

ACT

THE ANTI-CORRUPTION ACT, 2008

ARRANGEMENT OF SECTIONS

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- (a) any gift, loan, fee, reward, discount, premium or commission, consisting of money or of any valuable security or of other property or interest in property of any description, or other advantage other than lawful remuneration;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether wholly or partly;
- (d) any payment of inadequate consideration for goods or services;
- (e) any exercise or forbearance from the exercise of any right or any power or duty;
- (f) any other benefit, service or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted; and
- (g) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of paragraphs (a), (b), (c), (d), (e) and (f);

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

- (a) a person who is a nominee or an employee of that person;
- (b) a person who manages the affairs of that person;
- (c) a firm of which that person, or his nominee is a partner or a person in charge or in control of its business or affairs;
- (d) a company in which that person or his nominee, is a director or is in charge or in control of its business or affairs, or in which that person, alone or together with his nominee, holds a controlling interest, or

shares amounting to more than thirty percent of the total share capital; or

- (e) the trustee of a trust, where-
 - (i) the trust has been created by that person; or
 - (ii) the total value of the assets contributed by that person to the trust at any time, whether before or after the creation of the trust, amounts, at any time, to not less than twenty percent of the total value of the assets of the trust;

"Commission" means the Anti-Corruption Commission established under section 2;

"Commissioner" means the Anti-Corruption Commissioner appointed under section 3;

"Constitution" means the Constitution of Sierra Leone, 1991;

"Court" means the High Court;

Act No. 6 of 1991

"corruption" means an act which constitutes an offence under Part IV of this Act and includes-

- (a) any conduct whereby in return for an advantage, a person performs or abstains from performing` any act in his capacity as a public officer;
- (b) the offer, promise, soliciting or receipt of an advantage as an inducement or reward to a person to expedite, delay, hinder or prevent the performance of an act by himself or by any other public officer in his capacity as a public officer;
- (c) the abuse of a public office for personal or private gain;
- (d) the corrupt acquisition of wealth;
- (e) the possession and control of unexplained wealth;
- (f) the misappropriation of public funds or property;

- (g) the misappropriation of donor funds or property;
and
- (h) any offence involving dishonesty in connection with any tax, rate, charge or levy imposed under any enactment; or

“corrupt practices” includes-

- (a) any practice or conduct by any person that adversely affects or could adversely affect, either directly or indirectly, the honest and impartial exercise of official functions by any public officer or any public body; or
- (b) any practice or conduct of a public officer that constitutes or involves the dishonest or partial exercise of any of his official functions; or
- (c) any practice or conduct of a public officer or former public officer that constitutes or involves a breach of public trust; or
- (d) any practice or conduct of a public officer or former public officer that involves a misuse of information or material that he has acquired in the course of his official functions whether for his benefit or for the benefit of any other person

“Deputy Commissioner” means the Deputy Commissioner appointed under section 3;

"document" includes a tape or video recording, disc or any form of computer input or output and any other material, whether produced mechanically, electronically, manually or otherwise;

“economic crime” means-

- (a) an offence under section 48; or
- (b) an offence involving dishonesty under any enactment providing for the maintenance or protection of the public revenue;

“entertainment” means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as such provisions;

Act No. 6
of 2005.

“financial institution” includes any person whose regular occupation or business is the carrying out of any activity listed in Part I of the First Schedule to the Anti-Money Laundering Act, 2005 and includes activities of the non-financial businesses and the professions listed in Part II of that Schedule;

“Government company” means a body corporate in which the Government -

- (i) directly or indirectly or through any other corporate body, owns or controls not less than twenty five percent of the entire share capital; or
- (ii) by reason of its financial input through loans, debentures or otherwise, or by reason of the presence of its representatives on the Board of Directors or other governing body, is in a position to influence its policy or decisions;

Act No. 1
of 2004

“local council” means a local council established under the Local Government Act, 2004;

"official income" means salaries, wages, allowances, pensions, gratuities and other moneys paid to a public officer by virtue of his appointment as a public officer;

"public body" includes—

- (a) Cabinet, any ministry, department or agency of Government;
- (b) Parliament;
- (c) the Judiciary;
- (d) the Armed Forces;

- (e) the Police Force;
- (f) the Prisons' Service;
- (g) a local council;
- (h) the Freetown City Council and any other city council;
- (i) a Government company;
- (j) a company or other body or organization established by an Act of Parliament or out of moneys provided by Parliament or otherwise set up partly or wholly out of public funds;
- (k) any commission, committee or other body of persons, whether paid or unpaid, appointed by or on behalf of the Government or local council or by a public corporation or company in which the Government owns or controls not less than twenty five percent of the entire share capital;
- (l) any commission or committee established by or under the Constitution or by or under any law or by the Government;
- (m) any educational or similar institution financed wholly or partly from public funds; and
- (n) any organisation, whether local or foreign, established to render any voluntary social service to the public or any section thereof or for other charitable purposes, which receives funds or other donation for the benefit of the people of Sierra Leone or a section thereof;

"public corporation" means a corporation established by an Act of Parliament or out of moneys wholly or partly provided by Parliament and includes a company which is wholly owned by the Government or in which the Government owns or controls not less than twenty five percent of the entire share capital;

“public funds” includes-

- (a) moneys paid from funds appropriated by Parliament from the Consolidated Fund;
- (b) any fund under subsection (2) of section 111 of the Constitution;
- (c) any moneys, loan, grant or donation for the benefit of the people of Sierra Leone or a section thereof;

"public officer" means an officer or member of a public body including a person holding or acting in an office in any of the three branches of government, whether appointed or elected, permanent or temporary, or paid or unpaid.

"public property" includes property belonging to Government, or to the people of Sierra Leone or a section thereof, or to a local authority, or to a Government Company, any commission or committee established by or under the Constitution or by or under any law, whether in Sierra Leone or elsewhere;

"public revenue" includes, taxes, duties, fines, royalties, rents, fees, levies and charges payable to a public body;

"relative" in relation to a person, includes-

- (a) a spouse, concubine, conjugal partner or paramour of that person;
- (b) a brother or sister of that person;
- (c) a brother or sister of a spouse, concubine, conjugal partner, or paramour of that person; or
- (d) any lineal ascendant or descendant of that person;

"trustee" includes-

- (a) an executor, administrator, tutor or curator;
- (b) a liquidator or judicial manager;
- (c) a person having or taking on the administration or control of property subject to a trust;

- (d) a person acting in a fiduciary capacity; and
- (e) a person having the possession, control or management of the property of a person under a legal disability;

“unexplained wealth” includes assets of a person-

- (a) acquired at or around the time the person is alleged to have committed an act of corruption or economic crime; and
- (b) whose value is disproportionate to his lawful sources of income at or around that time and for which there is no reasonable or satisfactory explanation.

(2) For the purposes of this Act-

- (a) a person offers an advantage if he, or any other person acting on his behalf, directly or indirectly gives, affords or holds out, or agrees, undertakes or promises to give, afford or hold out, any advantage to or for the benefit of or in trust for any other person;
- (b) a person solicits an advantage if he, or any other person acting on his behalf, directly or indirectly demands, invites, asks for or indicates willingness to receive, any advantage, whether for himself or for any other person; and
- (c) a person accepts an advantage if he, or any other person acting on his behalf, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any advantage, whether for himself or for any other person.

PART II - ESTABLISHMENT OF COMMISSION

Establishment

2. (1) There shall continue to be a body to

of Commission.

be known as the Anti-Corruption Commission hereinafter referred to as “the Commission”.

