

THE GAMBIA ANTI-CORRUPTION ACT, 2023

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THE GAMBIA ANTI-CORRUPTION ACT, 2023

AN ACT to prohibit and prescribe punishments for corrupt practices and other related offences and for connected matters.

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ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. Short title

This Act may be cited as The Gambia Anti-Corruption Act, 2023.

2. Interpretation

In this Act, unless the context otherwise requires-

“**agent**” means a person employed by or acting for another and includes an officer of a public body or an officer serving in or under any public body, or a corporate body or any political party or institution, a trustee, an administrator or executor of the estate of a deceased person, a sub-contractor, any person employed by or acting for such trustee, administrator, executor, or sub-contractor;

“**associate**” in relation to a person, includes a person who is an employee, agent, nominee or representative, trustee firm or incorporated company known to act subject to the directives or influence of such person;

“**bank**” means a bank, licensed under the Banking Act or any other financial institution established or licensed under any other written law;

“**bankers’ book**” includes ledgers, day books, cash books, account books and all other books and documents or electronic devices used in the ordinary course of business of a bank;

“**business**” means any activity carried on for the purpose of gain or profit and includes all property derived from or used in or for the purpose of carrying on such activity, and all the rights and liabilities arising from such activity;

“**Chairperson**” means the Chairperson of the Commission appointed under section 3 of this Act;

“**Commission**” means The Gambia Anti-Corruption Commission;

“Constitution” means Constitution of the Republic of The Gambia;

“confiscation” includes forfeiture and means the permanent deprivation of property by order of a court or other competent authority;

“controlled delivery” means the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities;

“corporate body” means any legal entity incorporated under the Companies Act, 2013 or designated as such under any law in The Gambia;

“corruption” includes bribery, fraud, embezzlement, diversion of public funds, trafficking in influence, illicit enrichment, abuse of power and other related offences;

“dealing” includes-

- (a) any purchase, sale, loan, charge, mortgage, lien, pledge, caveat, transfer, delivery, assignment, subrogation, transmission, donation, trust, settlement deposit, withdrawal, transfer between accounts or extension of credit,
- (b) any agency or grant of Power of Attorney, and
- (c) any act which results in any right, interest, title or privilege, whether present or future or whether vested or contingent, in the whole of or in part of any property being conferred on any person;

“false pretence” means any representation made by words, writing, or conduct, of a matter of fact, either past or present, which representation is false in fact, and which the person making it knows to be false, does not believe to be true or makes it recklessly;

“Freezing or seizure” means temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

“Foreign Public Official” means any person holding a legislative, executive, administrative or judicial office of a foreign country –

- (a) whether appointed or elected, and
- (b) any person exercising a public function for a foreign country including for a public agency or public enterprise;

“Interpol” means International Police Organisation;

“member” means any member of the Commission appointed in accordance with section 3 of this Act;

“Minister” means the Attorney General and Minister of Justice;

“money instrument” includes coin or currency of The Gambia or of any other country, travellers’ cheque, personal cheque, bank cheque, money order, investment security or negotiable instrument in bearer form or otherwise in such form that title hereto passes upon delivery or upon delivery and endorsement;

“Officials of Public International Organisations” means an international civil servant or any person who is authorized by such an organization to act on behalf of that organization;

“person” includes a natural person, a juristic person or a body of persons corporate or incorporate;

“political party” means a body of persons or association registered by the Independent Electoral Commission as a political party;

“President” means the President of the Republic of The Gambia;

“Principal” includes an employer, a beneficiary under a trust, a trust estate, a person beneficially interested in the estate of a deceased person, the estate of a deceased person, and, in the case of any person serving in or under a public body, the public body;

“property” means real or personal property of every description, including money, whether situated in The Gambia or elsewhere, whether tangible or intangible, and includes an interest in any such real or personal property, legal documents or instruments evidencing title to or interest in such assets;

“proceeds of crime” means any property derived from or obtained, directly or indirectly, through the commission of an offence;

“predicate offence” means any offence as a result of which proceeds have been generated that may become the subject of an offence;

“Public officer” means a person, whether appointed or elected, permanent or temporary, paid or unpaid, employed or engaged in any capacity in a public office of The Gambia, Local Government, public enterprise or private company wholly or jointly owned by the Government, including the subsidiary of such company whether located within or outside The Gambia and includes Judicial officers, members of the National Assembly, and

members of the security forces;

“purchaser in good faith for valuable consideration” means any transferee, assignee, chargee, mortgagagee, pledgee, holder of a lien, or leasee, of any property which transfer, assignment, charge, mortgage, pledge, lien, or lease was obtained by him or her with adequate consideration in money or money’s worth, without notice that the property was obtained in consequence of the commission of any offence;

“Receiver” means an independent party appointed by a court to receive, manage and preserve a property in serious financial difficulties;

“relation” includes parent, child, sibling, uncle, aunt, cousins and their spouses;

“undue advantage” includes any –

- (a) gift, loan, fee, reward or commission consisting of money or of any valuable security or other property or interest in property,
- (b) office, employment or contract,
- (c) payment, discharge or liquidation of any loan,
- (d) any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position,
- (e) other service or favour (except entertainment),
- (f) money, donation, gift, loan, fee, reward, valuable security, property or interest in property or any other similar advantage, given or promised to any person with intent to influence such a person in the performance or non-performance of his or her duties,
- (g) any office, dignity, employment, contract of employment or services and any agreement to give employment or render services in any capacity,
- (h) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part,
- (i) any valuable consideration of any kind, any discount, commission, rebate, bonus, deduction or percentage,
- (j) any forbearance to demand any money or money’s worth or valuable thing,

- (k) any other service or favour of any description, such as protection from any penalty or disability incurred apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not, already instituted, and including the exercise or the forbearance from the exercise of any rights or any official power or duty,
- (l) any offer, undertaking or promise, whether conditional or unconditional, of any gratification within the meaning of any of the preceding paragraphs; and

“unethical conduct” means the violation of the code of conduct of public officers under Constitution or any other law.

PART II – ESTABLISHMENT, COMPOSITION AND FUNCTIONS OF THE GAMBIA ANTI-CORRUPTION COMMISSION

3. Establishment of The Gambia Anti-Corruption Commission

- (1) There is established by this Act, The Gambia Anti-Corruption Commission.
- (2) The Commission is a body corporate with perpetual succession and a common seal and may-
 - (a) sue and be sued in its corporate name;
 - (b) enter into contracts, acquire, hold, manage and dispose of property; and
 - (c) so far as is possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.
- (3) The Commission shall consist of a Chairperson and two other members.
- (4) The members shall be appointed by the President after consultation with the Public Service Commission subject to the approval of the National Assembly.
- (5) The members of the Commission shall be selected from among persons of proven integrity by a vetting committee following a public call for candidatures by the Minister.
- (6) The vetting committee shall comprise a representative of -

- (a) the Personnel Management Office;
- (b) a legal practitioner of at least five years standing at The Gambia Bar, nominated by the Attorney General in consultation with The Gambia Bar Association;
- (c) The Financial Intelligence Unit;
- (d) the Chamber of Commerce and Industry; and
- (e) one representative from the Civil Society Organisations.

4. Tenure of office

(1) The Chairperson shall hold office for a term of five years and other members of the Commission shall hold office for a term of four years and they may both be re-appointed for one more term.

(2) The Chairperson and other members of the Commission shall hold office on a full-time basis and shall hold no other office in the private or public sector.

(3) A member of the Commission may only be removed from office by the President on the recommendation of the vetting committee for-

- (a) infirmity of body or mind;
- (b) serious misconduct;
- (c) violation of the Constitution;
- (d) serious violation of any other law; or
- (e) bankruptcy.

(4) The President shall not remove a Commissioner from office under sub-section (3) (a) unless he or she receives a report submitted by a Medical Board constituted to inquire into the matter.

(5) The President shall not remove a Commissioner from office under sub-section (3) (b), (c) or (d) unless he or she receives a report submitted by a committee appointed by the Chief Justice.

(6) The committee appointed by the Chief Justice under sub-section (5) shall comprise a -

- (a) Judge of the Court of Appeal, who shall be the chairperson;

- (b) a legal practitioner of at least ten years standing at The Gambia Bar, nominated by the Attorney General in consultation with The Gambia Bar Association; and
- (c) representative of Civil Society Organisations.

