



United Nations  
Economic Commission for Africa



African Union  
Advisory Board on Corruption

# African Anti-Corruption Model Legislation



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Governance and Public Sector Management Sections,  
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# Foreword

Corruption is a complex and dynamic phenomenon, which unfortunately does not lend itself to easy conceptualization and characterization. Its manifestations are varied and diverse, ranging from bribery and graft, through extortion and robbery, patronage, nepotism, to embezzlement and kickbacks. Corruption is also not limited in space and time in that it is an age-old phenomenon, which occurs in developed and developing countries, and in democracies as well as in dictatorships. Its occurrence is also not limited to formal state institutions and arms of government (executive, legislature and judiciary) but embraces critical non-state institutions and sectors such as the private sector and even civil society groupings. Significantly also, corrupt practices also occur within and across national borders, particularly in this era of globalization.

In light of its ubiquitous nature, fighting corruption requires appropriate legislation capable of dealing with all the dimensions of the phenomenon, embracing issues relating to prevention, detection and sanctioning as well as an appropriate legal framework for the establishment of functional, independent and non-partisan anti-corruption bodies. Many African states have adopted anti-corruption laws, but only a few of these laws are compatible with regional and international instruments on anti-corruption, particularly the United Nations (UN) and African Union (AU) anti-corruption conventions. Also, a number of African states have not been able or willing to craft viable national anti-corruption legislation. It is against this background that the United Nations Economic Commission for Africa (UNECA), in collaboration with the African Union Advisory Board on Corruption (AU-ABC), initiated the development of this comprehensive, yet implementable model anti-corruption legislation template for Africa, with clear guidelines and minimum standards through which the continent's anti-corruption agenda can be effectively and successfully promoted.

This Model Anti-corruption Legislation is part of the knowledge outputs from the Regional Anti-Corruption Programme for Africa (2011-2016), established by ECA in collaboration with the AU-ABC. It has been put together by ECA and the AU-ABC under the overall supervision of the Director of the former Governance and Public Administration Division (GPAD) of ECA, Said Adejumbi and the Acting Executive Secretary of the AU-ABC, Adolphe Lawson. The staff team that facilitated the report was led by Francis Ikome and included Guillermo Mangué, Gamal Ibrahim, and Gedion Gamora, with administrative support from Abijah Yeshaneh, Neijwa Mohammed and Bilisson Hassan.

The technical background document, from which the Model Anti-corruption Legislation is taken, was authored by Ademola Abass, Professor of Law attached to the United Nations University, Comparative Regional Integration Studies (UN-CRIS). ECA and the AU-ABC are indeed very grateful to him for his commitment, thoroughness and diligence in developing the background document.

ECA and the AU-ABC are grateful to both the internal and external reviewers of the background document, particularly Professor Mangu Andre of the University of South Africa (UNISA) and Dr. Robert W. Eno, Registrar of the African Court on Human and Peoples' Rights in Arusha, Tanzania. Special words of appreciation also go to all the experts who participated at the technical workshop held in Gaborone, Botswana, on 15 and 16 April 2013 at which the draft document was reviewed. Their comments and suggestions greatly contributed in further enriching both the content and quality of the draft Model Anti-corruption Legislation.

It is our fervent hope that this draft Model Anti-corruption Legislation will receive the endorsement of policy organs of the African Union, which will facilitate its subsequent uptake by member States. In very concrete terms, it is hoped that ultimately, the Model Anti-corruption Legislation will contribute in bridging the gaps in existing national and regional anti-corruption legislation; as well as facilitating their alignment to the AU and United Nations anti-corruption conventions. It is also hoped that it will serve as a template for African states, which are yet to put into place anti-corruption legislation, in their efforts to do so.



# African Anti-Corruption Model Law

## PREAMBLE

**WHEREAS** the Constitution of the [insert the full appellation of State for example Federal Republic of, the Republic of, the Islamic Republic of] enshrines the right of all people to live in dignity, prosperity and freedom;

**AND WHEREAS** corruption is a devastating menace that seriously undermines those rights, threatens the social fabric of the society, and imperils the fundamental norms of democratic societies;

**AND WHEREAS** corruption is one of the most serious contemporary national challenges facing the majority of African countries;

**AND WHEREAS** as a result of mass poverty, corruption has adversely impacted on various spheres of life leading to prolonged underdevelopment on the African continent;

**AND WHEREAS** corrupt activities are jeopardizing investment and growth opportunities in the African society;

**AND WHEREAS** there is proven linkage between corruption and other serious crimes in the society, such as terrorism and serious economic crimes;

**AND WHEREAS** the United Nations, the African Union, and the [insert the name of the relevant economic community] have all, through numerous conventions and declarations, condemned corruption as one of the most abhorrent challenges to the realization and full development of national and international goals and aspirations of States and their peoples;

**AND WHEREAS** the United Nations, the African Union and the [insert the name of the relevant regional economic community] have urged all States to take effective measures towards ending the scourge of corruption and associated crimes, such as money-laundering and illicit enrichment, in their societies;

**AND WHEREAS** high African ratification of international and regional anti-corruption conventions such as the United Nations Convention against Corruption and the African Union Convention on Preventing and Combating Corruption and Related Offences has been without domesticating or implementing their provisions;

**AND WHEREAS** desirous of the need for a comprehensive and harmonized anti-corruption model legislation containing critical provisions from the international, regional and subregional conventions, as well as national best practices from African nations to promote good governance;

**AND WHEREAS** aware of domestic legislation by African States to combat the spread of corruption with minimal effect due to: complexities in the requirement for legislative approval in the appointment and/or removal of heads of anti-corruption institutions, failure by the relevant bodies to successfully prosecute cases, lack of clearly defined mandates for anti-corruption agencies and the associated potential for conflict and duplicity, and lack of independent powers of prosecution and/or jurisdiction to investigate corruption in certain sectors;

**AND WHEREAS** it is necessary to counter corruption and offences related to corruption and bring perpetrators and their collaborators to justice;

**BE IT THEREFORE ENACTED** by the Parliament of [insert the name and full title of the country] as follows;

# Chapter I: Preliminary Provisions

## Purpose of the Act

A Law to criminalize the offence of corruption and offences related to corruption; to harmonize the provisions of the United Nations Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the **[insert the name of the relevant regional economic community]** Convention against Corruption, and other relevant international instruments, with the laws of **[insert the name of the country]** being a party to all the aforementioned treaties; to bridge the gaps existing between the laws of **[insert the name of the country]** and the relevant international legislation on corruption; and to provide guidelines on the sensitization of the public, preventive and punitive measures, and on matters connected to or incidental thereto.

## 1 Title

This Law may be cited as “A Law to implement in **[insert the name of the country]** the 2004 United Nations Convention against Corruption, the 2003 African Union Convention on Preventing and Combating Corruption, and the **[insert the name of the relevant regional economic community]** Convention/Protocol against Corruption and to consolidate all pre-existing laws in **[insert the name of the country]** concerning corruption and offences related to corruption (hereafter referred to as ‘The Anti-Corruption Model Law’).

