not be instituted or maintained against a witness, expert, victim or other person in respect of—

- (a) assistance given by the witness, expert, victim or other person to the Commission or the court; or
- (b) a disclosure of information made by the witness, expert, victim or other person to the Commission or the court.

(9) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding SCR 200,000 or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

70.(1) In any proceeding for an offence under Part III, it shall not be a defence that any gratification solicited, accepted

Evidence of
custom
inadmissible

or obtained or agreed to be accepted, given, offered or promised, is customary in any profession, business, trade, vocation or calling.

(2) Notwithstanding subsection (1), no entertainment or casual gift offered or accepted under such conditions as may be prescribed by regulations shall constitute an offence under Part III.

71. Where a public officer has corruptly solicited, accepted, obtained or agreed to accept or attempted to receive or obtain any gratification, it shall not be a defence in any trial in respect of an offence under Part III that—

Other
inadmissible
evidence

- (a) the appointment, nomination or election of such person or any other person as a public officer was invalid or void;
- (b) the public officer or any other public officer did not have the power, authority or opportunity of doing, or of forbearing from doing, the act, favour or disfavour to which the gratification related; or
- (c) the public officer did not actually do any act, favour or disfavour to induce the gratification, or never had the intention of doing so.

72. Where a commission, body or tribunal established by or under the Constitution or any written law, in the course, or on conclusion of any proceeding before it, is of the opinion that the conduct of any person appears to constitute an offence under this Act and ought to be inquired into for the purposes of this Act, the commission, body or tribunal concerned shall, subject to any prohibition, restriction or restraint imposed upon it by, or under, the Constitution or any other written law, communicate its opinion to the Chief Executive Officer,

Corrupt
practices
coming to
notice of
commission,
body or
tribunal

together with the particulars of the person concerned and such other facts of the case as the commission, body or tribunal may consider necessary.

False, frivolous or groundless complaints or allegations

73.(1) Where, at the conclusion of the trial of a person charged with an offence under Part III, the court is of the opinion that any person has wilfully, and with intent to harm or injure the accused person in any manner made a false, frivolous or groundless complaint or allegation against the accused person, the court shall hold the person liable for an offence as provided under subsection (2) and convict accordingly.

(2) Any person specified under subsection (1), who, in the opinion of the court, has made a false, frivolous or groundless complaint or allegation to the effect that any person has committed or attempted to commit, or aided, abetted or counselled the commission of, or conspired with any other person to commit, any offence under Part III, commits an offence and is liable, upon conviction, to a fine not exceeding SCR300, 000 or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

Application of Criminal Procedure Code

74. The provisions of the Criminal Procedure Code shall apply in relation to the seizure and forfeiture of any proceeds or property corruptly acquired by any person and any other related matters.

Tampering with seized property

75. A person who tampers with any property that is seized or forfeited under this Act commits an offence and is liable, on conviction, to imprisonment for a term not exceeding three years.

Alternative conviction of accused person

76.(1) If, on the trial of a person who has committed an offence under Part III, it is not proved that the accused person committed the offence charged but it is proved that the accused person committed some other offence under this Act, the accused person may be convicted of such other offence, and be liable to be dealt with accordingly.

(2) If, on the trial of any person for any offence under Part III, there is any material variance between the particulars of the offence charged and the evidence adduced in support thereof, such variance shall not, of itself, entitle the accused person to an acquittal of the offence charged if, in the opinion of the court, there is evidence beyond reasonable doubt of the commission of that offence.

77.(1) A person who does anything that constitutes corruption is liable to any person or victim who suffers loss or damage as a result, for the amount that constitutes full compensation for the loss or damage suffered by the person or victim.

Liability to victim

(2) The compensation payable under subsection (1) shall be recoverable as a civil debt.

(3) The court may, on its own motion or upon an application by a person who suffers damage, in addition to any punishment which it may impose in respect of any offence under this Act, order the person convicted of such offence to pay appropriate compensation to any person for damage suffered as a result of an act of corruption.

(4) The Commission shall, where it has reasonable grounds to believe that a person has been a party to any corruption and has benefitted from it, institute civil proceedings against him in order to make good the damages suffered by the victim because of the corruption.

78.(1) In any matter where the Commission is mandated by this Act or any other law to institute civil proceeding or applications, it shall be lawful for the Commission to issue a notice or letter of demand to the person intended to be sued, and may, in such notice or letter, inform the person about the claim against him or her and further inform him or her that he or she could settle the claim within a specified time before the filing of court proceedings.

Notifying persons about the claim against him

(2) The Commission may negotiate and enter into a settlement with any person against whom the Commission intends to bring, or has actually brought, a civil claim or application in court.

(3) The Commission may tender an undertaking, in writing, not to institute criminal proceedings against a person who —

- (a) has given a full and true disclosure of all material fact relating to past corrupt conduct and an illegal activity by that person or others; and
- (b) has voluntarily paid, deposited or refunded all property the person acquired through corruption or illegal activity.

(4) A settlement or undertaking under this section shall be registered in court.

PART VII – FINANCE, ACCOUNTS AND REPORTS

79. The funds of the Commission shall consist of —

- (a) such moneys as may be appropriated by the National Assembly pursuant to an Appropriation Act for the purposes of the Commission;
- (b) any monies received by the Commission by way of donations, gifts or grants from any legal sources whether domestic or foreign; and
- (c) any proceeds from sale, lease or transfer of movable or immovable property of the Commission.

Funds of the
Commission

80.(1) The financial year of the Commission shall be the calendar year.

Accounts and
audit

(2) The Commission shall maintain proper accounts and other relevant records and prepare a statement of accounts in the form and manner approved by the Auditor-General.

(3) The account of the Commission shall be audited by the Auditor General in accordance with Article 158 of the Constitution.

(4) Where the accounts and the statement of accounts of the Commission in respect of a financial year have been audited, the Commission shall furnish, not later than 3 months after the end of the financial year, to the Minister and the Minister responsible for finance, a copy of the statement together with a copy of any report by the Auditor-General on the statement of accounts or on the accounts of the Commission.

81. The Commission shall, as soon as possible after the expiration of each financial year and in any event not later than the 31st day of March in any year, submit to the Minister, and the Minister responsible for finance, an annual report dealing generally with the administration and its activities during the preceding financial year and the Minister shall cause the report to be laid before the National Assembly.

Annual
report

PART VIII – ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

82. The Commission shall, on such terms and conditions as may be determined by the Commission, employ such number of other employees as may be necessary for the performance of functions of the Commission, subject to the budgetary and other restrictions prescribed by regulations.

Staff of the
Commission

Application
of
provisions of
Penal Code

83. The Chief Executive Officer and other members of the staff of the Commission or any other person acting under the direction of the Commission shall be deemed to be employed in the public service for the purpose of sections 91 to 96 of the Penal Code.

Protection
of action
taken in
good faith

84. A suit or other legal proceedings shall not lie against the Chief Executive Officer or other employees of the Commission for any action taken or intended to have been taken in pursuance of the provisions of this Act.

Regulations

85.(1) The Minister may, in consultation with the Commission make regulations for carrying into effect the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations made may provide for —

- (a) the procedure by which an investigation is to be carried out;
- (b) the manner and form by which a person should lodge a complaint concerning corrupt practices; and
- (c) any matter which in terms of this Act is required or permitted to be prescribed.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 22nd March, 2016.



Ms. Luisa Waye-Hive
Assistant Clerk to the National Assembly