(2) The Commission shall be a body corporate having perpetual succession and shall be capable of-

- (a) acquiring, holding and disposing of movable and immovable property;
- (b) suing and being sued in its corporate name; and
- (c) performing all such acts as bodies corporate may by law perform.

(3) The Commission shall have a seal, the use of which shall be authenticated by the signature of-

- (a) the Commissioner; or
- (b) the Deputy Commissioner and any other officer of the Commission authorized either generally or specifically by the Commission, in that behalf.

Commissioner and Deputy Commissioner.

3. (1) The Commission shall have-

- (a) a Commissioner who shall be the head of the Commission; and
- (b) a Deputy Commissioner,

both of whom, shall be appointed by the President, subject to the approval of Parliament.

(2) The Commissioner shall be a legal practitioner having not less than ten years’ practice in his profession with proven managerial experience and of conspicuous probity.

(3) The Deputy Commissioner shall have proven knowledge, ability and experience of at least ten years in accounting, banking, financial services or any other relevant profession, and shall be a person of conspicuous probity.

Tenure of Commissioner

4. (1) The Commissioner and Deputy Commissioner shall each hold office for a term of five years and

**and Deputy
Commissioner.**

shall be eligible for re-appointment for another term of five years only.

(2) The Commissioner or Deputy Commissioner may resign his office by written notice addressed to the President.

(3) A resignation is effective upon being received by the President or by a person authorized by the President to receive it.

(4) The Commissioner or Deputy Commissioner, may be removed from office only for inability to perform the functions of his office, whether arising from infirmity of body or mind or for stated misconduct.

(5) If it is represented to the President that the question of removing the Commissioner or Deputy Commissioner under subsection (4) ought to be investigated then the President shall appoint a tribunal which shall consist of a chairman and two other members all of whom shall be persons qualified to hold or have held office as Justices of the Court of Appeal;

(6) The Tribunal shall enquire into the matter in accordance with such procedures as it may determine and shall, not later than three months after its appointment, report on the facts thereof and the findings thereon to the President and recommend to him whether the Commissioner or Deputy Commissioner, as the case may be, ought to be removed from office.

(7) While the question of removing the Commissioner or Deputy Commissioner from office is pending before a tribunal under subsection (5), the President may suspend the Commissioner or Deputy Commissioner, as the case may be, from performing the functions of his office, and the suspension shall in any case cease to have effect if the tribunal recommends to the President that the Commissioner or Deputy Commissioner ought not to be removed from office.

(8) The Commissioner or Deputy Commissioner shall be removed from office by the President-

- (a) if the question of his removal from office has been referred to a tribunal in accordance with subsection (5) and the tribunal has recommended to the President that the Commissioner or Deputy Commissioner ought to be removed from office; and

- (b) if his removal has been approved by a two-thirds majority in Parliament.

Functions of Commissioner.

5. (1) The Commissioner, as head of the Commission is responsible for-

- (a) the effective performance of the duties and the proper exercise of the powers of the Commission set out in this Act;
- (b) the management of the Commission and the conduct of the staff of the Commission; and
- (c) the coordination of the implementation of the national anti-corruption strategy,

and may in relation thereto, make standing orders, not inconsistent with this Act.

(2) Subject to section 19, the Commissioner shall account to the people of Sierra Leone for the conduct of the national campaign against corruption.

(3) In the absence of the Commissioner, the Deputy Commissioner shall have power to perform all the functions of the Commissioner and in the absence of the Commissioner and the Deputy Commissioner, a director generally or specifically authorized by the Commissioner, shall perform the functions of the Commissioner.

Remuneration of Commissioner and Deputy Commissioner.

6. The Commissioner and Deputy Commissioner shall be entitled to such salary, allowances, gratuity, pension, privileges and other terms and conditions of office as may be determined by the President subject to the approval of Parliament, provided that such terms shall not be varied to their disadvantage.

Functions of Commission.

7. (1) The objects for which the Commission is established are-

- (a) to take all steps as may be necessary for the prevention, eradication or suppression of corruption and corrupt practices;
- (b) to investigate instances of alleged or suspected corruption referred to it by any person or authority or which has come to its attention, whether by complaint or otherwise;

- (c) to investigate any matter that, in the opinion of the Commission, raises suspicion that any of the following has occurred or is about to occur-
 - (i) conduct constituting corruption or an economic or related offence;
 - (ii) conduct liable to allow, encourage or cause conduct constituting corruption or an economic or related offence; and
- (d) to prosecute all offences committed under this Act.

(2) Without prejudice to the generality of subsection (1), it shall be the function of the Commission-

- (a) to receive and investigate complaints regarding alleged contraventions of this Act;
- (b) to detect or investigate any act of corruption;
- (c) to investigate the conduct of any person which, in the opinion of the Commission is conducive to or connected with, corruption;
- (d) to receive, examine and retain all declarations of assets filed with it under this Act;
- (e) to make such enquiries as it considers necessary in order to verify or determine the accuracy of the declarations of assets filed under this Act;
- (f) to examine the practices of public bodies in order to facilitate the discovery of corrupt practices or acts of corruption and to secure revision of those practices and procedures which in the opinion of the Commission, may lead to or be conducive to corruption or corrupt practices;

- (g) to advise and assist any person, authority, public body or private sector institution on changes in practices or procedures compatible with the effective discharge of the duties of such persons, authorities, public bodies or private sector institutions that the Commission thinks necessary to reduce the likelihood of the occurrence of corrupt practices;
- (h) to issue instructions to public bodies of changes in practices or procedures which are necessary to reduce or eliminate the occurrence of corrupt practices;
- (i) to undertake studies and assist in research projects in order to identify the causes of corruption and its consequences on, *inter alia*, the social and economic structures of Sierra Leone;
- (j) to monitor, in such manner as it considers appropriate, the implementation of any contract awarded by a public body, with a view to ensuring that no irregularity or impropriety is involved therein;
- (k) to draft model codes of conduct and advise public bodies as to the adoption of such code of conduct as may be suited to such bodies;
- (l) to monitor current legislative and administrative practices in the fight against corruption and to advise Government on the adoption and ratification of international instruments relating to corruption;
- (m) to advise Government on such legislative reform as it considers necessary to foster the elimination of acts of corruption;
- (n) to determine the extent of financial loss and such other losses to public bodies, private individuals and organizations as a result of corruption;

- (o) to educate the public on the dangers of corruption and the benefits of its eradication and to enlist and foster public support in combating corruption;
- (p) to co-operate and collaborate with foreign Governments, local, regional and international institutions, agencies and organizations in the fight against corruption particularly in relation to development and humanitarian aid and co-operation programmes;
- (q) to investigate the extent of liability for the loss of or damage to any public property and-
 - (i) to institute civil proceedings against any person for the recovery of such property or for compensation; and
 - (ii) to recover such property or enforce an order for compensation even if the property is outside Sierra Leone or the assets that could be used to satisfy the order are outside Sierra Leone; and
- (r) to carry out any other function conferred on it by or under this Act or any other enactment.

Public bodies to comply with instructions of Commission.

8. (1) A public body shall, not later than three months of receipt of instructions from the Commission pursuant to paragraph (h) of subsection (2) of section 7 effect the necessary changes in practices and procedures.

(2) Where a public body considers that the changes in practices and procedures as contained in the instructions would be impracticable or otherwise disadvantageous to the effective discharge of its duties, the public body shall make representations to the Commissioner in writing, within seven days of receipt of the instructions.