## 2 Definitions

In this Law, unless the context otherwise indicates:

“**Agent**” shall mean a person, natural or legal, who acts on behalf of, and with the full authority of, another person and whose actions, when not previously authorized by the principal, may be subsequently adopted by him or her as though they are his or her actions.

“**Appropriate Authority**” shall mean the entity designated by the law of an office as the rightful body to do or refrain from doing a thing.

“**Confiscation**” shall mean any penalty or measure intended to cause final deprivation of proceeds, property, equipment or instrumentalities for criminal offences under an order of a court of law or competent authority, connected to or in relation to acts of corruption as outlined under this Law.

**“Corruption”** shall mean any offence provided for under this Law, including acts of bribery engaged in by public or private officers in violation of their official duties.

**“Court of Law”** shall mean a court duly established by the domestic law of a State.

**“Family”** shall mean immediate members of a person’s family including his/her spouse or spouses and children. For the purpose of this Act, family shall not extend to such distant relatives as cousins, nephews, aunts, uncles and so on.

**“Foreign Public Official”** shall mean any person employed by a foreign country as a member of the legislative, executive, administrative or judicial branch of the State, and any person performing a public function for a foreign country including a public agency or enterprise.

**“Freezing” or “Seizure”** shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily taking custody or control of property on the basis of an order of a court of law or other competent authority.

**“Fronting”** shall mean to utilize the proceeds of criminally-obtained property, whether financial or real, through another person who cannot be accused of a crime because he/she is not connected with the office or institution where the property is diverted or stolen from.

**“Illicit Enrichment”** shall mean considerable increase in the property of a public official, which exceeds reasonable expectations in relation to his or her income.

**“Headquarters Agreement”** shall mean a legal instrument concluded by an international organization and a State in which the organization’s headquarters is located, which sets out the rights, duties and obligations governing the relations of the two entities.

**“Legal Person”** shall mean any entity that may act in that capacity under applicable domestic law, including other public bodies and public international organizations.

**“National Civil Service Commission”** shall mean the public body charged with the administration of civil servants/public officers.

**“Predicate Offence”** shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in section 5 of this Law.

**“President”** shall include democratically elected presidents; interim presidents; vice-presidents and similar coordinates, Senate Leader or the Speaker of the House of Representatives, who may be deputizing for the president, temporarily or permanently.

**“Private Sector”** shall mean the sector of a national economy under private ownership in which the allocation of productive resources is controlled by market forces, rather than public authorities and other sectors of the economy not under the public sector or government.

**“Property”** shall include assets corporeal or incorporeal, moveable or immovable, tangible or intangible, and any document or legal interest in such assets.

**“Proceeds of Crime”** shall mean any property obtained, directly or indirectly, from acts of corruption as outlined under this Law.

**“Public Service”** shall mean any temporary or permanent, paid or honorary act, performed by a natural or legal person as an agent of the State.

**“Public Official”** shall mean any official or employee of the State or its agencies, including those who have been selected, appointed or elected to perform activities or functions in the name of the State or in the service of the State at any level of its hierarchy.

**“State”** shall include all national, provincial, regional, local or municipal parastatals and government agencies.

**“Status of Mission Agreement”** shall mean an agreement, usually in force for a specified but renewable period of time, between an international organization and a State in which the former has deployed a mission, which shall regulate the rights, duties, obligations and activities of that mission vis-à-vis the host State.

**“Terminating Authority”** shall mean the public body or private entity that has terminated the employment of a person.

### **3 Scope of application**

- a) This Law shall apply, in accordance with its terms, to the prevention, investigation and prosecution of corruption and to the freezing, seizure,

confiscation and return of the proceeds of offences established in accordance with this Law.

- b) Subject to the specific provisions contained therein, this Act shall apply to private enterprises and the public sector with equal force.
- c) This Law shall apply to natural persons and legal persons. Notwithstanding the liability of a legal person for any of the offences proscribed by this Law, a natural person may also be liable for the same offence as a legal person if the liability of the latter arises from breaches of supervisory responsibilities he or she owes towards the former.

# Chapter II: Establishment of an Oversight Body for the Prevention of Corruption

## 4 Establishment of an Anti-corruption Authority

- a) There is hereby established, by the **[insert the appropriate designation of the national parliament]** the **[insert the name of the authority]** as the oversight body on all matters concerning the prevention of corruption and offences related to corruption in **[insert the name of the country]**.
- b) The authority shall be headed by **[insert the appropriate level in accordance with domestic laws and tradition of the country]** and shall report directly to parliament.
- c) Without prejudice to subsection (a) of this section, the authority shall be responsible for:
  - i) implementing the various provisions of this Law.
  - ii) sensitizing the public and creating national awareness on the law and policies concerning corruption and offences related to corruption.
  - iii) overseeing and coordinating national efforts on corruption and bringing domestic preventative measures in alignment with international legislation on corruption.
- d) All members of the authority, including the head, shall be appointed by the President with the approval of parliament, and shall hold the office for **[insert the appropriate number of years consistent with the national tradition]** renewable once for the same number of years.
- e) Without prejudice to subsection (d), any member of the authority may be removed from office at any time if he or she is found to have breached the conditions of his or her employment or has committed any other acts of gross misconduct which, although may not have been expressly stated in the terms of his or her employment, may have been judged by a court of law or competent tribunal, or a body appointed by the President and approved by the National Assembly, to be so. Removal of the head of the commission shall be done by the President of the Republic with the approval of parliament.
- f) The anti-corruption authority shall be an independent body and shall not be subject to influence, control or the manipulation of any authority

whether governmental or otherwise, except as may be provided for by this legislation.



# Chapter III: Offences and Penalties

## Corruption and offences related to corruption

### 5 General offence of corruption

- a) Any person who, knowingly or in circumstances he or she ought to reasonably have known, acting by himself or herself, or through or in conjunction with any other person, solicits, accepts or obtains, or agrees to accept or attempts to obtain, from any person, natural or legal, for himself or for any other person, any gift, consideration or advantage as an inducement to, or reward for doing, or refraining from doing, or having done or refrained from doing a thing in relation to his or her principal's affairs or business, shall be guilty of an offence of corruption.
- b) Any person who, knowingly or in circumstances he or she ought to reasonably have known, acting by himself or herself, or through or in conjunction with any other person, offers, or agrees to offer, any gift, consideration or advantage to any agent for the benefit of himself or herself or for any other person, as an inducement to, or reward for doing or refraining from doing a thing in relation to their principal's affairs, shall be guilty of an offence of corruption.
- c) Any agent or person who, with the intent to deceive his or her principal, uses any information in respect of which the principal is interested and which contains a statement that is false or erroneous or defective in a material particular, shall be guilty of an offence of corruption.
- d) Any person who –
  - i) offers advice, skill, expertise or counsel, which will, or is likely to facilitate the commission of the crime of corruption.
  - ii) assists actively or passively in the commission of corruption, either for his or her own benefit or for the benefit of another person, including the person who intends to commit or who is engaged in the actual commission of the crime, whether natural or legal, and in circumstances that he or she knows, or ought reasonably to have known that his/her action will or is likely to enhance the commission or attempt to commit a crime, is guilty of an offence of corruption.
- e) Any person who engages in the acts listed in subsections (a), (b) and (c) shall be guilty of an offence and liable to **[insert maximum penalty]** or a fine of up to **[insert maximum amount]** or both.