(7) A member of the Commission may resign from office by notice in writing under his or her hand addressed to the President.

(8) The members of the Commission shall hold office on such terms and conditions as may be specified in their instrument of appointment.

(9) In the exercise of their functions, the members of the Commission shall not be subject to any other authority or control except as provided by this Act.

5. Qualifications for appointment

(1) A person is qualified to be appointed as a member of the Commission if he or she -

- (a) is a person of integrity, competence and maturity of judgment;
- (b) has knowledge and experience of not less than ten years in any of the following fields -
 - (i) ethics and governance,
 - (ii) law,
 - (iii) public administration,
 - (iv) economics,
 - (v) audit or accounting,
 - (vi) any other relevant field of human endeavour or profession; and
- (c) has had a distinguished career in his or her field of service.

(2) A person shall not be qualified to be a member of the Commission if he or she -

- (a) is actively involved in the activities of a political party;
- (b) is an undischarged bankrupt; or

(c) has been convicted of a felony.

(3) The members of the Commission shall-

- (a) formulate the Commission`s policies and ensure that it performs its duties to the highest standard possible;
- (b) provide strategic direction for the Commission;
- (c) establish and maintain strategic linkages and partnerships with other stakeholders in the rule of law and other governance sectors;
- (d) deal with reports and complaints of corruption, abuse of power, impropriety and other forms of misconduct on the part of public officers; and
- (e) deal with reports of conduct amounting to mal-administration, including delay in the conduct of investigations and unreasonable invasion of privacy by public officers.

6. Functions of the Commission

The Commission shall-

- (a) develop and promote standards and best practices in integrity and anti-corruption for public officers;
- (b) receive complaints relating to the breach of the code of conduct by public officers;
- (c) oversee the enforcement of the code of conduct for public officers;
- (d) raise public awareness on ethical issues, educate the public on the dangers of corruption;
- (e) monitor the practices and procedures of public bodies to prevent and detect corrupt practices and to recommend the revision of methods of work or procedures that may be conducive to corrupt practices;
- (f) recommend appropriate action to be taken against public officers proved to have engaged in unethical conduct;
- (g) where reasonable grounds exist for suspecting that any person has conspired to commit, has attempted to commit or has committed an offence under this Act or any other law

prohibiting corruption, to receive and investigate any report of the conspiracy to commit attempt to commit or the commission of such offence;

- (h) investigate and prosecute any acts of corruption or other matters proscribed under this Act;
- (i) advise the Attorney General to institute legal proceedings for purposes of the recovery or protection of public property, the freezing or confiscation of proceeds of corruption or the payment of compensation or other punitive and disciplinary measures;
- (j) examine the practices, systems and procedures of public bodies and where in the opinion of the Commission, such practices, systems or procedures aid or facilitate fraud or corruption, direct and supervise a review of them;
- (k) instruct, advise and assist any officer, agency or public enterprise on ways by which fraud or corruption may be eliminated or minimised by such officer, agency or public enterprise;
- (l) advise heads of public bodies of any changes in practices, systems or procedures compatible with the effective discharge of the duties of public bodies as the Commission thinks fit, to reduce the likelihood or incidence of bribery, corruption and related offences;
- (m) educate the public on and against bribery, corruption and related offences; and
- (n) enlist and foster public support in combating corruption and other offences.

7. Powers of the Commission

(1) The Commission shall have all the powers necessary for the execution of its functions.

(2) Without prejudice to the generality of sub-section (1), the Commission may –

- (a) undertake preventive measures against unethical and corrupt conduct by any person; and
- (b) conduct investigations on its own initiative or on a complaint made by any person;

(3) The Commission shall adopt –

- (a) such measures as may be necessary to enhance transparency in its public administration, including with regards to its organization, functioning, spending and decision-making processes; and
- (b) procedures or regulations to allow members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making process of its public administration and with due regard for the protection of privacy and personal data on decisions and legal acts that concern members of the public.

(4) In exercising its powers, the Commission shall not be under the direction or control of any person or authority.

8. Exclusion of jurisdiction

The Commission's power of investigation under this Act shall not include the investigation of corruption that occurred before the coming into force of this Act, unless that corruption is a continuing act.

9. Standing orders

The Commission may issue administrative orders to be called “**standing orders**”, for the general control, training, duties and responsibilities of the officers of the Commission, and for such other matters as may be necessary or expedient for the good administration of the Commission and to ensure the efficient and effective functioning of the Commission.

PART III - OFFENCES AND PENALTIES

10. Gratification by a Public Officer

(1) A person who -

- (a) asks for, receives or obtains any property or benefit of any kind, directly or indirectly, for himself or herself or any other person;
- (b) agrees or attempts to receive or obtain any property or benefit of any kind, directly or indirectly, for himself or herself or for any other person, on account of -
 - a. anything already done or omitted to be done, or for any favour or disfavour already shown to any person by himself or herself in the discharge of his or her official duties or in relation to any matter connected with the

functions, affairs or business of a Government department or public body in which he or she is serving as an official; or

- (ii) anything to be done or omitted to be done or favour or disfavour to be shown to any person, by himself or herself in the discharge of his or her official duties or in relation to any such matter as aforesaid,

commits an offence and is liable, on conviction to imprisonment for seven years.

(2) If in any proceedings for an offence under this section, it is proved that any property or benefit of any kind, or any promise thereof, was received by a public officer or by some other person at the instance of a public officer, from a person-

- (a) holding or seeking to obtain a contract, license, permit, employment or anything whatsoever from a government department, public body or other organization or institution in which that public officer is serving as such;
- (b) concerned, or likely to be concerned, in any proceeding or business transacted, pending or likely to be transacted before or by that public officer or a government department or public body in which that public officer is serving as such; or
- (c) acting on behalf of or related to such a person,

the property, benefit or promise shall, unless the contrary is proved, be presumed to have been received corruptly on account of such a past or future act, omission, favour or disfavour.

(3) In any proceedings for an offence under sub-section (1) (b), it shall not be a defence to show that the accused-

- (a) did not subsequently do, make or show the act, omission, favour or disfavour in question; or
- (b) never intended to do, make or show the act, omission, favour or disfavour.

(4) Without prejudice to sub-section (3), where a Police officer or other public officer whose duties include the prosecution, detention or punishment of offenders is charged with an offence under this section arising from -

- (a) the arrest, detention or prosecution of any person for an

alleged offence;

- (b) an omission to arrest, detain or prosecute any person for an alleged offence; or
- (c) the investigation of an alleged offence,

it shall not be necessary to prove that the accused believed that the offence mentioned in paragraph (a) (b) or (c), or any other offence had been committed.

11. Corrupt offers to Public Officers

(1) A person who, with the intent to corrupt a public officer –

- (a) gives, confers on or procures, directly or indirectly, any property or undue benefit of any kind; or
- (b) promises or offers to give, confers on, procures or attempts to procure, directly or indirectly, any property or benefit of any kind to or for a public officer,

on account of any such act, omission, favour or disfavour to be done or shown by the public officer commits the offence of corruption and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

(2) If in any proceedings for an offence under this section, it is proved that any property or undue advantage of any kind, or any promise or offer thereof, was given to a public officer or some other person at the instance of a public officer, by a person-

- (a) holding or seeking to obtain a contract, licence, permit, employment or anything whatsoever from a government department or public body in which that public officer is serving as such;
- (b) concerned or likely to be concerned in any proceeding or business transacted, pending or likely to be transacted before or by that public officer or a government department or public body in which that public officer is serving as such; or
- (b) acting on behalf of or relative to such a person,

the property, benefit or promise shall, unless the contrary is proved, be deemed to have been given corruptly on account of such past or future act, omission, favour or disfavour.

12. Corrupt demand by persons

A person who requests, receives or obtains property or benefits of any kind for himself or herself or any other person or agrees or attempts to receive or obtain any property or benefit of any kind for himself or herself or any other person on account of –

- (a) anything already done or omitted to be done, or any favour or disfavour already shown to any person, by a public officer in the discharge of his or her official duties or in relation to any matter connected with the functions, affairs or business of a government department or public body in which the public officer is serving as such; or
- (b) anything to be afterwards done or omitted, or any favour or disfavour to be afterwards shown to any person, by a public officer in the discharge of his or her official duties or in relation to any such matter as aforesaid,

commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

13. Counselling offences relating to corruption

In any proceedings for an offence under this Act, it is not necessary to prove that -

- (a) a public officer counselled the commission of the offence;
- (b) in the course of committing the offence, the accused mentioned a particular public officer; or
- (c) the accused intended to give the property or benefit in question, or any part thereof, to a public officer.