(3) Upon considering the representations of the public body concerned, the Commission may confirm, vary or cancel the

instruction, as it may think appropriate and the Commission's decision shall be final.

(4) The head of a public body which fails to comply with the instructions of the Commission or variation thereof commits an offence and shall be liable on conviction to a fine not less than five million leones.

(5) In addition to the penalty prescribed in subsection (4), the head of the public body shall be subject to disciplinary measures including dismissal or removal from office by the appropriate authority notwithstanding the provisions of his letter of appointment or any enactment to the contrary.

(6) The Commission shall inform the appropriate appointing authority of the failure of a public authority to comply with instructions issued pursuant to paragraph (h) of subsection (2) of section 7.

Independence of the Commission.

9. (1) The Commission shall act independently, impartially, fairly and in the public interest.

(2) Subject to this Act, the Commission shall not, in the performance of its functions, be subject to the direction or control of any person or authority.

Co-operation with other bodies.

10. (1) The Commission may in the performance of its functions work in co-operation with any other persons or bodies as it may think appropriate and it shall be the duty of any such person or bodies to cooperate with the Commission.

(2) Without prejudice to the generality of subsection (1), such persons or bodies include the Auditor-General, the Accountant-General, the Commissioner-General of the National Revenue Authority, the National Security Adviser, the Inspector-General of Police, the Chief Executive Officer of the National Public Procurement Authority and, financial institutions.

Departments of the

11. The Commission shall have such departments as the Commissioner may from time to time determine.

Commission.

Directors and other staff of the Commission.

12. (1) Every department shall be headed by a Director who shall be appointed by the Commissioner with the approval of the Advisory Board on Corruption.

(2) The Commission may employ such other staff as the Commission may consider necessary for the efficient performance of its functions and shall have disciplinary powers in respect of its staff.

(3) Public officers may be seconded or otherwise render assistance to the Commission.

(4) The Directors and other staff of the Commission shall be employed on such terms and conditions as the Commission shall, after consultation with the Minister responsible for finance determine.

Disclosure of assets and liabilities.

13. The Commissioner, Deputy Commissioner and every officer of the Commission shall-

- (a) not later than thirty days after the date of his appointment;
- (b) not later than 31st December in every year until the expiration or termination of his appointment; and
- (c) upon the determination of his appointment,

deposit with the Commission a sworn declaration of his assets and liabilities in such form as the Commission may prescribe.

Confidentiality.

14. (1) The Commissioner, Deputy Commissioner and every officer shall maintain confidentiality and secrecy of any matter, document, report and other information relating to the administration of this Act that becomes known to him, or comes in his possession or under his control.

(2) Except in accordance with this Act, or as otherwise authorised by law, neither the Commissioner, Deputy Commissioner nor any officer of the Commission shall-

- (a) divulge any information obtained in the exercise of a power, or in the performance of a duty under this Act;

(b) divulge the source of such information or the identity of any informer or the maker, writer or issuer of a report given to the Commission.

(3) Notwithstanding subsections (1) and (2), the Commissioner may disclose, for the purposes of publication in the media, such information as he considers necessary in the public interest.

(4) For the purposes of an investigation under this act in respect of an offence committed in Sierra Leone, the Commissioner may, impart to an agency in Sierra Leone or elsewhere, such information, other than the source of the information, as may appear to him to be necessary to assist an investigation into any offence.

(5) Any person who, without lawful excuse, fails to comply with this section is guilty of an offence and shall, on conviction, be liable to a fine not less than five million leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.

(6) The Commissioner, Deputy Commissioner and every officer shall take such oath as may be prescribed by the Commission.

Use of independent professionals and experts.

15. The Commission may, where it considers it expedient to do so, hire or retain the services of such professionals, consultants, experts, independent investigators and informers as may be necessary for the proper and effective performance of its functions.

Expenses of Commission charged on Consolidated Fund.

16. The administrative expenses of the Commission, including the salaries, allowances, gratuities and pensions of the Commissioner, Deputy Commissioner and staff of the Commission shall be a charge on the Consolidated Fund.

Funds of the Commission.

17. (1) The Commission shall establish a General Fund comprising-

- (a) monies appropriated for the purpose of the Commission; and
- (b) subject to subsection (2), grants, gifts, donations or bequests made to and accepted by the Commission; and

(c) funds derived from or accruing to it from any other source.

(2) No gift, grant, donation or bequest shall be accepted by the Commission if it is made on condition that the Commission performs any function or discharges any duty or obligation other than a function, duty or obligation aimed at achieving its objects, or on any condition determined solely by the donor.

(3) All gifts, grants, donation or bequest received under subsection (2) shall be credited to the General Fund.

**Estimates,
accounts, and
audit of funds.**

18. (1) Parliament shall, on the basis of annual estimates of expenditure submitted to it by the Commission, provide the Commission with the funds needed for its operations.

(2) The Commission shall keep proper books of account and proper record in relation to the funds of the Commission and the books of account and records shall be in such form as the Auditor-General shall approve.

(3) The books of account of the Commission shall be audited by the Auditor-General or by an auditor appointed by him.

(4) The audit shall be completed within two months after the end of each financial year of the Commission which shall be the same as the financial year of the Government.

**Annual Reports
of Commission.**

19. (1) The Commission shall, not later than three months after the end of any year, submit to the President a report of its activities in that year.

(2) The Commission shall cause the report submitted under subsection (1) to be tabled before Parliament.

(3) A report under subsection (1) shall include -

(a) the number and a detailed account of investigations carried out in the year;

(b) the investigations which the Commission has decided to discontinue;

(c) investigations which have lasted more than six months;

- (d) the number and status of matters 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; and
- (g) the report of the audit conducted under subsection (3) of section 18.

Protection from liability.

20. No action, suit or other legal proceeding shall lie against the Commissioner, Deputy Commissioner or any officer of the Commission in respect of any decision taken or any act done or omitted to be done in good faith in the performance of any function under this Act.

Proceedings of Commission.

21. The Commission shall regulate its own proceedings.

PART III - ADVISORY BOARD AND OTHER COMMITTEES

Advisory Board on Corruption.

22. (1) The President shall appoint, with the approval of Parliament, an Advisory Board on Corruption consisting of seven members.

(2) The members of the Advisory Board on Corruption shall be appointed from among persons representing civil society, professional bodies, religious organizations, educational institutions, chieftaincy institutions and the media, having relevant experience and of conspicuous probity.

(3) The members of the Advisory Board on Corruption shall elect a chairman from among themselves.

(4) The Advisory Board on Corruption shall in addition to any other function-

- (a) advise the Commission on any aspect of the mandate and functions of the Commission; and
- (b) annually assess the work of the Commission and advise the Commission on it.

(5) Members of the Advisory Board on Corruption shall be appointed for a term of five years and shall be eligible for re-appointment for another term only.

(6) A member of the Advisory Board on Corruption may resign his office by written notice to the President.

Other committees.

23. (1) The Commission shall from time to time appoint such other committees as may be required to assist the Commission in the performance of its functions.

(2) A Committee appointed under subsection (1) shall have such members and such functions as the Commission shall determine in standing orders made under section 5, so, however, that each committee shall have a majority of members who are neither members nor staff of the Commission.

Allowances.

24. A member of any committee appointed under this Part shall be paid such remuneration or allowance as the Commissioner shall, after consultation with the Minister responsible for finance, determine.