- f) Any person who engages in the activities listed in subsection (d) of this section shall be guilty of an offence and liable to **[insert maximum penalty]** or a fine of up to **[insert the maximum amount]** or both.
- g) For the purpose of the provisions of subsections (a), (b), (c) and (d), it is not required that the crime of corruption actually results from the activities of the persons described in those provisions. It shall suffice that there is clear and unambiguous evidence of an intention and/or attempt to commit or assist in the commission of the crime. An attempt to commit the crime shall be punishable to the same extent as the actual commission or completion of the crime.
- h) Without prejudice to the general nature of section 6, the word “acting” appearing in subsections (a) and (b) shall include, but shall not be limited to:
  - i) voting or otherwise taking part in similar processes or procedures at any meeting of a public body.
  - ii) performing, not adequately performing, or refraining from performing any official functions, which a public official may be entrusted with.
  - iii) expediting, delaying, hindering or preventing the performance of an official act.
  - iv) aiding, assisting or favouring any particular person, or his or her representative(s) in the transaction of any business with a public body.
  - v) aiding or assisting in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person in relation to the transaction of any business with a public body.
  - vi) showing any favour or disfavour to any person in performing a function as a public officer.
  - vii) diverting, for purposes unrelated to those for which it was intended, any property belonging to the State, which such officer received by virtue of his or her position for purposes of administration, custody or for any other reason, to another person; or
  - viii) exerting any improper influence over the decision-making of any person performing functions in a public body.

## 6. Offences by public official(s)

- a) Any person who, in the course of his or her employment as a public official:
  - i) does anything that is contrary to or inconsistent with his or her duty as a public official; or
  - ii) fails to do anything, which is his or her duty as a public official to do

in order to, and for the purpose of showing favour or disfavour, giving advantage or disadvantage to any person, whether natural or legal, is guilty of an offence and liable to a fine not exceeding **[insert maximum sum]** or an imprisonment of **[insert maximum penalty]** or both.

- b) For the purpose of sections 6 and 7, where any advantage or favour has been received with the knowledge, actual or presumed, of the accused person, by any person other than the accused person, and a court of law or competent tribunal is satisfied, having regard to his or her relationship to the accused person or to any other circumstances, that such person has received the advantage for or on behalf of the accused person, or by reason of his or her relationship to the accused person or otherwise on account of or in connection with the official functions of the accused person, the advantage or favour shall be deemed to have been received by the accused person.

## 7. Offences by and against foreign officials, officials of international organizations, officials of non-governmental organizations

- a) Any person –
  - i) who is a member or staff of a diplomatic mission, or who otherwise represents another country in **[insert the name of the country]**
  - ii) who is a staff of an international organization
  - iii) who is a staff of a non-governmental organization
  - iv) who is a staff of a multinational corporation
  - v) who is an international civil servant

or any organization –

- vi) which is a foreign public organization or its subsidiary

- vii) which is an international organization
- viii) which is a non-governmental organization
- ix) which is a multinational corporation

who/which engages in any of the activities proscribed by this Act commits an offence.

- b) The appropriate authority in **[insert the name of the country]** shall:
  - i) if the offence is committed by a member of a diplomatic mission, report it to their government, and depending on the severity of the crime, may expel or request the immediate repatriation of the concerned staff.
  - ii) if the offence is committed by the international organization as a legal person and in its own right, the matter shall be reported to the headquarters of such an organization.
- c) Without prejudice to subsection (b), **[insert the name of the country]** may apply to anyone who commits a crime under this Law, any of its criminal laws as may be applicable to staff of international organizations and members of the diplomatic missions who commit crimes in its territory, subject to the obligations assumed by **[insert the name of the country]** under any treaty in force or the rules of general international law regarding such matters.
- d) When corruption offences committed against any member of the diplomatic mission in **[insert the name of the country]** or a staff of an international organization under this Law, such shall be treated as a crime committed against any person who is a national of, or a person who is habitually resident in **[insert the name of the country]** for the purpose of the application of this Law.
- e) In cases of violations under subsections a(ii) and a(vi) of this section, **[insert the name of the country]** shall not request that the affected organization cease operation in its territory but shall treat such matters in accordance with the rules laid down in the Headquarters Agreement between it and the international organization (where **[insert the name of the country]** is the headquarters of the offending organization), or a Status of Mission Agreement between it and the organization, where the offending organization is a chapter or subsidiary of the main organization.
- f) A stateless person who commits an offence under this section shall be treated as an internationally protected person and be accorded with the minimum rights and privileges guaranteed by international human rights treaties to which **[insert the name of the country]** is party.

## 8. Offences associated or connected with corruption

- a) Any person who –
  - i) does anything which will, or is likely to improve or enhance the ability of any person to engage in or accomplish a corrupt act, including by providing or offering to provide a skill, expertise or counsel
  - ii) aids, abets or otherwise assists; or
  - iii) makes himself or herself available, for the benefit of, at the direction of, or in association with any person, natural or legal, engaging in a corrupt act, and who knows or ought reasonably to have known or suspected, that such an act was done for the purpose of enhancing or improving the ability of such a person to engage in a corrupt act; commits an offence and is liable to **[insert maximum penalty]**.
- b) For purposes of this Law, a person has knowledge of a fact if –
  - i) the person has actual knowledge of that fact; or
  - ii) the court or tribunal is satisfied that –
    - a. the person believes or ought reasonably to have believed that there is a reasonable possibility of the existence of that fact; and
    - b. he or she fails to obtain information to confirm the existence of that fact.
- c) For purposes of this Law, a person ought reasonably to have known or suspected a fact if the conclusions that he or she ought to have reached are those which would have been reached by a reasonably diligent and vigilant person having both –
  - i) the general knowledge, skill, training and experience that may reasonably be expected of a person in his or her position; and
  - ii) the general knowledge, skill, training and experience that he or she has.

## 9. Laundering of corruption proceeds

Any person who converts, transfers, disposes, or otherwise deals in property, whether financial or real, knowing or in circumstances he or she ought reasonably to have known, that such property is a proceed of corruption, or any of the related offences under this Law, commits an offence and is liable to **[insert maximum penalty]**.

## 10. Concealment

Any person who –

- a) hides, harbours, disguises or conceals the origin, nature, source of the property referred to in section 5, with the intention to mislead the public in general, and law enforcement officers or judicial officers in particular, as to the true nature of the property
- b) hides, harbours, conceals a person whom he or she knows or should have suspected as having committed or attempted to commit an offence referred to in this Law

commits an offence and is liable to **[insert maximum penalty]**.

## 11. Illicit enrichment

- a) Any person who acquires, possesses or otherwise retains a property subject to section 5 in circumstances he or she knows or ought reasonably to have known that the property is illicit commits an offence and is liable to **[insert maximum penalty]**.
- b) For the purpose of establishing liability under subsection (a), it shall not be required to prove that the illicit property results in a significant increase in the assets of the offender:
- c) This section applies to any person who commits the crime regardless of whether he or she works in the private or public sector.