14. Conflict of interest

(1) Where a public body in which a public officer is a director, an employee or is otherwise engaged, proposes to deal with any company, partnership, or other undertaking in which that public officer has a direct or indirect, private or personal interest, he or she shall forthwith disclose in writing to that public body, the nature of such 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, he or she shall

not vote or take part in any proceedings or process of that public body relating to such decision.

(3) A public officer who contravenes sub-section (1) or (2) commits an offence and is liable on conviction to the confiscation of the proceeds of his or her private or personal interest and a fine of two hundred thousand dalasis or imprisonment for five years or to both.

15. Fraudulent receipt of property

A person who receives anything which has been obtained by means of a criminal act within or outside The Gambia, knowing the same to have been so obtained, commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

16. Deliberate frustration of investigation

A person who, with intent to defraud, conceal a crime or frustrate the Commission in its investigation of any suspected crime under this Act or under any other law –

- (a) destroys, alters, mutilates, or falsifies, any book, document, valuable security, account, computer system, diskette, computer printout or other electronic device which belongs to or is in the possession of his or her employer, or has been received by him or her on account of his or her employment, or any entry in any such book, document, accounts or electronic device, or is privy to any such act;
- (b) makes, or is privy to the making of any false entry in any such book, document, account or electronic record; or
- (c) omits, or is privy to the omission of any materials particular from any such book, document, account or electronic record,

commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine of three hundred thousand dalasis or imprisonment for seven years or to both.

17. Making false statements or returns

A person who is charged with the receipt, custody, use or management of any public revenue or property knowingly furnishes any false statement or return in respect of any money or property received by him or her or entrusted to his or her care, or of any balance of money or property in his or her possession or under his or her control, commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not

more than one million dalasis or imprisonment not more than five years or to both.

18. Gratification by and through agents

(1) A person who -

- (a) accepts or obtains, agrees to accept or obtain or attempts to accept or obtain from any person for himself or herself or for any other person, any gift or consideration as an inducement or reward for doing or having done or forbearing to do or having forborne to do any act or thing;
- (b) gives, agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing, forbearing to do, having done or forborne to do, any act or thing in relation to his or her principal's affairs or business; and
- (c) knowingly gives to any agent, or being an agent knowingly uses with intent to deceive his or her principal, any receipt, account or other document in respect of which the principal is interested and which contains any statement which is false or erroneous or defective in any material particular, and which, to his or her knowledge, is intended to mislead his or her principal or any other person,

commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

(2) For the purposes of this section, the expression-

- (a) "consideration" includes valuable consideration of any kind;
- (b) "agent" includes any person employed by or acting for another; and
- (c) "principal" includes an employer.

19. Bribery of a Public Officer, a Foreign Public Official or an Official of Public International Organisations

A person who offers to any public officer, a foreign public official or an official of a public international organisation or being a public officer, a foreign public official or an official of a public international organization, solicits, counsels or accepts any gratification as an inducement or a reward for-

- (a) voting or abstaining from voting at any meeting of a public body in favour or against any measure, resolution or question submitted to the public body;
- (b) performing or abstaining from performing or aiding in procuring, expediting, delaying, hindering or preventing the performance of any official act;
- (c) aiding in procuring or preventing the passing of any vote or the granting of any contract, award, recognition or advantage in favour of any person; or
- (d) showing or forbearing to show any favour or disfavour in his or her capacity as such officer,

notwithstanding that the public officer, foreign public official or the official of the public international organisation did not have the power, right or opportunity so to do, or that the inducement or reward was not in relation to the affairs of the public body, commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

20. Offence of using office or position for gratification

A public officer, a foreign public official or an official of public international organisation who uses his or her office or position to gratify or confer any corrupt or unfair advantage upon himself or herself or any of his or her relation or associate or any other person commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

21. Bribery in relation to auctions

(1) A person who without lawful authority or reasonable excuse, offers any advantage to any other person as an inducement to, reward for, or otherwise on account of that other person refraining or having refrained from bidding at any auction conducted by or on behalf of any public body, commits an offence.

(2) A person who without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to, reward for, or otherwise on account of him or her refraining or having refrained from bidding at any auction conducted by or on behalf of any public body, commits an offence.

(3) A person who commits an offence under this section is liable on conviction to a fine not more than one million dalasis or imprisonment not more than five years or to both.

22. Bribery with regard to contracts

(1) A person who without lawful authority or reasonable excuse, offers an undue advantage to a public officer as an inducement to, 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 procuring of-
 - (i) any contract with a public body for the performance of any work, the providing 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 article, materials or substance required to be performed, provided, done or supplied under any contract with a public body; or
- (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in any such contract or sub-contract as aforesaid,

commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

(2) A public servant who without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to, reward for, or otherwise on account of him or her giving assistance, using influence in, having given assistance or used influence in-

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

any contract or sub-contract as is referred to in sub-section (1) commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

(3) A public officer who in the course of his or her official duties, inflates the price of any goods or service above the prevailing market price commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

(4) A public officer who in the discharge of his or her official duties, awards or signs any contract without budget provision, approval and cash backing, commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

(5) A public officer who, without lawful authority, transfers or spends any sum allocated for a particular project, or service, on another project or service, commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

23. Duty to report bribery transaction

(1) A public officer, a foreign public official or an official of public international organisation to whom any undue advantage is given, promised, or offered, in contravention of this Act shall report such gift, promise or offer together with the name of the person who gave, promised or offered such undue advantage to him or her to the nearest office or officer of the Commission or a Police Officer.

(2) A person from whom any undue advantage has been solicited or obtained, or from whom an attempt has been made to obtain such undue advantage shall at the earliest opportunity thereafter, report such fact together with the name or a true and full description of the person who solicited, obtained, or attempted to obtain the gratification from him or her, to the nearest office or officer of the Commission or a Police Officer.

(3) A person who fails, without reasonable excuse, to comply with subsections (1) and (2) commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine not more than one million dalasis or imprisonment not more than five years or to both.

24. Making statement which is false or intended to mislead, etc.

(1) A person who makes or causes another person to make to an officer of the Commission or to any other public officer, in the due execution of his or her office, a statement which to the knowledge of the person making the statement or causing the statement to be made -

- (a) is false, or intended to mislead or is untrue in any material particular; or
- (b) is not consistent with any other statement previously made by such person to any person having authority or power under any law to receive, or require to be made such other statement notwithstanding that the person making the statement is not under any legal or other obligation to tell the truth,

commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine of not more than two hundred thousand dalasis or imprisonment not more than two years or to both.

(2) A person who -

- (a) has made a statement to an officer of the Commission or a public officer in the course of such officer exercising any power conferred by this Act; or
- (b) makes any inconsistent statement to any person having authority or power under any other law to receive or require to be made such other statement, regardless of whether or not the person making the statement is under a legal or other obligations to tell the truth,

commits an offence and is liable on conviction to the confiscation of the proceeds of the crime and a fine of one hundred thousand dalasis or imprisonment of two years or to both.

(3) For the purpose of sub-sections (1) and (2) -

- (a) any statement made in the course of any legal proceedings before a court; or
- (b) any statement made by any person in the course of any disciplinary proceedings, whether such legal proceedings or disciplinary proceedings,

whether such legal proceedings or disciplinary proceedings are against the person making the statement or against any other person shall be deemed to be a statement made to a person having authority or power under the law to receive the statement so made.

25. Embezzlement, misappropriation or other diversion of property by a public official

A public officer who intentionally embezzles, misappropriates or diverts for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public officer by virtue of his or her position commits an offence and is liable on conviction to a fine not more than one million dalasis or imprisonment not more than five years or to both.

26. Trading in influence

(1) A person who intentionally –

- (a) promises, offers or gives to a public officer or any other person, directly or indirectly, an undue advantage in order that the public officer or the person abuse his or her real or supposed influence with a view to obtaining from a public institution or authority an undue advantage for the original instigator of the act or for any other person;
- (b) solicits or accepts from a public officer or any other person, directly or indirectly, an undue advantage for himself or herself or for another person in order that the public officer or the person abuse his or her real or supposed influence with a view to obtaining from a public institution or authority an undue advantage,

commits an offence and is liable on conviction to a fine of three hundred thousand dalasis or to imprisonment for seven years or to both.