Proceedings Of Board and Committees.

25. The Advisory Board on Corruption and any other Committee established by the Commission shall regulate its own proceedings.

PART IV - OFFENCES

Corrupt Acquisition of wealth

26. (1) A public officer commits an offence of corrupt acquisition of wealth if it is found, that he is in control or possession of any resources or property or in receipt of the benefit of any advantage which he may reasonably be suspected of having acquired or received corruptly or in circumstances which amount to an offence under this Act.

(2) Where during a trial of an offence under subsection (1), the Court is satisfied that there is reason to believe that any person is holding pecuniary resources or property in trust or otherwise on behalf of the accused person or acquired such resources or property as a gift from the accused, such resources or property shall, until the contrary is proved, be presumed to have been in the control of the accused.

(3) A person guilty of an offence under subsection (1) shall be liable on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

(4) In addition to any punishment prescribed by subsection (3), the Court shall, for an offence under subsection (1), order that twice the amount or value of the resources or property acquired or the advantage received by the person convicted be paid by him into the Consolidated Fund.

(5) Where, after making the orders prescribed in subsection (4), there is still some amount outstanding, the Court shall make a further order that any person holding any moneys on behalf of such person or gratuities, awards, pensions or similar entitlements due to such person, shall pay such moneys or entitlements to the Accountant General.

(6) Where, after applying subsections (4) and (5) there is still some outstanding amount to be paid by the person convicted, that amount shall be regarded as a debt due to the Government and the Commissioner may at any time bring a civil action in the Court or Magistrates' Court, as the case may be, to recover the amount concerned.

Possession of unexplained wealth.

27. (1) Any person who, being or having been a public officer-

- (a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or
- (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments,

unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control, commits an offence.

(2) Where the court is satisfied in proceedings for an offence under paragraph (b) of subsection (1) that, having regard to the closeness of his 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.

(3) A person guilty of an offence under subsection (1) shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

(4) In addition to any penalty imposed under subsection (3), the court may order a person convicted of an offence under paragraph (b) of subsection (1) to pay into the Consolidated Fund -

- (a) a sum not exceeding the amount of the pecuniary resources; or
- (b) a sum not exceeding the value of the property,

the acquisition by him of which was not explained to the satisfaction of the Court.

(5) An order under subsection (4) may be enforced in the same manner as a judgment of the High Court in its civil jurisdiction.

(6) In this section, "official emoluments" includes a pension or gratuity payable under the National Social Security and Insurance Trust Act, 2001.

Act No. 5
of 2001

**Offering,
soliciting or
accepting
advantage.**

28. (1) A person who, whether in Sierra Leone or elsewhere, without lawful authority or reasonable excuse, gives, agrees to give or offers an advantage to a public officer as an inducement to or reward for or otherwise on account of such public officer-

- (a) performing or abstaining from performing or having performed or abstained from performing any act in his capacity as a public officer;
- (b) expediting, delaying, hindering or preventing or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public officer in his capacity as a public officer; or

- (c) assisting, favouring, hindering or delaying or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body, commits an offence.

(2) Any public officer who solicits, accepts, or obtains or agrees to accept or attempts to obtain for himself without lawful consideration or for a consideration which he knows or has reason to believe to be inadequate, any advantage as an inducement to or reward for or otherwise on account of his-

- (a) performing or abstaining from performing or having performed or abstained from performing any act in his capacity as a public officer;
- (b) expediting, delaying, hindering or preventing or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public officer in his capacity as a public officer; or
- (c) assisting, favouring, hindering or delaying or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

commits an offence..

(3) A person guilty of an offence under subsection (1) or (2) shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

(4) Notwithstanding section 94, where in any proceedings under subsection (1), it is proved that the accused person gave, agreed to give or offered an advantage, it shall be presumed until the contrary is proved that the accused gave, agreed to give or offered the advantage for any of the purposes set out in subsection (1).

(4) Notwithstanding section 94, where in any proceedings under subsection (2), it is proved that the public officer

solicited, accepted or obtained an advantage, it shall be presumed until the contrary is proved that the advantage was solicited, accepted or obtained for any of the purposes set out in subsections (2).

**Using influence
for contracts.**

29. (1) Any person who, whether in Sierra Leone or elsewhere, gives or agrees to give or offers an advantage to a public officer as an inducement or reward for or on account of such public officer giving assistance or using influence whether real or fictitious, or having given assistance or used influence, whether real or fictitious in-

- (a) the promotion, execution, or procurement any contract or subcontract with a public body for the provision of any service, the doing of anything or the supplying of any article, material or substance;
- (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in any contract or subcontract referred to in paragraph (a); or
- (c) obtaining for that person or for any other person, an advantage under any contract or sub-contract referred to in paragraph (a),

commits an offence.

(2) Any public officer who, whether in Sierra Leone or elsewhere, solicits, accepts or obtains an advantage as an inducement to or reward for or otherwise on account of his giving assistance or using influence or having given assistance or used influence in-

- (a) the promotion, execution or procurement for;
- (b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in; or
- (c) obtaining for that person or for any other person, an advantage under,

such contract or subcontract as is referred to in paragraph (a) of subsection (1), commits an offence.

(3) A person guilty of an offence under subsection (1) or (2) shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Influencing a public officer.

30. A person who exercises any form of violence, or pressure by means of threat, upon a public officer, with a view to the performance by that public officer of any act in the execution of his functions or duties, or the non-performance by that public officer of such act is commits an offence and shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Peddling influence.

31. (1) A person who gives or agrees to give or offers an advantage to another person, to cause a public officer to use his influence, real or fictitious, to obtain any work, employment, contract or other benefit from a public body commits an offence.

(2) A person who gives or agrees to give or offers an advantage to another person to use his influence, real or fictitious to obtain work, employment, contract or other benefit from a public body commits an offence.

(3) A person who solicits, accepts or obtains an advantage from any other person for himself or for any other person in order to make use of his influence, real or fictitious, to obtain any work, employment, contract or other benefit from a public body commits an offence.

(4) A public officer who solicits, accepts or obtains an advantage from any other person for himself or for any other person in order to make use of his influence, real or fictitious, to obtain any work, employment, contract or other benefit from a public body commits an offence.

(5) A person guilty of an offence under this section shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Bid rigging, etc.

32. (1) A person who receives or solicits or agrees to receive or to solicit an advantage as an inducement or reward for -

- (a) refraining from submitting a tender, proposal, quotation or bid;
- (b) withdrawing or changing a tender, proposal, quotation or bid; or
- (c) submitting a tender, proposal, quotation or bid with a specified price or with any specified inclusions or exclusions,

commits an offence.

(2) A person who gives or offers or agrees to give or offer an advantage as an inducement or reward for-

- (a) refraining from submitting a tender, proposal, quotation or bid;
- (b) withdrawing or changing a tender, proposal, quotation or bid; or
- (c) submitting a tender, proposal, quotation or bid with a specified price or with any specified inclusions or exclusions,

Commits an offence.

(3) A person guilty of an offence under this section shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Corrupting public officer.

33. A person who, while having dealings of any kind with any public body, gives an advantage to a public officer or any other person to influence any public officer commits an offence and shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Bribery of or by public officer to influence decision of public body.

34. (1) A person who gives, or agrees to give, or offers to a public officer an advantage for-

- (a) voting or abstaining from voting or having voted or abstained from voting, at a meeting of a public body of which he is a member, director or employee, in favour of 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 or having performed, or abstained from performing or having aided in procuring, expediting, delaying, hindering or preventing the performance of an act by a public body of which he is a member, director or employee;
- (c) aiding in procuring, or preventing or having aided in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any other person,

commits an offence.