## 12. Aiding and abetting

- a) Without prejudice to the general nature of section 11, any person who aids, abets, assists or otherwise participates in the commission of any of the offences under this Law, provided that he or she is aware or ought reasonably to have been aware of the illicit nature of the transaction, commits an offence and is liable to **[insert maximum penalty]**.
- b) It shall be no defence for any person accused of committing any of the crimes in subsection (a) that:
  - i) he or she does not intend to benefit himself or herself personally from the crime; or
  - ii) that the act done by him or her does not actually result in any of the crimes listed therein.

### 13. Embezzlement/Misappropriation of public funds

- a) Any person, whether working in the private or public sector, who unlawfully takes, converts, diverts, possesses property, whether financial or real, entrusted to his or her care or responsibility in a professional capacity for his or her benefit, or for the benefit of another person, natural or legal, with the intent of illicitly owning that property commits an offence and is liable to **[insert maximum penalty]**.
- b) Any person who, using the instrumentality of a company or institution in which he or she is professionally involved, whether in a full-time or part-time manner, whether on a permanent or temporary basis, defrauds, converts, diverts or unlawfully possesses property, whether belonging to that company or institution or another entity, natural or legal, for his or her benefit, or for the benefit of another person, natural or legal, with the intention of illicitly owning that property, commits an offence and is liable to **[insert maximum penalty]**.
- c) If a person working either in the private or public sector has been accused of any of the crimes in subsection (a) or (b), the concerned institution or office shall immediately suspend the person from office pending investigation by a competent authority.
- d) Notwithstanding the penalty provided for in subsections (a) and (b), where a person who works in a private enterprise has been found guilty by a court of law or competent tribunal of committing any of the offences in subsections (a) and (b) of this section, the enterprise for which the convicted person works may take measures to permanently terminate his or her employment.
- e) Without prejudice to the specific punishments prescribed for the offences under this Law, where the gravity of an offence committed under this section so warrants, a court of law shall disqualify or forbear for a lengthy period of time, from holding a public office in **[insert the name of the country]**, any public official who has been convicted of any of the crimes therein by a court or tribunal, or any similarly competent entity established for such purposes.
- f) Any public official who is alleged to have committed any of the crimes under this Law shall immediately be suspended from his or her position pending investigation by an appropriate authority, with payment of half of his/her salary and other entitlements with the remaining half payable if not found guilty. If the person is found guilty of the crime by a court or tribunal, his or her employment shall be terminated and the salaries and

entitlements paid to him or her during the period of suspension shall be recouped from his or her severance pay and entitlements. However, where the severance due to him or her following termination of employment:

- i) is not enough to defray the sum required by the State to recoup monies paid to him or her during the suspension period; or
- ii) where the term of employment completed at the time of the suspension does not merit a severance pay

the terminating authority shall decide the best measures to take towards recouping the said monies.

- g) Any public official who is being investigated for a corruption offence and who has been suspended from his or her employment pending investigation shall not resign from the employment, or take any other step that may prejudice the investigation.
- h) Subject to any provision of this Law prescribing the rules relating to lawfully acquired third parties' interest in the property of anyone convicted under this Law, a terminating authority, which desires to recoup its financial losses from a convicted person, may, upon an order to that effect from a court, seize or sell off the culprit's property, including any property that he or she may bequeath to his or her children, friends, relatives, or charities after conviction.

## **Additional Punishment for Crimes of Corruption or Acts of Corruption**

### **14. Withdrawing or forbearing national, traditional or religious awards/honour**

- a) If a person, whether working in the private or public sector, has been found guilty by a court or tribunal, or another entity set up for that purpose, of committing any of the crimes under this Law:
  - i) is in receipt of a national award or honour, whether such is conferred on him or her by the government
  - ii) is in receipt of such traditional titles awarded to him or her in recognition of his or her moral character or authority
  - iii) is in receipt of religious honours



the awarding government, traditional or religious authority shall withdraw such an award or honour from the person with immediate effect.

- b) Any person, whether working in the private or public sector, who has been found guilty of any of the crimes under this Law shall not be conferred with a national, traditional or religious award or honour.
- c) It shall be no defence that the traditional or religious title affected genetically or traditionally belongs to the lineage of the convicted person.
- d) Nothing in this section shall invalidate or prevent the conferral upon anyone convicted under this Law of such national awards/honour due to him or her in fulfilment of a mandatory national service, being constitutionally required of every citizen of **[insert the name of the country]**.
- e) For the purpose of subsections (a) and (b) of this section, it shall be irrelevant that the convicted person committed the offence working in the private sector, which may have retained him or her as an employee, following his or her conviction.

## **15. Offences relating to conflict of interest of public official(s)**

- a) Any public official who directly or through another person, natural or legal:
  - i) holds or acquires a private interest; or
  - ii) expresses interest or participates

in any transaction, contract, agreement or investment emanating from or connected with the public body in which he or she is employed, or has other professionally remunerable interest in, or which is made on account of that public body commits an offence and shall be liable to **[insert maximum penalty]**.

- b) Subsection (a) shall not apply to –
  - i) a public official who acquires or holds such interest as a shareholder of a listed company.
  - ii) a public official whose conditions of employment do not prohibit him or her from acquiring or holding such interest.
  - iii) the case of a tender process, a public official who acquires a contract, agreement or investment through a tender process and whose conditions of employment do not prohibit him or her from acquiring or holding such interest and who acquires or holds such interest through an independent tender process; or

- iv) a public official who makes full disclosure of the nature of his or her private interest prior to acquiring such interest/participating in any decision concerning a transaction, contract, agreement or investment emanating from the public body.

## **16. Proof of knowledge, intent and purpose**

For the purpose of proving the actual commission or attempt to commit any of the crimes under this Law, the knowledge, intent or purpose required as constituent elements of the crimes under this part may be inferred from objective factual circumstances of the individual crime or attempt.

## **17 Predicate offences**

Section 5 of this Law shall apply to the widest predicate offences committed in **[insert the name of the country]** and shall include offences committed within and outside the national territory. However, where an offence is committed outside the national territory, such an offence will constitute a predicate offence only when the relevant conduct is a criminal offence under the domestic law of the country where it is committed and would be a criminal offence under the domestic law of **[insert the name of the country]**.