(2) A person who commits an offence under this section is liable on conviction to a fine of three hundred thousand dalasis or to imprisonment for seven years or to both.

27. Abuse of office

A person who intentionally abuses his or her public function or position by performing or failing to perform an act, in violation of any law for the purpose of obtaining an undue advantage for himself or herself or for another person commits an offence and is liable on conviction to a fine of three hundred thousand dalasis or to imprisonment for seven years or to both.

28. Bribery in the private sector

A person who in the course of economic, financial or commercial activities intentionally –

- (a) promises, offers or gives, directly or indirectly, an undue advantage to any person who directs or works in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, acts or refrains from acting; and
- (b) solicits or accepts, directly or indirectly, an undue advantage by any person who directs or works in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, acts or refrains from acting,

commits an offence and is liable on conviction to a fine not more than one

million dalasis or imprisonment not more than five years or to both.

29. Embezzlement of property in the private sector

A person who in the course of economic, financial or commercial activities intentionally directs or works in any capacity, in a private sector entity embezzles or misappropriates any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position commits an offence and is liable on conviction to a fine not more than one million dalasis or imprisonment not more than five years or to both.

30. Concealment

(1) A person who conceals or retains property or assets of any kind and knows that such property or assets are the result of any of the offences prescribed in this Act commits an offence and is liable on conviction to a fine of three hundred thousand dalasis or to imprisonment for seven years or to both.

(2) In proceedings for an offence under this Act, where the court is satisfied that having regard to the closeness of his or her relationship to the accused and to other circumstances, there is reason to believe that any person was holding pecuniary resources or property in trust for or otherwise on behalf of the accused or acquired such resources or property as a gift from the accused, such resources or property shall, in the absence of evidence to the contrary, be presumed to have been in the control of the accused.

31. Obstruction of justice

(1) A person who intentionally -

- (a) uses physical force, threats or intimidation, or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences prescribed under this Act; or
- (b) uses physical force, threats or intimidation to interfere with the exercise of official duties by a judicial or law enforcement official in relation to the commission of offences prescribed under this Act,

commits an offence and is liable on conviction to a fine of three hundred thousand dalasis or to imprisonment for seven years or to both.

32. Commission's power to prosecute offences

The Commission may undertake the prosecution of any offence prescribed

under this Act.

PART IV - INVESTIGATION, SEARCH, SEIZURE AND ARREST

33. Power to investigate

(1) A person may make a report relating to the commission of an offence under this Act orally or in writing to the Commission, and if -

(a) made
orally, shall be reduced into writing and read over to the person making the report; and

(b) the
person making the report is illiterate, the officer obtaining the report shall endorse that fact on the report together with a statement to the effect that it was read over and interpreted to the maker.

(2) Every report shall be entered in a book or database kept at the office of the Commission and there shall be appended to such entry the date and hour at which such report was made.

(3) Where an Officer of the Commission has reason to suspect the commission of an offence under this Act following a report made under sub-section (1) or information otherwise received by him or her, he or she shall cause an investigation to be carried out and for such purpose, may exercise all the powers of investigation provided for under this Act or any other law.

(4) A report made under sub-section (1) shall not be disclosed to any person other than officers of the Commission until the suspect has been arrested or charged to court for an offence arising from such report.

(5) A document certified by any officer of the Commission in respect of a report under sub-section (1) shall be admissible as evidence of the contents of the original and of the time, place and manner in which the report was recorded.

34. Power to examine persons

(1) An officer of the Commission investigating an offence under this Act may -

(a) order any person to attend before him or her, for the purpose of being examined in relation to any matter which may in his or her opinion, assist in the investigation of the offence;

(b) order any person to produce before him or her, any book,

document or any certified copy thereof, or any other article which may, in his or her opinion, assist in the investigation of the offence; or

- (c) by written notice require any person to furnish a statement in writing made under oath or affirmation setting out therein, all such information require under the notice, being information which, in such officer's opinion, would be of assistance in the investigation of the offence.

(2) Sub-section (1) (b) shall only apply to bankers' books in accordance with the Evidence Act.

(3) A person on whom an order under sub-section (1) (a) has been served shall -

- (a) attend in accordance with the terms of the order, to be examined, and shall continue to attend from day to day where so directed, until the examination is completed; and
- (b) during such examination disclose all information which is within his or her knowledge.

(4) A person on whom an order has been served under sub-section (1) (b) shall not conceal, destroy, remove from The Gambia, mutilate, expend or dispose of any book, document, or article specified in the order or relevant to the investigation, or alter or deface any entry in such book or document, or cause such act to be done, or assist or conspire to do such act.

(5) A person on whom a written notice has been served under sub-section (1)(c) shall in his or her statement, furnish and disclose truthfully all information required under the notice which is within his or her knowledge, or which is available to him or her.

(6) A person on whom an order or a notice is served under sub-section (1) shall comply with such order or notice and with sub-section (3), (4) and (5).

(7) Where a person discloses any information or produces any book, document or article pursuant to sub-section (1), (3) or (5), neither the first-mentioned person, nor any other person on whose behalf or direction or as whose agent or employee the first mentioned person may be acting, shall, on account of such disclosure or production, be liable to any prosecution.

(8) A person who contravenes this section commits an offence and is liable on conviction to imprisonment for three months.

35. Power to use special investigative techniques

Subject to the direction of a court, the Commission may use special investigative techniques, as specified in the UN Convention against Corruption and the United Nations Convention against Transnational Organized Crime, such as the interception of communication.

36. Summons against suspects

The Commission may issue a summons directed to a person complained against or any other person, to attend before the Commission for the purpose of being examined in relation to the complaint or in relation to any other matter which may aid or facilitate the investigation of the complaint and a summons so issued shall state the substance of the complaint, and the time and place at which the inquiry is to be held.

37. Forms and service of Summons

Every summons issued by the Commission shall be in duplicate and signed by the Chairperson or such other officer as he or she may authorise.

38. Service of process

- (1) Every summons under this Act shall be served by an officer of the Commission in the manner prescribed by the laws relating to the service of process, and the person effecting the service may exercise all the powers conferred by the law relating to the service of process.
- (2) In any other case, the rules of the High Court relating to substituted service shall apply.

39. Acknowledgement of service

Where a summons has been served –

- (a) on a person to whom it is addressed or is delivered to any other person, the person to whom it is addressed or delivered as the case may be, shall sign for its receipt on the duplicate; and
- (b) by some other method approved by this Act, the person effecting service shall endorse on the duplicate, particulars of the method by which the service was effected.

40. Failure to appear after receipt of summons

Where the Commission is satisfied that a summons directed to a person complained against or any person who has been served and the person does not appear at the time and place appointed in the summons, the Commission may arrest and detain such person.

41. Forceful entry of premises

(1) Where it appears to the Commission upon information, and after such inquiry as it thinks necessary, that there is reasonable cause to suspect that there is any evidence of the commission of any offence under this Act, the Commission may by written order direct an officer of the Commission to obtain a court order to –

- (a) enter any premises and search for, seize and take possession of any book, document or other article evidencing the commission of such offence;
- (b) inspect, make copies of or take extracts from any book, record or document;
- (c) search any person who is in or on such premises, and for the purpose of such search, detain such person and remove him or her to such place as may be necessary to facilitate such search, and seize and detain any article found on such person;
- (d) break open, examine, and search any article, container or receptacle; or
- (e) stop, search; and seize any vehicle or conveyance.

(2) An officer of the Commission exercising any power under sub-section (1) shall obtain a warrant from a Judge or Magistrate to-

- (a) break open any outer or inner door or window of any premises and enter thereto, or otherwise forcibly enter the premises and every part thereof;
- (b) remove by force any obstruction to such entry search, seizure or removal as he is empowered to; or
- (c) detain any person found in or on any premises or in any conveyance search under subsection (1), or until such premises or conveyance has been searched.

42. Seizure of moveable or immovable property

(1) If in the course of an investigation into an offence under this Act, an officer of the Commission has reasonable grounds to suspect that any movable or immovable property is the subject matter of an offence or evidence relating to the offence, he or she shall seize such property.