(2) Any public officer who solicits, accepts or obtains an advantage for-

- (a) voting or abstaining from voting or having voted or abstained from voting at a meeting of a public body of which he is a member, director or employee in favour of 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, an act of a public body of which he is a member, director or employee;
- (c) aiding in procuring or preventing, or having aided in procuring or preventing, the passing of any vote or the granting of any contract or advantage in favour of any person

commits an offence.

(3) A person guilty of an offence under this section shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

**Soliciting,
accepting or
obtaining
advantage for
public officer, etc.**

35. (1) A person who, solicits, accepts or obtains any advantage for or on behalf of any public officer commits an offence.

(2) Any person who offers any advantage to any public officer which that public officer is not authorised to receive by law, commits an offence.

(3) A person guilty of an offence under this section shall on conviction be liable to a fine not less than five million leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.

Misappropriation of public funds or property.

36. (1) A person who misappropriates public revenue, public funds or property commits an offence.

(2) A person misappropriates public revenue, public funds or property if he willfully commits an act, whether by himself, with or through another person, by which a public body is deprived of any revenue, funds or other financial interest or property belonging or due to that public body.

(3) A person guilty of an offence under this section shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Misappropriation of donor funds or property.

37. (1) Any person who, being a member or an officer or otherwise in the management of any organization whether a public body or otherwise, dishonestly appropriates anything whether property or otherwise, which has been donated to such body in the name, or for the benefit of the people of Sierra Leone or a section thereof, commits an offence.

(2) A person who dishonestly appropriates anything whether property or otherwise, which has been donated to himself or any other person in the name of or for the benefit of the people of Sierra Leone or a section thereof, commits an offence.

(3) A person guilty of an offence under this section shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Impeding investment.

38. (1) A public officer who knowingly-
- (a) performs or abstains from performing any act in his capacity as a public officer;
 - (b) expedites, delays, hinders or prevents the performance of any act, whether by himself or by any other public officer, in his or that other public officer's capacity as a public officer; or
 - (c) assists, favours, hinders or delays any person in the transaction of any business with a public body,

in order that an investor or potential investor is coerced, compelled or induced to abandon his investment or, as the case may be, is prevented from proceeding with his initial investment, commits an offence and shall be liable, on conviction, to a fine not less than fifty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

(2) For the purposes of subsection (1), "investor" or potential investor" includes a development partner or potential development partner; and "investment" includes development projects intended for the benefit of the people of Sierra Leone or a section thereof.

Corrupt transactions with agents.

39. (1) Any agent who, without lawful authority or reasonable excuse, solicits, accepts or obtains any advantage as an inducement to or reward for or otherwise on account of his-
- (a) performing or abstaining from performing or having performed or abstained from performing any act in relation to his principal's affairs or business; or
 - (b) showing or abstaining from showing, or having shown or abstained from showing, favour or disfavour to any person in relation to his principal's affairs or business,
- commits an offence.

(2) Any person who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's-

- (a) performing or abstaining from performing or having performed or abstained from performing any act in relation to his principal's affairs or business; or
- (b) showing or abstaining from showing, or having shown or abstained from showing, favour or disfavour to any person in relation to his principal's affairs or business,

commits an offence.

(3) Any person who knowingly gives to any agent, with intent to deceive his 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 knowledge is intended to mislead the principal, commits an offence.

(4) A person guilty of an offence under this section shall be liable on conviction to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

(5) In this section and section 40-

- (a) “agent” means a person who, in any capacity, and whether in the public or private sector, is employed by or acts for or on behalf of another person;
- (b) “principal” means a person, whether in the public or private sector, who employs an agent or for whom or on whose behalf an agent acts.

(6) If a person has a power under the Constitution or any other enactment and it is unclear, under the law, with respect to that power whether the person is an agent or which public body is the agent’s principal, the person shall be deemed, for the purposes of this Part, to be an agent for the Government and the exercise of the power shall be deemed to be a matter relating to the business or affairs of the Government.

(7) For the purposes of this Part-

- (a) a Cabinet Minister shall be deemed to be an agent for both the Cabinet and the Government; and
- (b) the holder of a prescribed office or position shall be deemed to be an agent for the prescribed principal.

Deceiving a principal.

40. (1) An agent who with intent to deceive his principal, knowingly uses, 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 knowledge is intended to mislead the principal commits an offence.

(2) An agent who, to the detriment of his principal, makes a statement to his principal that he knows is false or misleading in any material respect commits an offence.

(3) An agent who, to the detriment of his principal, uses, or gives to his principal, a document that he knows contains anything that is false or misleading in any material respect commits an offence.

(4) A person guilty of an offence under this section shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Accepting advantage to protect offender from legal proceedings.

41. (1) Subject to subsection (2), any person who accepts or obtains, or agrees to accept or attempts to obtain, any advantage for himself or for any other person, in consideration of-

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

commits an offence and shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

(2) Subsection (1) shall not apply to any lawful compromise as to the civil interest resulting from the offence, but any such compromise shall not be a bar to any criminal proceedings which may be instituted by the Commission or the State in respect of the offence.

Abuse of office.

42. (1) Any public officer who uses his office to improperly confer an advantage on himself or any other person commits an offence.

(2) A person guilty of an offence under subsection (1) shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Abuse of position.

43. A public officer who knowingly abuses his position in the performance or failure to perform an act, in contravention of any law, in the discharge of his functions or duties is commits an offence and shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Public officer using his office for advantage.

44. (1) Subject to subsection (3), a public officer who makes use of his office or position for an advantage for himself or another person commits an offence and shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

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

(3) This section shall not apply to a public officer who-

- (a) holds office in a public body as a representative of a body corporate which holds shares or interests in that public body; and

- (b) acts in that capacity in the interest of that body corporate.

Conflict of interest.

45. (1) Where a public body in which a public officer is a member, director, 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, that public officer 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, that public officer shall not vote or take part in any proceedings or process of that public body relating to such decision.

(3) A public officer who contravenes subsection (1) or (2) commits an offence and shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Treating of public officer.

46. A person who, while having dealings with a public body, offers an advantage to a public officer who is a member, director or employee of that public body commits an offence and shall, on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Receiving gift for a corrupt purpose.

47. A public officer who solicits, accepts or obtains an advantage for himself or for any other person-

- (a) from a person, whom he knows to have been, to be, or to be likely to be, concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his functions or those of any public officer to whom he is subordinate or of whom he is the superior; or
- (b) from a person whom he knows to be interested in or related to the person so concerned,

commits an offence and shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Protection of public property

48. (1) Any person who fraudulently or otherwise unlawfully-

**and revenue,
etc.**

- (a) acquires public property or a public service or benefit;
- (b) mortgages, charges or disposes of any public property;
- (c) damages public property, including causing a computer or any other electronic machinery to perform any function that directly or indirectly results in a loss or adversely affects any public revenue or service; or
- (d) fails to pay any taxes or any fees, levies or charges payable to any public body or effects or obtains any exemption, remission, reduction or abatement from payment of any such taxes, fees, levies or charges,

commits an offence.