# Chapter IV: Measures to Prevent Corruption and Offences Related to Corruption

## 18. Economic Intelligence Unit

- a) Parliament hereby establishes an Economic Intelligence Unit as a national agency, which shall be responsible for:
  - i) monitoring the movement of finances and finance-related instruments, such as bank drafts, negotiable instruments, money orders, bonds, and so on, from and into **[insert the name of the country]**.
  - ii) receiving, requesting, analysing data, intelligence reports, and any other economic/financial information in **[insert the name of the country]**.
  - iii) processing information concerning specific financial transactions that may raise suspicion.
  - iv) maintaining a database of persons, natural or legal, who:
    - a. may have attracted the interest, concern, suspicion, of the corruption commission/agency by their activities in the past.
    - b. may have been the subject of an inquiry by international agencies such as the International Criminal Police Organization (INTERPOL) or other similar enforcement agencies.
    - c. although may not have been the subject of an inquiry or interest by any national or international monitoring/enforcement agencies, but is known to engage in suspicious, unhabitual, complex and large-scale financial transactions raising suspicion.
- b) The Economic Intelligence Unit shall be headed by a director appointed by parliament on the advice of the Minister for Finance/Economic Development, and shall report directly to parliament.
- c) The Economic Intelligence Unit shall collaborate with such national bodies as the directorate of national intelligence and state security services.
- d) Except as may otherwise be permitted by other legislation of **[insert the name of the country]**, the Economic Intelligence Unit shall treat, in strict confidence, materials and all information it holds on persons, natural or legal, in whom it has an interest, and shall not cause the same to fall into the hands of anyone not connected with an investigation, inquiry

or court procedure, except as may be authorized by a court of law or competent tribunal.

- e) Subject to the domestic regulation of **[insert the name of the country]**, the Economic Intelligence Unit shall, upon request or on its own initiative, share, transfer, divulge information concerning any person, whether a national of **[insert the name of the country]** or a foreigner who is present in its territory at the relevant time, who may be of interest to a foreign country with which **[insert the name of the country]** has an obligation to disclose such information to.
- f) Except as may otherwise be unlawful under the domestic legislation of **[insert the name of the country]**, it shall be lawful for the Economic Intelligence Unit to take any or all of the steps referred to in subsection (d) without an international obligation to do so.
- g) The Economic Intelligence Unit shall be able to: request from any person, whether a national or a foreigner, living in, transiting in or otherwise present in the territory of **[insert the name of the country]**, information, records, or any other valuable disclosure as it may deem fit, if it suspects such information to be crucial to an ongoing investigation either by it or a foreign agency, provided the foreign investigation is in the interest of **[insert the name of the country]**.
- h) Without prejudice to section 18(d) of this Law, the Economic Intelligence Unit may, where it deems it necessary for the accomplishment of its objectives:
  - i) request information from the police.
  - ii) solicit information from the armed forces; or
  - iii) request information from any other national body as it deems fit.

## **19. Measures to prevent money-laundering**

- a) Any person entering or leaving **[insert the name of the country]** shall declare currency or bearer negotiable instruments in an amount equal to or above **[indicate amount]**. The information so obtained shall be transmitted to the Economic Intelligence Unit, the corruption authority, or any other competent authority.
- b) Where a person is found to carry currency in excess of the amount lawfully permitted by the laws of **[insert the name of the country]**, and has not declared or has made a false declaration in respect of the sum, the customs or the Economic Intelligence Unit shall seize the whole amount

- of the undeclared currency or bearer negotiable instruments, regardless of whether there is suspicion of money-laundering.
- c) Upon satisfaction by the appropriate authority that the undeclared currency or bearer negotiable instruments are not the proceeds of corruption, and there is no reason to believe there is an intention to launder the money, the entire sum or the negotiable instruments shall be released to the person with or without penalty.
  - d) If an undeclared currency or bearer negotiable instruments are seized by a customs officer, the officer shall immediately register the exact amount of money or instrument which shall be witnessed by officers of the Economic Intelligence Unit/State Security Service/National Intelligence who may be present at the interception point at that time. The person from whom the currency and/or the bearer instruments are seized must counter-witness the registration and must be issued a written receipt, stamped and dated, for the whole sum before leaving the airport/sea-port/border post where he or she is apprehended.

## **20. Declaration of assets and liabilities by public official(s)**

- a) Any public official, whether appointed, elected or otherwise selected into public offices or institutions, be it at the national or subnational level, or who is appointed, elected, or selected as representative of the State in a private company in which the State is a shareholder, shall, within two weeks of assuming office:
  - i) declare all assets owned by him/her, his/her spouse(s), children, or held on their behalf by other members of their immediate family.
  - ii) declare all liabilities owned by him/her, or by his/her spouse(s) to private individuals, government agencies or private enterprises.
  - iii) submit to the Anti-Corruption Authority/Economic Intelligence Unit the declaration which must contain:
    - a. cash held in account in **[insert the name of the country]** and overseas
    - b. land and landed property within and outside the country
    - c. houses, bearer negotiable instruments, bonds, interest in companies, whether public or private
    - d. shares and debentures
    - e. charities being supported by the person or his or her spouse, or other close members of his/her family

f. all items listed in testamentary instruments, such as wills, by the person, his wife/wives or her husband

g. all such items as held by their wife/wives, or their children

and for the purpose of section 20(a) (ii), the declaration referred to in section 20(a) (iii) shall include such liabilities as –

- a. debts; mortgages; financing obligations such as car loans
  - b. pledges
  - c. and any other financial encumbrances.
- b) Subsection (a)(iii) shall not apply to:
- i) household utensils or other objects meant exclusively for domestic use.
  - ii) items already gifted to other people prior to the assumption of the public office.
- c) A public official making a declaration of assets shall update the declaration when he or she is halfway into the office term and also immediately before, but not earlier than four weeks, prior to vacating the office. Where the office is subject to renewal(s), each renewed term shall constitute a new term for the purpose of this section and the declarations shall be issued accordingly.
- d) Section 20 shall apply particularly to the:
- i) President and Vice-President of **[insert the name of the country]**.
  - ii) Senate President and Speaker of the House of Representatives.
  - iii) Ministers, Directors General and Heads of Government parastatals.
  - iv) Senior Advisers to these officers.
  - v) State Governors, Commissioners, Directors of State Institutions and Boards.
  - vi) Local Government Chairpersons/Heads, Heads of all Public Corporations, whether permanent or ad hoc.
  - vii) Members and leaders of the houses of parliament at the Federal/Central and State levels.
  - viii) The Inspector General of Police, Assistant Inspectors General of Police and their equivalences in the customs and immigration.
  - ix) Armed forces service chiefs – the military, the navy and air force.
  - x) Commissioners of Police at the State level, and their equivalences in all arms of the armed forces.

- x) Heads of the judiciary of all levels of courts, especially judges and presiding officers of the Court of Appeal and the Supreme Court, the Chief Justices of States, and the Chief Justice of **[insert the name of the country]**; and
- xii) Heads and leaders of public charities and charitable organizations, such as churches and mosques, regardless of the non-provision for such declaration by the laws setting such organizations, or any contrary provision thereto.
- e) For the purpose of this section, “assumption of office”, shall mean the date on which a person commences the functions of an office following the conclusion of an election, a selection process, or an appointment. The term shall not mean the date when “swear-in” or other forms of public ceremonies are held for the purpose of inaugurating a public officer into an office. Where the office is subject to a legal dispute, the public officer shall declare his or her assets as required under section 20, except if such legal dispute prevents him or her from physically assuming office in which case, he or she shall not declare his or her assets until when the dispute is resolved.
- f) The Anti-Corruption Authority or the Economic Intelligence Unit, or both, shall retain records of the declarations and may not release this to the public except in compliance with an order by a court or tribunal.
- g) The records of declaration referred to in this section shall not be unreasonably withheld from the public if the trial of a public official concerns an allegation of serious corruption charges such as embezzlement of public funds.