(2) A list of all movable or immovable property seized pursuant to sub-section (1) and of the places in which they are respectively found shall be prepared by the officer of the Commission effecting the seizure and signed by him or her.

(3) A copy of the list referred to in sub-section (2) shall be served on the owner of such property or on the person from whom the property was seized as soon as possible.

(4) Where any movable or immovable property liable to seizure under sub-section (2) is in the possession, custody or control of a bank, sub-sections (1), (2) and (3) shall not apply thereto and the seizure shall be effected in the manner provided for in this Act.

43. Custody of seized property, etc.

(1) Where any movable property is seized under this Act, the seizure shall be effected 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 person or authority and at such place as an officer of the Commission may determine.

(2) Where it is not practicable, or otherwise not desirable, to effect removal of any property under sub-section (1), the officer may leave it at the premises in which it is seized under the custody of such person as he or she may detail for the purpose.

(3) Notwithstanding sub-section (1), when any movable property has been seized under this Act, an officer of the Commission other than the officer who effected the seizure, may-

- (a) temporarily return the movable property to the owner thereof, or to the person from whose possession, custody or control it was seized, or to such person as may be entitled thereto, subject to such terms and conditions as may be imposed; or
- (b) return the movable property to the owner thereof, or to the person from whose possession, custody or control it was seized, or to such person as may be entitled thereto,

subject to security being furnished in an amount not less than an amount which represents the open market value of such property on the date on which it is returned.

(3) Where a person to whom movable property is temporarily returned under sub-section (3) (a) fails to surrender such property on demand or to comply with any term or condition imposed under that sub-section –

- (a) the security furnished in respect of such property may be forfeited; and
- (b) he or she commits an offence and is liable on conviction to a fine of not less than two times the amount of the security furnished by him or her, and to imprisonment for a term not exceeding two years.

(5) Where an order of forfeiture is made by the court in respect of property returned under sub-section (3) (b), such forfeiture shall be effected by forfeiting the security furnished by the person to whom the property was returned in lieu of the property.

(6) Where any movable property seized consists of money, shares, securities, stocks, debentures or any chose-in-action, in the possession or under the custody or control of any person other than the person against whom the prosecution is intended to be taken, the seizure shall be effected by an officer of the Commission serving an order on such person-

- (a) prohibiting him or her from using, transferring, or dealing with such property; or
- (b) requiring him or her to surrender the property to an officer of the Commission in the manner and within the time specified in the order.

(7) Where a movable property seized –

- (a) is likely to decay or deteriorate;
- (b) cannot be maintained without difficulty; or
- (c) is not practicable to maintain, and which cannot be dealt with under sub-section (3),

the Commission may, subject to a court order, sell or cause such property to be sold at the prevailing market value and shall hold the proceeds of the sale, after deducting therefrom the costs and expenses of the maintenance and of the sale of the property, pending the conclusion of any proceedings under this Act.

44. Disclosure of information by Legal Practitioners

(1) Notwithstanding the provisions of any other written law, the High Court may, on an application made in relation to an investigation into any offence

under this Act or any other law prohibiting corruption, order a Legal Practitioner to disclose information available to him or her in respect of any transaction or dealing relating to any property which is liable to seizure under this Act.

(2) Notwithstanding sub-section (1), the court shall not require the disclosure of any privileged information or communication which came to a Legal Practitioner's knowledge for the purpose of prosecuting any pending proceeding.

45. Legal obligation to give information

A person who fails to provide information to the Commission when requested to do so, commits an offence and is liable on conviction to a fine of fifty thousand dalasis or three months imprisonment or to both.

46. Obstruction of inspection and search

A person who –

- (a) refuses an officer of the Commission access to any premises, or fails to submit to a search by a person authorised to search him or her under this Act;
- (b) assaults, coerces, intimidates or obstructs an officer of the Commission or any person authorised by the Commission in the execution of his or her duty under this Act;
- (c) fails to comply with any lawful demand notice, order or requirements of an officer of the Commission in the execution of his or her duty under this Act;
- (d) fails to produce, conceals or attempts to conceal from an officer of the Commission, any book, document, or article, in relation to which such officer has reasonable grounds for suspecting or believing that an offence under this Act or any other law prohibiting Corruption has been or is being committed, or which is liable to seizure under this Act;
- (e) rescues, endeavours to rescue or causes to be rescued any person who has been duly arrested or anything which has been duly seized;
- (f) destroys anything to prevent the seizure or the securing of the thing; or
- (g) promises, offers or gives an undue advantage to interfere in inspection and search or the production of evidence in a

proceeding in relation to the commission of offences established in accordance with this law;

commits an offence and is liable on conviction to imprisonment for one year without the option of a fine.

47. Detention and bail

(1) A person arrested under this Act may be released from custody on bail after executing such bond as the Commission may require.

(2) A person who has been released from custody on bail under sub-section (1) may be re-arrested without warrant by an officer of the Commission if -

- (a) he or she has reasonable grounds for believing that any condition on or subject to which the suspect was released or otherwise admitted to bail has been violated; or
- (b) is notified in writing by the Surety or Sureties of the suspect that he or she has broken or is likely to break any condition on or subject to which he or she was released and that the surety wishes to be relieved of his or her obligation as surety.

(3) A person arrested under sub-section (2) who is not released on bail shall, without unreasonable delay, be produced before a Court and if it appears to the Court that any condition on or subject to which such person was released or otherwise admitted to bail has been or is likely to be broken, the court may -

- (a) remand such person in custody; or
- (b) admit such person to bail on the same conditions or on such other conditions as it thinks fit.

(4) Where a person who is arrested for an offence under this Act is serving a sentence of imprisonment or is in detention under any law relating to preventive detention, or is otherwise in lawful custody, he or she shall, upon an order in writing by an officer of the Commission be produced before such officer or before any other officer of the Commission for the purpose of investigation and for such purpose he or she may be kept in lawful custody for a period not exceeding fourteen days.

(5) A person who is detained in lawful custody under sub-section (4) under any other law may at any time, be made available to an officer of the Commission for the purpose of investigation, or may be taken to any other place for the purpose of searching the place, or seizing any property, or identifying any person or for any other purpose related to the investigation.

(6) The period during which a person is under lawful custody under sub-section (5) shall count towards the period of his or her imprisonment, detention or custody if he or she is subsequently convicted.

PART V – INVESTIGATIONS RELATING TO FINANCIAL DEALINGS AND PROPERTY

48. Investigation of share accounts, etc.

(1) Notwithstanding the provisions of any other law or rule of law, the Chairperson shall on obtaining a court order, for the purpose of an investigation into an offence under this Act or any other law prohibiting corruption, authorise an officer of the Commission to exercise, in relation to any bank or financial institution specified in the authorisation, all the powers of investigation set out in sub-section (2).

(2) An officer of the Commission authorised under sub-section (1) may, in relation to the bank or financial institution in respect of which he or she is so authorized -

- (a) inspect and take copies of any banker's book, bank accounts or any documents belonging to or in the possession, custody or control of the bank or financial institution including computer data, disks, diskettes, printouts and any other electronic medium by which information or data is stored;
- (b) inspect and take copies of any share accounts, purchase account, expenses accounts or any other accounts of any person kept in the bank;
- (c) inspect the contents of any safe deposit box in the bank; or
- (d) request for any other information related to any documents, accounts or articles referred to in paragraphs (a), (b) and (c).

(3) Notwithstanding the provision of sub-section (2), an officer of the Commission authorised under sub-section (1) may take possession of any books, documents, accounts, titles, securities or cash to which he or she has access where in his or her opinion-

- (a) the inspection, the copying or the taking of extracts from them, cannot reasonably be undertaken without taking possession of them;
- (b) they may be interfered with or destroyed unless he or she takes possession of them; or
- (c) they may be needed as evidence in any prosecution for an offence under this Act or any other law.

(4) A person who wilfully fails or refuses to disclose any information or produce any account, document or article referred to in sub-section (2) to any officer of the Commission authorised under sub-section (1) commits an offence and is liable on conviction to a fine of fifty thousand dalasis or to imprisonment not exceeding one year or both.

(5) A person who discloses any information or produces any account, document or article to an authorised officer of the Commission whether by himself or herself or through an agent shall not, on account of such disclosure or production, be liable to any prosecution.