(2) A person whose functions concern the administration, custody, management, receipt or use of any part of the public revenue or public property commits offence if he-

- (a) fraudulently makes payment or excessive payment from public revenues for-
 - (i) sub-standard or defective goods;
 - (ii) goods not supplied or not supplied in full; or
 - (iii) services not rendered or not adequately rendered;
- (b) willfully or negligently fails to comply with any law or applicable procedures and guidelines relating to the procurement, allocation, sale or disposal of property, tendering of contracts, management of funds or incurring of expenditures; or
- (c) engages in a project without prior planning.

(3) A person who commits of an offence under this section shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

(4) For the purposes of this section, “public property” means real or personal property, including public funds, and money of a public body or under the control of, or consigned or due to, a public body.

Dealing with suspect property.

49. (1) A person who deals with property that he believes or has reason to believe was acquired in the course of or as a result of corruption or corrupt conduct commits an offence and shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

(2) For the purposes of this section, a person deals with property if he-

(a) holds, receives, conceals or uses the property or causes the property to be used;

(b) enters into a transaction in relation to the property or causes such transaction to be entered into.

(3) In this section, “corrupt conduct” means conduct constituting corruption.

Bribery in relation to auctions.

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

(3) A person guilty of an offence under this section shall on conviction be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Gifts.

51. (1) A public officer who solicits or accepts any gift, fee or personal benefit from any person as an inducement or reward for anything done or omitted to be done by him in the performance of his duties commits an offence and shall be liable on conviction to a fine five times the value of the gift or benefit or fifty million leones whichever is greater or to imprisonment for a term not less than one year or both such fine and imprisonment.

(2) In addition to any punishment prescribed by subsection (1), the Court shall, order that twice the amount or value of the gift, fee or personal benefit solicited or received by the person convicted be paid by him to the Consolidated Fund.

(3) Subject to subsection (4), subsection (1) shall not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

(4) **Where a gift or personal benefit exceeds five hundred thousand leones in value or where the total value received directly or indirectly from one source in any twelve month period exceeds five hundred thousand leones, the public officer shall-**

- (a) make a report of that fact to the relevant public body within such time and in such form as may be prescribed by the Commission; and
- (b) file with his annual declaration of assets and liabilities a statement indicating the nature of the gift or benefit, its source and the circumstances under which it was given or accepted.

(5) A public officer who fails to comply with the requirements in subsection (4) commits an offence and shall be liable on conviction to a fine three times the value of the gift or benefit or thirty million leones, whichever is greater or to imprisonment for a term not less than one year.

Transfer of proceeds of corruption, etc..

52. (1) **Any person who-**

- (a) converts, transfers, or disposes of property knowing such property to be the proceeds of corruption or related offences for the

purpose of concealing or disguising the illicit origin of such property or helping any person who is involved in the commission of the offence to evade the legal consequences of his action; or

- (b) conceals or disguises the true nature, source, location, movement or ownership of or rights with respect to property which is the proceeds of corruption or related offences; or
- (c) acquires, possesses or uses property knowing that such property is the proceeds of corruption or related offences,

commits an offence and is liable on conviction to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

(2) Where the Commissioner has reason to believe that any person having illicitly received or acquired an advantage or property, he may by notice addressed to that person or to any other person to whom the advantage, property, the proceeds or money value, or any part of the proceeds or money value, is believed to have been transferred or conveyed by the person suspected of having illicitly received or acquired it or by an agent of such person, directing the person to whom the notice is addressed not to transfer, dispose of or part with the possession of the property or money value specified in the notice.

(3) The Commissioner may, subject to subsection (1) issue a notice to any other person to whom the money or property under this section may pass by operation of law.

(4) Every notice issued under subsection (2) shall remain in force and binding on the person to whom it is addressed for a period of six months from the date of the notice or, where proceedings for an offence under this Act or any other enactment in relation to the advantage or property commenced against any such person until the determination of those proceedings.

(5) A person who has been served with a notice under subsections (2) and (3) who, in contravention of the notice, transfers, disposes of, or parts with, the possession of the sum of money value or a property specified in the notice, commits an offence and shall be liable on conviction to a fine

not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

(6) In any proceedings for an offence under this section, it shall be a defence for an accused person if he satisfies the court that-

- (a) the sum of money or other property was delivered to the Commissioner or Deputy Commissioner or to some other officer of the Commission as directed in the notice;
- (b) the sum of money or other property specified in the notice was produced to the court and has been retained by such court;
- (c) the notice was subsequently withdrawn by the Commissioner by notification in writing.

PART V - POWERS OF INVESTIGATION

Powers of Commission and servants to request information.

53. (1) For the purposes of any investigation under this Act, the Commission shall have such powers, rights and privileges as are vested in the High Court or a judge thereof in a trial in respect of-

- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise; and
- (b) compelling the production of documents; and
- (c) the issue of a commission or request to examine witnesses abroad,

and any rules of Court shall, with the necessary modification, apply to the exercise of the powers, rights and privileges of the Commission conferred by this section.

(2) A person under investigation or any witness summoned to appear before the Commission may be assisted by counsel of his own choice.

(3) Pursuant to subsection (1), the

Commissioner may authorize in writing an investigating officer to exercise, upon production by the investigating officer of the authorization, the power to inspect and investigate and to require any person to produce, any accounts, books, documents or other article of or relating to, any person named in such authorization which may be required for the purpose of the investigation and the disclosure of all or any information relating thereto, and to take copies of such accounts, books or other relevant entry therein.

(4) An investigating officer authorized under subsection (3) shall be empowered by such authorization to require from any person information as to whether or not there is any account, book, document or other article at any company or any other place which is to be produced, inspected or investigated.

(5) Any requirement made under subsection (3) shall be in writing and may require a person to produce records or provide explanations and information on an ongoing basis over a period of time, not exceeding six months.

(6) The six month limitation in subsection (5) shall not preclude the Commissioner from making further requirements for further periods of time so long as the period of time in respect of which each requirement is made shall not exceed six months.

(7) A requirement under this section to produce a record stored in electronic form is a requirement-

- (a) to reduce the record to hard copy and produce it; and
- (b) if specifically required, to produce a copy of the record in electronic form.

(8) A person who is required under this section to disclose any information or to produce any accounts, books, documents or articles shall, notwithstanding the provision of any law to the contrary or any oath of secrecy, comply with such requirement.

(9) A person who-

- (a) fails or neglects, without reasonable excuse, the proof of which shall be upon him, to comply with any requirement under this section; or

- (b) obstructs any investigating officer in the execution of an authorization given under this section,

commits an offence and shall be liable on conviction to a fine not less than five million leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.

Information relating to property.

54. (1) The Commission may, by writing under the hand of the Commissioner, require any person who-

- (a) is under investigation; or
- (b) is related to any person who is under investigation; or
- (c) is suspected to have or to have had any business or other dealings with any person who is under investigation, under this Act-

to furnish to the investigating officer a statutory declaration or statement in writing enumerating-

- (i) any property, moveable or immovable, as may be specified by the Commission being property belonging to or possessed by or which at any time belonged to or was possessed by such person, his agents or trustees;
- (ii) all expenditure incurred by such person in respect of himself, his spouse or spouses, parents, or children with regard to living expenses and other private expenditure during any period specified by the Commission;
- (iii) all liabilities incurred by such person, his agents or trustees during the period specified by the Commission and specifying in respect of each such liability whether it was incurred jointly (and if so, with whom) or severally.

(2) The Commission may also require such person or persons as may be specified by it to furnish the investigating officer with a statutory declaration or a statement in writing-

(a) of all income earned during a specified period; and

(b) the tax paid on such income.