## **21. Regulation of the finance industry and proscription of offending entities**

- a) No bank or other financial institution may be established or carry on business in **[insert the name of the country]**, unless it maintains physical presence therein and is registered as a bank or a financial institution regulated by the financial services regulator in **[insert the name of the country]**.
- b) Any bank or other financial institution in **[insert the name of the country]**, which carries on business or engages in other professional activities, or in official correspondences with a bank that is not registered in **[insert the name of the country]** for the purpose of carrying out transactions therein, or for the purpose of effecting a transaction abroad using the

accounts and/or assets of the local bank either to the benefit of the respondent bank or the local bank, or both, commits an offence and is liable to **[insert maximum penalty]**.

## **22. Procurement of goods and services**

- a) Every public body shall conduct the procurement of goods and services, whether for their own benefit or for the benefit of any other body, whether private or public, and regardless of whether the beneficiary is located within or outside of **[insert the name of the country]**, in the most transparent, competitive and objective manner.
- b) It shall be unlawful for any public body in **[insert the name of the country]** to procure goods or services, the financial value of which is greater than **[insert the exact amount]** unless it has –
  - i) published in advance, and for a reasonable length of time, all information relating to the procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts.
  - ii) published the conditions for participation, the rules relating to selection and award criteria.
  - iii) published criteria that will enable an effective verification of all public procurement decisions it may make.
  - iv) put in place an effective system of review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this section are not followed; and
  - v) in place, if appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.
- c) Notwithstanding section 22(a), where a public body intends to procure materials the sensitivity of which does not permit compliance with the requirements of subsections b (i) to (v), the affected body shall notify the Corruption Authority/Agency and Economic Intelligence Unit of the procurement. The notified body shall send its representatives to verify details of the transactions and ensure that the rules concerning probity, accountability and transparency are complied with without making the details public.



- d) Any court or tribunal may make an order requesting the disclosure of the records of the procurement done under subsection (c), provided that such a disclosure can only be in regard to a matter being investigated by, pending before, or being heard by the court or tribunal. If it deems it necessary, the court or tribunal may redact any part of the records that it considers unsuitable for public disclosure.

## 23. Transparency in national and state budgets

- a) Every public body in **[insert the name of the country]**, whether at the Federal, State or local level, which is required to submit a budget proposal for the consideration of the respective parliament shall –
  - i) at the time of submitting the budgetary proposal to the appropriate parliament or parliamentary committee, submit the same to the Anti-Corruption Authority and the Economic Intelligence Unit.
  - ii) notify the Anti-Corruption Authority and the Economic Intelligence Unit of any reduction, increment or any lateral adjustment to the proposed figures as may be requested or suggested by parliament.
  - iii) where parliament requests an increment to the proposed figure, the Anti-Corruption Authority and the Economic Intelligence Unit shall be provided with a statement detailing the reasons for the required increase, and any response thereof.
- b) Neither the Economic Intelligence Unit nor the Anti-Corruption Authority may request parliament or the parliamentary committee to clarify, justify or otherwise provide information in relation to its request to the public body. However, the Anti-Corruption Authority and the Economic Intelligence Unit shall keep records of the request and the response by the concerned body and may make such available in a court proceeding concerning that body or any other public body.
- c) Any public body that includes in its budgetary expenditure:
  - i) a security vote
  - ii) a miscellaneous expenditure
  - iii) or any other sum that is not clearly earmarked for a specific aspect of the fiscal requirements of the body

shall, at the end of the fiscal year, and in addition to its regular statement of account, provide a full and complete justification of how such budgetary allocations are utilized during the fiscal year. A copy of such a statement shall be submitted to both the Anti-Corruption Authority and the Economic Intelligence Unit.

## **24. Appointment of public official(s)**

- a) Public official(s) shall be appointed in accordance with the principles of objectivity, merit and equity. No one shall be appointed into public office if –
  - i) he or she does not meet the academic/professional qualifications required for such posts.
  - ii) he or she has not passed an interview, written test or any aptitude test stipulated for the purpose of the office.
  - iii) he or she has been convicted of corruption or any of the associated offences proscribed in this Law.
  - iv) his or her appointment is mainly or substantially based on considerations that are extraneous to those stated in the position advertised.
- b) It shall be unlawful to subject applicants for a position to different examination processes, interviews, aptitude tests, or to require from them different qualifications, grades, degree classifications, or competencies.
- c) Persons holding public offices shall be subject to periodic rotations and redeployments.
- d) Public office holders shall be entitled to excellent and competitive remuneration packages that include pensions, severance pay, annual holidays, sick leaves and opportunities to pursue career development.
- e) Anyone running for an elective public office shall disclose to the Anti-Corruption Authority and the Economic Intelligence Unit the source(s) of the funds he or she is using to run for office.

## **25. Reporting of suspicious activities**

- a) Any person, legal or natural, who carries on a business or is otherwise professionally engaged in a business and who, in that capacity or in any other capacity, knows or ought reasonably to have known or suspected that the business, with which he or she is engaged, or any other business connected with his or her employment:
  - i) has received or is about to, or in the process of receiving property, financial or real, which is a proceed of corruption or offence relating to corruption
  - ii) has assisted, or is about to assist, or is in the process of assisting another person, natural or legal, who has committed or intends to commit any of the crimes proscribed under this Law

- iii) is fronting for, or about to front for any other person, natural or legal, for the purpose of committing any of the crimes under this Law
- iv) has no credible or verifiable business despite appearing to conduct lawful business

shall report such a person/activity, in accordance with the procedure prescribed for that purpose by the laws of **[insert the name of the country]**, to the police or other law enforcement agents. The reporting person shall disclose to the law enforcement agent the basis of his or her knowledge or the ground(s) for his or her suspicion as accurately as possible, provided that he or she shall not be compelled by the law enforcement agents to guarantee the unavailability of his or her knowledge or suspicion.

- b) Failure to report a known or a reasonably suspected criminal activity is a crime for which a person is liable to **[insert maximum penalty]**.

## **26. Frivolous, vexatious and false accusations and complaints**

- a) Anyone who –
  - i) frivolously or carelessly alleges that a person has committed or is about to commit a crime under this Law
  - ii) with the intent to harm, injure, bring into disrepute, or otherwise maliciously testifies against a person in a criminal proceeding arising from this Act is guilty of an offence and liable to **[insert maximum penalty]**.

## **27. Reporting obligation and secrecy**

- a) It is not a defence for anyone who has failed to comply with section 25 to say that he or she –
  - i) is under a professional duty of secrecy or confidentiality, which forbids him or her from complying with the obligation.
  - ii) is under a professional body's order against making such disclosure.
- b) Subsection (a) shall not apply to the confidentiality of information exchanged between a legal counsel and his or her client, or a legal counsel and another person, in respect of a matter that is pending before a court or tribunal.

## **28. Witnesses and data protection legislation**

Anyone who reports a criminal activity under this Law shall not be held liable for breaching any data protection regulation, which may restrict, forbid or otherwise render illegal, anyone not authorized by the entity affected by the information to make such disclosure as the person reporting under this subsection may have passed to the law enforcement agents.