49. Commission's power to obtain information

(1) Notwithstanding any law to the contrary, the Commission may if it has reasonable grounds to believe that an offence under this Act has been committed, by written notice-

- (a) require a person suspected of having committed such offence to furnish a statement in writing, on oath or affirmation and-
 - (i) identify every property, whether movable or immovable, whether within or outside The Gambia, belonging to him or her or in his or her possession, or in which he or she has any interest, and specifying the date on which each of the properties so identified was acquired and the manner in which it was acquired, whether by way of any dealing, bequest, devise, inheritance, or any other manner,
 - (ii) identify every property sent out of The Gambia, by him or her during such period as may be specified in the notice,
 - (iii) set out the estimated value and location of each of the properties identified under sub-paragraphs (i) and (ii), and if any of such properties cannot be located, the reason therefore,
 - (iv) state in respect of each of the properties identified under sub-paragraphs (i) and (ii) whether the property is held by him or her or by any other person on his or her behalf or whether it has diminished in value since its acquisition by him or her or and whether it has been commingled with other property which cannot be separated or divided without difficulty,
 - (v) set out all other information relating to his or her

properties, business, travel or other activities as may be specified in the notice, or

- (vi) set out all his or her sources of income, including earnings and gifts or other assets for such period;
- (b) require any relative or associate of the person referred to in sub-section (1) (a), or any other person whom the Chairperson has reasonable grounds to believe is able to assist in the investigation, to furnish a statement in writing on oath or affirmation and-
- (i) identify every property, whether movable or immovable, whether within or outside The Gambia, belonging to him or her or in his or her possession, or in which such person has any interest, whether legal or equitable, and specifying the date on which each of the properties identified was acquired and the manner in which it was acquired, whether by way of any dealing, bequest, devise, inheritance, or any other manner,
 - (ii) identify every property sent out of The Gambia, by him during such period as may be specified in the notice,
 - (iii) set out the estimated value and location of each of the properties identified under sub-paragraphs (i) and (ii) and if any of such properties cannot be located, the reason therefore,
 - (iv) state in respect of each of the properties identified under sub-paragraphs (i) and (ii) whether the property is held by him or her or by any other person on his or her behalf or whether it has been transferred, sold, or kept with any person or whether it has diminished in value since its acquisition by him or her or whether it has been commingled with other property which cannot be separated or divided without difficulty,
 - (v) set out all other information relating to each of the properties identified under sub-paragraphs (i) and (ii), and the business, travel or other activities of such person, or
 - (vi) set out all the sources of income, earnings, gifts or other assets for such period; and
- (c) require an officer of any bank or financial institution, or a person who is in any manner or to any extent responsible for

the management and control of the affairs of the bank or financial institution to furnish copies of any or all accounts, documents and records relating to any person to whom a notice may be issued under paragraphs (a) or (b).

(2) Where the Commission has reasonable grounds to believe that a public officer who has been served with the written notice referred to in sub-section (1) owns, possesses, controls or holds any interest in any property which is excessive, having regard to his or her present or past emoluments and all other relevant circumstances, the Commission may by written direction require him or her to furnish a statement on oath or affirmation explaining how he or she was able to own, possess, control or hold such excess.

(3) If the person referred to in sub-section (2) fails to explain satisfactorily such excess, he or she shall be presumed to have used his or her office to corruptly enrich or gratify himself or herself.

(4) Every person to whom a notice or direction is sent by the Commission under sub-section (2) shall disclose all information within his or her knowledge or which is capable of being obtained by him or her.

(5) Where a person discloses any information or produces any accounts, documents or records, in response to a notice under sub-section (1), such person, his or her agent or employee, or any other person acting on his or her behalf shall not, by reason only of such disclosure or production, be liable to prosecution for any offence or civil claim under or by virtue of any law, contract, agreement or arrangement, or otherwise.

(6) Sub-section (4) shall not prevent the institution of a prosecution for an offence provided by this section or for giving false evidence in relation to any statement on oath or affirmation furnished to the Commission pursuant to this section or as provided for in this Act.

50. Seizure of moveable property in bank

(1) Where the Commission is satisfied on information given by an officer of the Commission that -

(a) any
movable property, including any monetary instrument or any accretion thereto which is the subject-matter of any investigation under this Act; or

(b) evidence
in relation to the Commission of such offence is in the possession, custody or control of a bank or financial institution,

the Commission may, notwithstanding any other law to the contrary by order,

direct the bank or financial institution not to part with, deal in, or otherwise dispose of such property or any part thereof until the order is revoked or varied.

(2) A bank or an agent or employee of a bank shall not on account of such compliance, be liable to any prosecution or to any civil proceeding or claim by any person under or by virtue of any law, contract, agreement, or arrangement, or otherwise.

(3) A person who fails to comply with an order of the Commission under sub-section (1) commits an offence and is liable on conviction to a fine not more double the amount which was paid out in contravention of the Commission's order or fifty thousand dalasis, whichever is the higher, or to imprisonment for two years.

(4) The subject-matter of an offence under this Act or evidence of the commission of such offence shall be liable to seizure and the seizure shall be effected by –

(a) the issuance of a notice of seizure signed by the Chairperson or any other person authorised by him or her, setting out therein, the particulars of the immovable property which is to be seized in so far as such particulars are within his or her knowledge, and prohibiting all dealings in such immovable property;

(b) publishin g a copy of such notice in two newspapers of wide circulation in The Gambia; and

(c) serving a copy of such Notice on the officer of the Department of Lands of the Area in which the immovable property is situated.

(5) The officer responsible for land matter referred to in sub-section (4) (c) shall immediately upon being served with a notice of seizure under sub-section (1), endorse the terms of the notice of seizure on the document of title in respect of the immovable property in the register of lands.

51. Prohibition of dealing with property outside The Gambia

Where the Commission is satisfied that any property is the subject-matter of an offence under this Act or was used in the commission of the offence, and such property is held or deposited outside The Gambia, the Commission may make an application by way of an affidavit to a Judge of the High Court for an order prohibiting the person by whom the property is held or with whom it is deposited from dealing with the property.

52. Forfeiture of property upon prosecution for an offence

(1) In any prosecution for an offence under this Act, the court shall make an order for the forfeiture of any property which is proved to be the subject-matter of the offence or to have been used in the commission of the offence -

- (a) if the offence is proved against the accused; or
- (b) if the offence is not proved against the accused but the court is satisfied that -
 - (i) the accused is not the true and lawful owner of such property, and
 - (ii) no other person is entitled to the property as a purchaser in good faith for valuable consideration.

(2) Where the offence is proved against the accused or the property referred to in sub-section (1) has been disposed of, or cannot be traced, the court shall order the accused to pay as a penalty, a sum which is equivalent to the amount of the undue advantage or is, in the opinion of the court, the value of the undue advantage received by the accused, and any such penalty shall be recoverable as a fine.

53. Other grounds for forfeiture of property

(1) Where in respect of any property seized under this Act, there is no prosecution or conviction for an offence, the Commission may, before the expiration of twelve months from the date of the seizure, apply to the High Court for an order of forfeiture of that property if he or she is satisfied that such property had been obtained as a result of or in connection with an offence under this Act.

(2) The Judge to whom an application is made under subsection (1) shall cause a notice to be published in the gazette and in at least two newspapers of wide circulation in The Gambia, calling on any person who claims to have an interest in the property to attend before that court on a date specified in the notice, to show cause why the property should not be forfeited to the Government.

(3) Where the Judge to whom an application is made under sub-section (1) is satisfied that -

- (a) the
property is the subject-matter of or used in the commission of an offence under this Act; and

- (b) there is no purchaser in good faith for valuable consideration of the property,

he or she shall make an order for the forfeiture of the property.

- (4) A property in respect of which no application is made under sub-section (1) shall, after the expiration of twelve months from the date of its seizure, be released to the person from whom it was seized.

54. Dealing with property after seizure to be null and void

Where a property has been seized under this Act, and so long as such seizure remains in force, any dealing effected by any person or between any persons in respect of such property, except any dealing effected under this Act or by virtue of this Act by an officer of a public body in his or her capacity as such officer, or otherwise by or on behalf of the Government of The Gambia or other statutory authority, shall be null and void, and shall not be registered or otherwise given effect to by any person or authority.