(3) Any person specified in subsection (1) may be required to furnish to the investigating officer a statutory declaration or statement in writing-

(a) of all moneys or other movable property or properties kept in his home or elsewhere in Sierra Leone; and

(b) of all moneys or other moveable property or properties sent out of Sierra Leone by him or on his behalf during the period specified by the Commission.

(4) Any person required under subsection (1) to furnish information in respect of his movable or immovable property shall specify in respect of each such property whether it is or was possessed jointly (and, if so, with whom) or severally; and specify the dates upon which each such property was acquired and whether by purchase, gift, bequest, inheritance or otherwise, and where it was acquired by purchase, specifying the consideration paid for it.

(5) The declarations filed with the Commission and the records of the Commission in respect of those declarations are secret and confidential and shall not be made public, except where a particular declaration or record is required to be produced for the purpose of, or in connection with any court proceedings against, or inquiry in respect of a declarant under this Act, the Commissions of Inquiry.

Penalty for failure to furnish information and for false answers.

55. Any person who-

(a) fails to furnish any statutory declaration or statement as required in subsections (1) to (3) of section 54; or

(b) in making any statement or furnishing any information under section 54, willfully makes any

false statement or any statement which he does not believe to be true,

commits an offence and shall be liable on conviction to a fine not less than five million leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.

**Summoning
of witnesses.**

56. (1) The Commission may, by notice in writing under the hand of the Commissioner, summon any person whom the Commission believes to be acquainted with any facts relevant to the affairs of any person who is under investigation-

- (a) to appear before it and to answer orally on oath or affirmation any question relevant thereto; and
- (b) on demand by the Commission to produce or deliver or otherwise furnish the original or copy of any document in his possession or under his control or to which he may reasonably have access (not being a document readily available to the public) which may be relevant to such investigation.

(2) For the purposes of subsection (1), the Commissioner, the Deputy Commissioner or any investigating officer of the Commission authorized in that behalf by the Commissioner shall administer the oath or affirmation.

(3) Any person on whom a notice is served under subsection (1) shall, notwithstanding the provision of any law to the contrary, or any oath of secrecy, comply with such notice.

(4) Any person who without reasonable excuse neglects or fails to comply with a notice under subsection (1) commits an offence and shall be liable on conviction to a fine not less than five million leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.

**Heads of public
bodies, managers
to produce
statements, etc.**

57. (1) The Commission may, by notice in writing under the hand of the Commissioner, require the head or person in charge of any public body, to produce to the Commission, notwithstanding any enactment to the contrary, any document or copy thereof, certified by the person in charge of any such document, which is in his possession or under his control.

(2) The Commission may, by notice in writing under the hand of the Commissioner, require any financial institution or officer of a financial institution to produce any banker's books, safe-deposit boxes, copies of any bank accounts or any documents relating to any person who is under investigation or of his relative or any other person who has or has had dealings (business or otherwise) with such person, at the financial institution as shall be named in the notice.

(3) A person who is required under this section to disclose any information or to produce any accounts, books, documents or articles shall, notwithstanding the provision of any law to the contrary or any oath of secrecy, comply with such requirement.

(4) A person who fails to comply with the terms of a notice under subsection (1) commits an offence and shall be liable on conviction to a fine not less than five million leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.

Service of Notices.

58. (1) A notice under this Act shall be served on the person to whom it is addressed either personally or by registered post addressed to his last known place of business or residence.

(2) Where it is impracticable to serve notice in accordance with subsection (1), notice may be effected through private courier, or electronically or by advertisement in at least two newspapers published in Sierra Leone or by broadcast on a radio station in the locality of his last known place of business or residence.

Restriction on disposal of property, etc. by persons under investigation.

59. (1) The Commission may, in writing under the hand of the Commissioner, serve a notice on any person who is under investigation directing that such person shall not dispose of or otherwise deal with any property specified in such notice, including moneys in any bank account, without the written consent of the Commission.

(2) The Commission may attach such terms and conditions as it thinks fit to its consent for the disposal of, or other dealings with, any property specified in a notice under subsection (1).

(3) A notice under subsection (1) shall have effect from the time of service upon the person to whom it is addressed and shall continue in force for a period of six months unless cancelled by the Commission.

(4) Nothing in subsection (3) shall prevent the Commission from making any further order or orders, as the case may be, in respect of the same property.

(5) For the purposes of this section, "property" includes any money deposit, share account, club account, subscription account, investment account, bank account or any other property, whether movable or immovable.

(6) A person on whom a notice has been served in accordance with this section commits an offence if he disposes of or otherwise deals with any such property without the written consent of the Commission.

(7) A person convicted of an offence under subsection (6) shall be liable to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Restriction on disposal of property, etc. by third parties.

60. (1) Where the Commission has reason to believe that a third party is holding any property, including moneys in a bank account, for or on behalf of or to the order of a person who is under investigation, the Commission may, by notice in writing under the hand of the Commissioner, serve a notice on such third party directing that such person shall not dispose of or otherwise deal with any property specified in such notice.

(2) A notice under subsection (1), shall be served on the third party to whom it is directed and on the person being investigated and the Commission may in issuing a notice-

- (a) impose such condition; or
- (b) exempt such property from the operation thereof,

as it thinks fit, but subject to paragraphs (a) and (b), the third party on whom a notice is served shall not dispose of or otherwise deal with any property specified in the notice except in accordance with the terms of the notice.

(3) A notice issued under this section shall have effect from the time of service upon the person to whom it is addressed and shall continue in force for a period of twelve months unless cancelled or varied by the Commission.

(4) A third party on whom a notice has been served under subsection (1) commits an offence, if he knowingly disposes or

deals with any property specified in the notice without the consent of the Commission.

(5) Any person who is guilty of an offence under subsection (4) shall, on conviction thereof, be liable to a fine not less than thirty million leones or the value of the property disposed of or otherwise dealt with whichever is greater, or to imprisonment for a term not less than three years.

Revocation of restriction notice.

61. A person or a third party on whom a restriction notice under section 59 or 60 has been served may apply *inter partes* to the court to revoke the notice and the court may, after hearing the parties revoke the notice or make such order as it may deem fit.

Restriction notice to apply to income from property, etc.

62. (1) A restriction notice under section 59 or 60 shall, if so provided in the notice apply to the income from any property specified therein as it applies to the property itself.

(2) Where any property specified in a restriction notice is immovable property, such restriction notice shall be deemed to be an instrument affecting land and shall be registrable as such in a register kept in the office of the Registrar-General.

(3) Where any property specified in a restriction notice includes any debt or obligation due by a financial institution to the person to whom the notice is given, the Commissioner may serve on such financial institution, a copy of that restriction notice which copy shall have the effect of directing the financial institution with respect to the person specified in such copy not to pay, liquidate, satisfy, settle or discharge that debt or obligation either in whole or in part without the consent of the court.

Surrender of travel documents.

63. (1) Where the Commission has reason to believe that any person who is under investigation under this Act is about to leave Sierra Leone, the Commission may, in writing under the hand of the Commissioner, serve a notice on such person requiring him-

- (a) to surrender his travel documents forthwith to the Commissioner; and
- (b) to enter into recognizance with two sureties who are owners of property in Sierra Leone the value of which is not less than fifty million leones, each.

(2) A travel document which is surrendered to the Commissioner under this section may be held for a period of three months from the date on which the notice was issued.

(3) Where it appears that the investigation may not be completed before the expiry of the period of three months, the Commission may renew the notice for such longer period as may be reasonably required.