## **29. Protection of witnesses and persons reporting criminal activities**

- a) No action, whether judicial or administrative, civil or criminal, shall lie against any person, natural or legal, who/which, in good faith, reports a crime under this Law, regardless of whether the crime was actually committed or not.
- b) No evidence regarding the identity of a person who has, in whatever degree, discharged the obligation in section 25 shall be admissible before a court or tribunal in any proceedings whether criminal or civil, unless the person is testifying in the proceeding.
- c) Without prejudice to the rights of a defendant under the law, and to due process, no one who has complied with the obligation under section 25 shall be compelled by a court or tribunal to give evidence in an open court.
- d) Should a court or tribunal, which is hearing a criminal suit involving a person who has complied with section 25 deem his or her evidence necessary, the court or tribunal shall take such evidence in secrecy. If so warranted by the circumstances, the court or tribunal may make an order; either on its own initiative or upon an application by the person, that he or she shall be referred to, for the entirety of the proceeding, only in pseudonyms; that no references shall be made to his or her identity, or to his or her residential or work address; and may make any other order as may be necessary to protect the true identity of the person.
- e) If a person who, on the basis of compliance with section 25 of this Law, believes or reasonably suspects that he or she is being targeted by a person or group of persons against whom he or she has made a report or testified in a criminal proceeding arising from any of the crimes under this Law, or any other person connected with such persons, he or she shall report the discovery immediately to the police.
- f) Once the appropriate authority has established that a person who has complied with section 25 of this Law has a reasonable ground to believe

or suspect that he or she is being or likely to be targeted, it shall immediately take measures towards protecting him or her, his or her family, and anyone who is closely linked with him or her as to be within the target of those threatening or otherwise adversely affecting his or her life.

- g) For the purpose of subsection (f), the State may *inter alia*:
  - i) maintain a constant surveillance around the person's work or house.
  - ii) provide the person with overt or covert State Security Services as may be appropriate or
  - iii) if the gravity of the situation so warrants, change the person's identity including names and addresses, and, to the extent necessary and feasible, relocate him or her within **[insert the name of the country]**, or, where there is a strong belief that his or her life is in danger, abroad.
- h) Where a person has been relocated under section (g)(iii), it shall be the responsibility of the State to ensure adequate provision for him or her, including providing him or her with employment and if he or she is not employed, provide means of subsistence to the person until such time as he or she shall be gainfully employed.
- i) Where, following an assessment by the appropriate supervisory authority, acting in conjunction with a legal counsel or a representative nominated by the relocated person, it is established that:
  - i) the original threat against him or her has disappeared altogether
  - ii) there are material changes in the situation at home as to warrant a substantial downgrading or a complete removal of the threat to the person's life

the State may relocate that person back to **[insert the name of the country]** and shall resettle him or her with his or her original identity and shall not disclose to anyone, under any circumstances, that the person was relocated abroad or in another part of the country under a different identity.

### **30. Prosecution, adjudication and sanctions**

- a) Any offence committed pursuant to the provisions of this Law, shall be subject to appropriate sanctions provided therein, after giving due consideration to the gravity of that offence.
- b) The Director of Public Prosecutions (DPP) or any other appropriately designated person acting on behalf of the government of **[insert the name of the country]** shall commence an investigation into any of the

offences contained in this Act upon the office of the DPP being notified of the commission or an attempt to commit any such offence by –

- i) a member of the public
- ii) a civil society or non-governmental organization legally operating in the country
- iii) a public or private enterprise

provided nothing in this section shall invalidate the right of the DPP, or any other appropriately designated authority, to commence an investigation or prosecution into any of the offences in this Act *suo motu*.

- c) Where a public official is facing possible investigation, prosecution or adjudication for an offence under this Law, his or her diplomatic immunity status or jurisdictional privilege shall be appropriately balanced against the enforcement of the provisions of this Act. It shall be the responsibility of the court of law, trying the case, to determine whether the accused is entitled to diplomatic protection or immunity and is therefore exempted from prosecution.
- d) Any person who is being prosecuted for an offence under this Law shall enjoy discretionary legal protection conferred by existing legislation in **[insert the name of the country]**. However, such powers must promote the effectiveness of law enforcement measures in respect of those offences and with due regard to deter future commission of such offences.
- e) All competent authorities in **[insert the name of the country]** shall ensure that any alleged offender of an act of corruption as described under this Act, appears during all criminal proceedings including those in connection with decisions on their release pending trial or appeal.
- f) Where a court or tribunal is considering an early release of persons convicted of offences under this Law, it shall be its duty to evaluate the gravity of offences concerned, before enforcing such discretionary power.
- g) A public official convicted of any offence under this Law, shall be removed, by the appropriate authority in **[insert the name of the country]**, and shall be ineligible for public office for **[insert duration]**.

### **31. Fair trial**

- a) A person who is alleged to have committed a crime under this Law shall be entitled to his or her rights as guaranteed by the Constitution of

- [insert the name of the country]** and shall not have any such rights abrogated, abridged or constrained except by order of a court or tribunal.
- b) Without prejudice to section 29 in all criminal prosecutions arising from this Law, the accused shall enjoy the right to a speedy, public and impartial trial, in accordance with the law of **[insert the name of the country]** and shall be informed of the nature and reason(s) of the accusation; he or she shall have the right to question any witness against him or her. He or she shall be entitled to apply for orders to request witnesses who may testify in his or her favour and shall have legal representation provided for him or her by the state if he or she is unable to afford one.

### **32. Access to information**

- a) Every citizen shall have access and the right to any information concerning:
- i) the obligation of every citizen to fight corruption in **[insert the name of the country]**.
  - ii) the measures taken by the government to ensure the eradication of corruption.
  - iii) the measures taken by government towards prosecuting public officers who are found to have committed any of the offences in this Law.
  - iv) the records or proceedings of public officers who have been found guilty by a court or tribunal of committing any of the offences under this Law.
- b) Subsection (a) shall not apply to any information which, if the public accesses, will compromise an ongoing investigation or trial by a court or tribunal, or an investigation or the hearing of disciplinary procedures by an administrative authority against a person who is alleged to have committed a crime under this Law.

### **33. Civil society and media**

- a) Any civil society organization which is registered and carries on business in **[insert the name of the country]** shall be entitled to engage in the fight against corruption. In particular, it shall be lawful for such organizations to –

- i) present views to the investigative authority or in court proceedings regarding any of the offences in this Law in their capacity as amicus curiae.
  - ii) request the Anti-Corruption Authority, the Economic Intelligence Unit or any other appropriate oversight body, for information concerning the crimes in this Law.
  - iii) make representation to the government concerning the implementation of this Act. Such representation may include suggestions as to –
    - a. how to improve any aspects of this Law.
    - b. how to make the implementation of this Law more effective.
    - c. how to ensure maximum popularization of this Law; or
    - d. how to sensitize the citizens about fighting against corruption.
- b) No media organization, whether print or electronic, shall be prevented from:
- i) publishing a story concerning the commission of any of the crimes under this Law.
  - ii) broadcasting, in electronic or other forms, such information as may not be classified or subject to a prohibition order by a court or tribunal.
  - iii) interviewing public officers who are alleged to have committed any of the offences in this Law.
  - iv) operating or otherwise carrying on business due to its involvement in publishing, broadcasting or otherwise disseminating information/news about public officials alleged to have committed a crime under this Law.
- c) It shall be unlawful for law enforcement agents, anyone acting on behalf of the government, or private individuals to prevent, or seek to prevent any member of the media profession from discharging his or her professional obligation in respect of any of the crimes in this Law.
- d) Every citizen of **[insert the name of the country]** shall have the right to bring an action in a court of law or competent tribunal against a public officer who has been convicted of any of the crimes in this Law, but who is being proposed, or has been elected, appointed, or selected to occupy a public office.