55. Surrender of travel documents

- (1) Notwithstanding any law to the contrary, the Commission may where there are reasonable grounds to believe that a person who is the subject of investigation in respect of any offence under this Act is likely to leave The Gambia, by written notice require such person to surrender his or her passport or exit permit or any other travel documents in his or her possession.

- (2) A notice under sub-section (1) shall be served personally on the person to whom it is addressed.

56. Amendment or revocation of any order of notice

- (1) The Commission may at any time amend or revoke any order or notice which has been made or given by him or her in exercise of any power conferred on him or her under this Act.

- (2) Notwithstanding the revocation of any such notice or order, the Commission may issue any fresh orders or notices, against any person or thing affected by the earlier order or notice.

- (3) The revocation or amendment of an order or notice under sub-section (1) may contain consequential, ancillary or incidental matters relevant to such revocation or amendment.

PART VI – EVIDENCE

57. Presumption in certain offences, etc.

(1) Where in any proceedings against a person for an offence under section 11 of this Act, it is proved that any undue advantage -

- | | | |
|-----|--|------------|
| (a) | accepted or agreed to be accepted; | has been |
| (b) | or attempted to be obtained; | obtained |
| (c) | given or agreed to be solicited or given; or | solicited, |
| (d) | or offered, by or to the accused, | promised |

the undue advantage shall be presumed to have been corruptly accepted or agreed to be accepted, obtained or attempted to be obtained, solicited, given or agreed to be solicited or given, promised or offered as an inducement or a reward for or on account of the matters set out in the particulars of the offence, until the contrary is proved.

(2) Where in any proceedings against a person for an offence under this Act or any other law prohibiting corruption, it is proved that such person has accepted or agreed to accept, obtained or attempted to obtain any undue advantage, such person shall be presumed to have done so as a motive or reward for the matters set out in the particulars of the offence, until the contrary is proved.

(3) Where in any proceedings against a person for an offence under this Act or any other law prohibiting corruption, it is proved that such person has accepted or attempted to obtain any valuable thing without consideration or for a consideration which he or she knows to be inadequate, such person shall be presumed to have done so with such knowledge as to the circumstances set out in the particulars of the offence, until the contrary is proved.

58. Public evidence of corroboration

In any proceedings against a person for an offence under this Act, where it is proved that at or about the time of the alleged offence, or at any time thereafter, the accused or any relative or associate of his or hers -

- (a) held any property for which he or she, or his or her relative or associate, as the case may be, is unable to give a satisfactory account as to how it came into his or her ownership, possession, custody or control; or

- (b) had entered into any dealing for the acquisition of any property and he or she is unable to satisfactorily account for the consideration for which it was or is agreed to be acquired,

the evidence in relation thereto shall be presumed to corroborate any evidence relating to the commission of the offence.

59. Evidence of accomplice and agent provocateur

(1) Notwithstanding any law to the contrary, in any proceedings against a person for an offence under this Act, a witness shall not be regarded as an accomplice by reason only of such witness having-

- (a) accepted, received, obtained, solicited, agreed to accept or receive, or attempted to obtain any undue advantage from any person;
- (b) given, promised, offered or agreed to give any undue advantage; and
- (c) been in any manner concerned in the commission of such offence, or having knowledge of the commission of the offence,

if before the completion of the act or acts constituting the offence, knowledge of the witness participation has been reported to the Commission by the witness.

(2) Notwithstanding any law to the contrary, in any proceedings against a person for an offence under this Act -

- (a) an agent provocateur, whether or not he or she is an officer of the Commission, shall not be presumed to be unworthy of credit by reason only of his or her having attempted to commit, or abet or having abetted or engaged in a conspiracy to commit such offence, if the main purpose of such attempt, abetment or engagement was to secure evidence against such person; and
- (b) a statement whether oral or written, made to an agent provocateur by such person shall be admissible as evidence at his trial.

60. Admissibility of statements by accused persons

(1) In any trial or inquiry by a court into an offence under this Act, any statement, whether the statement amounts to a confession or not, made at

any time and by the accused person to or in the hearing of any officer of the Commission shall, notwithstanding any law to the contrary, be admissible in evidence at the trial, if the officer who procured such statement makes himself or herself available at the trial for the purpose of cross-examination.

(2) A statement made under sub-section (1) shall not be admissible or used as provided for in that sub-section if -

- (a) it was made under any inducement, threat or promise having reference to the charge against the person from a person in authority; and
- (b) it was sufficient to give that person grounds which would appear to him or her reasonable for supposing that by making it he or she would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him or her.

(3) Where a person is arrested or informed that he or she may be prosecuted for any offence under this Act, he or she shall be cautioned in accordance with the Criminal Procedure Code.

61. Admissibility of statements and documents of dead persons, etc

(1) Notwithstanding any law to the contrary, in any proceedings against a person for an offence under this Act-

- (a) any statement made by a person to an officer of the Commission or any other person in the course of an investigation under this Act or any other law prohibiting fraud, bribery; or
- (b) any document, or copy of any document or photographic or electronic evidence or thing seized from a person or obtained by an officer of the Commission or any other person in exercise of his or her powers under this Act or any other relevant law,

shall be admissible in evidence in any proceedings under this Act where the person who gave the thing, made the statement, document or the copy of such document is dead, or cannot be traced or found, or has become incapable of giving evidence, or whose attendance cannot be procured without unreasonable delay or expense.

(2) Without prejudice to sub-section (1) or the provisions of any other law, all photographic or electronic evidence however obtained, shall be admissible in evidence.

62. Presumption in favour of admissibility of certificate issued by Principal, etc.

(1) A certificate issued by a principal or an officer on behalf of his or her principal shall be admissible in evidence in any proceedings against a person for an offence under this Act as prima facie evidence that the person named in such certificate-

- (a) held the position, office or capacity specified in such certificate and for such period so specified; and
- (b) received the emoluments specified in such certificate.

(2) A certificate issued under sub-section (1) shall be prima facie evidence that it was issued by the person purporting to issue it as principal or on behalf of the principal without proof of the signature of the person who issued such certificate and without proof of the authority of such person to issue it in the absence of any reasonable proof to the contrary.

63. Admissibility of translation of Documents

(1) Where a document which is to be used in any proceedings against a person for an offence under this Act is in a language other than the English, a translation of such document into English shall be admissible where the translation is accompanied by a certificate of the person who translated the document setting out that it is a true and correct translation at the instance of the Chairperson or an officer of the Commission.

(2) Sub-section (1) shall apply to a document which is translated, regardless of whether-

- (a) the document was made;
- (b) the translation was done; or
- (c) possession of such document was obtained,

within or outside The Gambia.

PART VII - PROSECUTION AND TRIAL OF OFFENCES

64. Prosecution of offences

(1) Every prosecution for an offence under this Act or any other law prohibiting bribery, corruption and other related offences shall be done with the consent of the Attorney-General.

(2) Without prejudice to any other law prohibiting bribery, corruption, fraud

or any other related offence by public officers or other persons, a public officer or any other person may be prosecuted for an offence of bribery, corruption, fraud or any other related offence committed by such public officer or other person before or after the coming into effect of this Act and nothing in this Act shall be construed to derogate from or undermine the right or authority of any person or authority to prosecute offenders under any other laws.

65. Joinder of offences

Notwithstanding the provisions of any other law, where a person is accused of more than one offence under this Act, he or she may be tried at one trial for any number of such offences committed within any length of time.

66. Certification of Indemnity

(1) A person required to give evidence under this Act who, in the opinion of the court, makes a true and full disclosure of all things to which he or she is lawfully examined –

- (a) shall be entitled to receive a certificate of indemnity under the seal of the court stating that he or she has made a true and full disclosure of all things on which he or she was examined; and
- (b) such certificate shall be a bar to any legal proceedings against him or her in respect of any such things.

(2) An application by the Chairperson under sub-section (1) may be made by the officer conducting the prosecution.

67. Protection of whistle-blowers and information

(1) Subject to sub-section (2), where any complaint made by an officer of the Commission states that the complaint is made in consequence of information received by the officer making the complaint, the information referred to in the complaint and the identity of the person from whom such information is received information, all other circumstances relating to the information, including the place where it was given, shall only be disclosed to the trial Judge and the defence lawyer in attendance in any proceedings.