# Chapter V: Asset Recovery: Freezing, Seizure, Confiscation and Repatriation

## 34. Freezing, seizure, confiscation and repatriation

- a) A court or tribunal may, on application made by the Director of Public Prosecutions or any other appropriate authority, make an order prohibiting any person who has been alleged to have committed or participated, in any degree, to the commission of a crime under this Law, or his or her representatives thereof, from dealing in any manner or shape, with any property, equipment, or instruments, which are known to or reasonably believed to:
  - i) belong exclusively to him or her or under his or her exclusive direction or control.
  - ii) belong to him or her jointly with another person who may/may not be connected with the alleged offence.
- b) An order made under subsection (a) may include an order to freeze any such property, and where the location of such property is either unknown, or where the property is not sufficiently identifiable, to trace the property.
- c) A court or tribunal before which proceedings concerning a crime under this Law are taking place may order any bank, financial institution, or any other commercial establishment in which the accused person has cash, bearer negotiable instruments, bonds, or any such instruments, to make available to it financial or commercial records relating to that person. The concerned entity shall not invoke bank secrecy as a basis for refusal to provide assistance.
- d) If the alleged criminal is convicted, the court or tribunal may, in addition to the penalty imposed in respect of the crime, declare that any property, which is or reasonably believed to be the proceeds of the crime, or which is procured partly with the proceeds of the crime, be forfeited to **[insert the name of the country]**.
- e) If the convicted person has sold the property purchased with the proceeds of the crime to a third party, the court may not make a forfeiture order if the third party can prove that he or she bought the property in good faith and for valuable consideration, and in circumstances he or she

did not know or could not reasonably have known that the property is from the proceeds of a crime.

- f) The court or tribunal may not give an order to recover money spent by the convicted person in purchasing the said property against anyone who is able to prove that he or she sold the property to the person in good faith and for a valuable consideration, and did not know, could not have known or reasonably have suspected that the money is from the proceeds of a crime under this Law.

# Chapter VI: Jurisdiction

## 35. Bases for jurisdiction

- a) Any court of competent jurisdiction in **[insert the name of the country]** shall have jurisdiction to prosecute any person who commits a crime under this Law, if:
  - i) the offence is committed wholly or partially within **[insert the name of the country]**.
  - ii) the offence is committed by a national of **[insert the name of the country]** outside its territory, or by a person who habitually resides within the territory.
  - iii) the alleged offender not being a national of **[insert the name of the country]** is present therein at the time the crime was committed.
  - iv) although committed outside **[insert the name of the country]**, the offence affects in the view of **[insert the name of the country]**, its vital interests or the effects of such offences have an impact on **[insert the name of the country]**.
- b) This Law does not preclude any criminal jurisdiction exercised by **[insert the name of the country]** in accordance with its domestic law.
- c) Paragraph (a) of this section shall be subject to the principle that a person shall not be tried twice for the same offence.

## Chapter VII: Extradition and Mutual Legal Assistance

### 36. Extradition, mutual assistance and denial of extradition

- a) Anti-corruption agencies shall be designated the central authority for the purpose of mutual legal assistance in matters of corruption.
- b) All offences under this Law shall be deemed to be extraditable offences under the laws of **[insert the name of the country]**, and accordingly, the provisions of such laws shall apply, *mutantis mutandis*, to, and in relation to, extradition in respect of those offences.
- c) Where **[insert the name of the country]** is a party to a corruption convention and there is an extradition agreement between **[insert the name of the country]** and another country, being also party to that convention, the extradition agreement between the two countries shall be deemed to apply to offences contained in that convention.
- d) Where **[insert the name of the country]** is a party to a corruption convention but has no extradition arrangement with another State party to that convention, the former may, subject to the concurrence of the latter, treat that convention as the basis for an extradition arrangement between the two countries for the purposes of offences under the convention.
- e) Where a State party to a corruption convention does not make extradition conditional on the existence of a treaty between it and **[insert the name of the country]**, the latter shall recognize offences to which the convention applies as extraditable between them.
- f) **[Insert the name of the country]** shall extradite any person who commits a crime under a corruption convention on the territory of another State being party to that convention, if there is an extradition arrangement between the two countries, and the concerned State has made an extradition request to **[insert the name of the country]**.

### 37. Mutual assistance in all criminal matters

- a) **[Insert the name of the country]** shall, in accordance with its laws, provide mutual assistance in relation to investigations, prosecutions, and judicial proceedings regarding offences arising from a corruption convention

- to which **[insert the name of the country]** is a party, and all such offences as a person, natural or legal, may be held liable for under this Law.
- b) Where there is an arrangement for mutual assistance in criminal matters between **[insert the name of the country]** as a party to a corruption convention, and another State being also party to that convention, the arrangement shall be deemed, for the purpose of the domestic laws of **[insert the name of the country]** to include providing such assistance in respect of all offences under that convention.
  - c) If there is no arrangement for mutual assistance in criminal matters between **[insert the name of the country]**, being party to a corruption convention, and another State party to that convention, then **[insert the name of the country]** may treat that convention as the basis for providing mutual assistance in criminal matters relating to offences under that convention.
  - d) Notwithstanding the provisions of this Law, **[insert the name of the country]** shall not extradite anyone in respect of whom it has received an extradition request regarding an offence under this Law, if it believes, or reasonably suspects, that such a person is wanted for purposes unconnected or unrelated with any of the offences under this Law, or that there is a high probability that he or she will be subjected to cruel treatment, torture or may be deprived of his or her life without due process of the law.
  - e) Any offence under this Law shall not carry the death penalty.

## **Chapter VIII: General Provisions**

### **38. Development and harmonization of national legislation**

All existing policies and domestic legislation on offences of corruption and offences related to corruption under this Law are hereby harmonized for effective fulfilment of the purpose of the Law. Hence, provisions of this Law, shall serve as the entire law on corruption in **[insert the name of the country]**.

### **39. Statute of limitations**

An offence committed under this Law may be tried in any competent court of law in **[insert the name of the country]** at any time and no offence under this Act shall be subject to any statute of limitation in **[insert maximum period]**.

### **40. Commencement date**

This Law shall come into force on **[insert date]** or on any earlier date as the **[insert the title]** of the **[insert the exact designation of the country]** may determine by proclamation published in the National Gazette.

### **41. Further regulations**

The Minister for **[insert the appropriate portfolio]** may, from time to time, make regulations or recommend measures for the purpose of giving effect to the provisions of this Law.







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