(2) If any book, paper or other document, or material which is given in evidence or liable to inspection in any proceedings in any court, or other authority as are referred to in sub-section (1), contains an entry in which any person who gave the information is named or described or shown, or which might reveal his or her identity, the court before which the proceedings are held shall cause all such parts thereof or passages therein to be concealed from view or to be obliterated or otherwise removed so far as is necessary to protect such person from discovery.

(3) A person who gives the information referred to in sub-section (1) knowing the information to be false commits an offence and is liable on conviction to a fine of not less than one hundred thousand dalasis and not more than three hundred thousand dalasis or imprisonment for not less than one year and not more than three years or to both.

(4) Sub-sections (1) and (2) shall not apply to any investigation or prosecution for an offence arising from any breach of the provisions of sub-section (3).

68. Protection of witnesses, experts and victims

The Commission shall-

- (a) ensure the effective protection from potential retaliation or intimidation for witnesses, experts and victims who give testimony concerning offences relating to Corruption and, as appropriate, for their relatives and other person close to them; and
- (b) make provision for evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.

PART III – FINANCIAL PROVISIONS

69. Funds of the Commission

(1) The Commission shall establish and maintain a Fund from which shall be defrayed all expenditure incurred by the Commission in the execution of its functions under this Act.

(2) There shall be paid and credited to the Fund established pursuant to sub-section (1) -

- (a) such moneys as may be appropriated to it by the National Assembly; and
- (b) grants and donations, provided that the terms and conditions attached to them are not inconsistent with its functions.

70. Expenditure of the Commission

(1) The Commission may apply its funds –

(c) to the cost of administration of the Commission;

(d) to payment of emoluments, allowances and benefits to members and other staff of the Commission;

(e) for and in connection with any of its functions under this Act; and

(f) for the development and maintenance of any property vested in or owned by the Commission.

71. Estimates, accounts, and audit

(1) The Commission shall not later than three months before the end of each financial year, prepare and submit to the National Assembly for approval, estimates of the income and expenditure of the Commission for the ensuing year.

(2) The Commission shall keep proper records and books of accounts of its income, expenditure and transfers.

(3) The Commission shall, within three months after the end of each financial year, submit its statement of accounts to the Auditor-General for audit.

(4) The audited accounts of the Commission and the Auditor-General's report on those accounts shall form part of the Auditor-General's overall annual report to the National Assembly.

72. Annual reports of the Commission

(1) The Commission shall not later than three months after the end of each year submit to the President, a report of its activities in the previous year and publish it in the Gazette.

(2) The Commission shall submit the report under sub-section (1) before the National Assembly.

(3) The report under sub-section (1) shall include-

- (a) the number and a summary of investigations carried out in the year;
- (b) the investigations which the Commission has decided to discontinue;
- (c) investigations which have lasted more than two months;
- (d) the number and status of cases pending in the courts;
- (e) key prevention measures instituted or implemented during the year;
- (f) key education and community relations activities undertaken during the year;
- (g) the report of the audit conducted under this Act; and
- (h) any other relevant information on the activities of the Commission.

PART IX – STAFF OF THE COMMISSION

73. Appointment of the Executive Secretary

(1) There is established for the Commission, a Secretariat which shall be headed by an Executive Secretary.

(2) The Executive Secretary shall be recommended by the Commission after a competitive selection process and appointed by the President after consultation with the Public Service Commission.

(3) The Executive Secretary shall be -

- (a) the head of the Secretariat of the Commission;
- (b) responsible for the keeping of the books and records of the

Commission; and

- (c) subject to the supervision and control of the Commission.

74. Removal from office of the Executive Secretary

- (1) The President may remove the Executive Secretary from office for –

(a) inability to perform the functions of his or her office arising out of physical or mental incapacity; or

(b) gross misconduct or incompetence.

(2) Before the Executive Secretary is removed from office, he or she shall be informed of the case against him or her and be given adequate opportunity to defend himself or herself against any allegations made against him or her.

(3) The Commission shall appoint a Deputy Executive Secretary on such terms and conditions as shall be determined by the Commission.

(4) The Deputy Executive Secretary shall assist the Executive Secretary in the performance of the Executive Secretary's functions.

75. Appointment of the officers and staff of the Commission

(1) The Commission shall appoint such number of officers and other staff as may be necessary for the purpose of carrying into effect the provisions of this Act.

(2) An officer appointed under sub-section (1) shall be subject to the direction, control and supervision of the Commission.

76. Powers and immunities of officers of the Commission

(1) When investigating a case under this Act, an officer of the Commission shall have all the powers and immunities of a police officer under any law which empowers and protects law enforcement agents.

(2) If in the course of any investigation or proceedings in court in respect of the commission of an offence under this Act, an offence under any other written law is disclosed, irrespective of whether the offence was committed by the same person or any other person, the officer of the Commission responsible for the investigation or the proceedings, as the case may be, shall notify the Attorney General, who may issue such direction as shall meet the justice of the case.

77. Protection of officers of the Commission

Legal proceedings shall not be instituted against any officer of the Commission or any other person assisting such officer for any act or omission, which is done or omitted to be done in the lawful execution of his or her duties.

78. Secondment of staff to the Commission

(1) The Commission may appoint persons on secondment from the public service to assist the Commission in the discharge of its functions under this Act.

(2) A person seconded under sub-section (1) may elect to have his or her service to be transferred to the Commission permanently and any previous service he or she may have rendered in the public service shall count as service to the Commission for the purpose of any pension subsequently payable by the Commission.

79. Pension

(1) For the purposes of the Pensions Act, service in the Commission shall be approved service and employees of the Commission shall be entitled to the pension, gratuities and other retirement benefits prescribed under the Pensions Act.

(2) Notwithstanding the provisions of sub-section (1), nothing in this Act shall prevent the appointment of a person on terms which preclude the grant of a pension, gratuity or other retirement benefits in respect of his or her office.

PART X – MISCELLANEOUS

80. Protection of officers of the Commission

Legal proceedings shall not be instituted against an officer of the Commission or any other person assisting such officer for any act which is done in good faith or for any omission in good faith by such officer or other person.

81. Engagement of services of International Institutions

The Commission may engage the service of INTERPOL or such local or international institution, possessing special knowledge or skill on the tracing of properties or detection of cross border crimes.

82. Application of the provisions of this Act

Notwithstanding any other law to the contrary, the provisions of this Act shall

apply to a prescribed offence regardless of whether the prosecution or any other proceedings in respect of such offence are instituted or taken by an officer of the Commission, or a police officer or any other officer having powers to investigate, prosecute or take any proceedings in respect of such offence.

83. General penalty for other offences

A person convicted for an offence under this Act for which no penalty is specifically provided is liable to a fine of fifty thousand dalasis or to imprisonment not exceeding six months or both.

84. Powers of Police Officers

Nothing contained in this Act shall derogate from the powers of a police officer to investigate an offence under this Act or to prosecute a person in respect of any such offence provided that the Police shall bring to the attention of the Commission every case of bribery, corruption or fraud being investigated or prosecuted by them after the coming into force of this Act.

85. Commission's power to make rules

The Commission may make rules for giving effect to the provisions of this Act and without prejudice to the generality of this provision, may make rules -

- (a) providing for the form of any notice, order, declaration or any other matter under this Act; and
- (b) for the service or delivery of any notice, order, direction, instruction, or other thing to be done under this Act.

86. Right of appeal

A person convicted of an offence under this Act or any other law prohibiting bribery or corruption is entitled to all such rights of appeal as conferred by the Constitution or any other law.

87. Duty of Confidentiality and oath of secrecy

- (1) A member of the Commission, the Executive Secretary and other staff of the Commission shall maintain confidentiality and secrecy of any complaint, document, report and other information that becomes known to him or her or comes to his or her possession or his or her control in exercise of his or her duties under this Act.
- (2) A member of the Commission and the Executive Secretary shall take an Oath of secrecy and due execution of Office.

88. Repeal and Savings

(1) The Gambia Anti-Corruption Commission Act, 2012 is repealed.

(2) Notwithstanding the repeal –

- (a) any action and process started under the repealed Act, in so far as it is not inconsistent with this Act, shall remain in operation until revoked;
- (b) any proceedings commenced under the repealed law shall be deemed to be validly commenced;
- (c) the purchases and acquisitions made under the repealed Act are considered to have been made under this Act; and
- (d) all appointments and employment made under the repealed Act shall remain valid as if they were made or duly done under this Act.