(4) Where a person who possesses a travel document fails to comply with the notice forthwith, he may thereupon be arrested and taken before the Commission and unless such person complies with the notice, the Commissioner shall by warrant commit him to prison for ten days and thereafter, until the Commission completes the investigation in respect of him.

(5) Subject to subsection (3), a person to whom a notice under subsection (1) is addressed shall not leave Sierra Leone before the expiry of the period of three months from the date of the notice unless-

- (a) an application made under section 64 for the return of the travel documents is granted; or
- (b) an application made under section 65 for permission to leave Sierra Leone is granted.

Return of travel documents.

64. A person who has surrendered his travel documents under section 63 may apply *inter partes* to the court for the return of his travel documents.

Permission to leave Sierra Leone.

65. (1) Without prejudice to section 64, a person on whom a notice under section 63 is served may at any time apply in writing to the Commissioner or *inter partes* to a judge or both for permission to leave Sierra Leone, and every application shall contain a statement of the grounds on which it is made.

(2) A judge shall not consider an application made under subsection (1) unless he is satisfied that reasonable notice in writing of it has been given to the Commissioner.

(3) The Commissioner or a judge shall only grant an application made under subsection (1) where the Commissioner or the judge, as the case may be, is satisfied that having regard to all the circumstances, including the interests of the investigation referred to in

subsection (1) of section 63, a refusal to grant the application would cause unreasonable hardship to the applicant.

(4) Before an application is granted under this section-

(a) the applicant may be required to-

(i) deposit such reasonable sum of money with such person as may be specified;

(ii) enter into such recognizance with such sureties, if any, as may be specified; or

(iii) deposit such sum of money and enter into such recognizance as may be specified;

(b) such applicant or surety may be required to deposit such property or document of title or instrument thereto with such person as may be specified for retention by that person until such time as any recognizance entered into under this subsection is no longer required or is forfeited.

(5) A recognizance referred to in subsection (4) shall be subject to a condition that the applicant shall appear at such time and place in Sierra Leone as may be specified and at such other time and place in Sierra Leone thereafter as may be further specified.

(6) An application under this section may be granted either without condition or subject to a condition that the applicant shall appear at such time and place in Sierra Leone as may be specified and at such other time and place in Sierra Leone thereafter as may be further specified.

(7) Where a person is permitted to leave Sierra Leone under this section subject to a condition imposed under subsection (5) or (6), then after the time specified under that subsection or (if applicable) after the last of such times, subsection (5) of section 63 shall continue to apply in respect of the person as if the person had not been permitted to leave Sierra Leone under this section.

Powers of

66. (1) An investigating officer authorized in that

arrest.

behalf by the Commissioner may, without warrant, arrest any person upon reasonable suspicion of his having committed or being about to commit an offence under this Act.

(2) Where the Commissioner is satisfied that a person who may assist the Commission in an investigation-

- (a) has interfered with a potential witness; or
- (b) intends to destroy documentary evidence which is in his possession and which he has refused to give to the Commission,

the Commission may, in writing under the hand of the Commissioner, direct an investigating officer to arrest that person.

(3) An investigating officer may solicit the assistance of a police officer, in effecting an arrest under this Act.

Bail and other procedures after arrest.

67. (1) A person arrested under section 66-

- (a) may be taken to the offices of the Commission;
- (b) may be taken forthwith to a detention facility established by the Commission; or
- (c) may be taken to a police station and dealt with in accordance with the Criminal Procedure Act, 1965.

Act No. 32 of 1965.

(2) A person arrested and taken to the offices of the Commission or detained at a detention facility pursuant to subsection (1) may be-

- (a) detained there if the Commissioner considers it necessary for the purpose of further inquiries;
- (b) released from custody-
 - (i) on surrendering his travel documents to the Commission; or

- (ii) on depositing such reasonable sum of money as the Commission may require; or
- (iii) on his entering into recognizance with such sureties, if any, as the Commissioner may require and conditioned upon the attendance of the person at the offices of the Commission at such time or times as the Commissioner may specify; or
- (iv) on condition that he resides at such address as the Commissioner may specify; or
- (v) on condition that he attends at the offices of the Commission at such time or times as the Commissioner may specify; or
- (vi) on any one or more of the conditions set out in sub-paragraphs (i) to (v).

(3) Where a person released from custody under this section fails to attend at the offices of the Commission, the deposit paid or recognizance entered into for release, as the case may be, may be forfeited by a judge upon application by the Commission.

(4) Any person who is detained at the offices of the Commission under this section shall be brought before a court as soon as practicable but not later than ten days after his arrest in accordance with paragraph (a) of subsection (3) of section 17 of the Constitution, unless sooner released on bail.

(5) Any person detained by the Commission for the purposes of further inquiries under paragraph (a) of subsection (2) shall, while being moved to or from any other place in the custody of an investigating officer on the instructions of the Commissioner, be deemed to be in lawful custody.

(6) The Commission may, by statutory instrument, make such provisions as it considers necessary for the treatment of persons detained by the Commission.

(7) In this section, the reference to “Commissioner” in subsections (2), (3) and (5) includes the Deputy Commissioner and, where appropriate, any investigating officer designated by the Commissioner in that behalf.

**Power to
finger-print
and photograph
arrested person.**

68. An investigating officer may, if so directed by the Commissioner, take or cause to be taken under the supervision of another officer, photographs, finger-prints and the weight and height measurements of any person arrested under section 66.

**Arrest of persons
granted bail by
Commission.**

69. (1) An investigating officer authorized in that behalf by the Commissioner may arrest without warrant any person who has been released on bail under section 67-

- (a) if that officer has reasonable grounds for believing that any condition upon which that person was so released or otherwise admitted to bail has been or is likely to be broken; or
- (b) on being notified in writing by any surety for that person that the surety believes that that person is likely to break the condition that he will appear at the time and place required and for that reason the surety wishes to be relieved of his obligation as surety.

(2) Any person arrested under subsection (1) shall be brought before a judge within twenty-four hours after his arrest or as soon as practicable thereafter.

(3) If it appears to the judge before whom a person is brought under subsection (2) that any condition upon which the person was released or otherwise admitted to bail has been or is likely to be broken, he may-

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

**Search and
seizure.**

70. (1) An investigating officer authorized in that behalf may search any person-

- (a) if he has reasonable grounds for suspecting that such person has committed an offence or is about to commit an offence under this Act and seize any document, material or other thing found on him; or
- (b) if he has reasonable grounds for believing that such person has with him or on him any document, material or other thing which is relevant or is likely to be relevant to the investigation and seize any such document, material or other thing found on such person.

(2) A person shall not be searched under subsection (1) except by a person of the same sex.

Search of premises.

71. (1) Where the Commissioner has reasonable cause to believe that there is in any place or premises, other than a residential property, anything which is or contains evidence of the commission of an offence under this Act, he may by warrant directed to an investigating officer empower such officer to enter such place or premises, by force, if necessary, and search it.

(2) Where the Commissioner has reasonable cause to believe that there is on any residential property anything which is or contains evidence of the commission of an offence under this Act, he may on application to a judge obtain a warrant for the purpose of the entry and search of that property.

(3) Where a search is effected under subsection (1) or (2), the investigating officer effecting the search may-

- (a) seize and take possession of any book, document, computer, computer disk or other article;
- (b) inspect, make copies of, or take extracts from, any book, record or document;
- (c) search any person who is on the premises, detain him for the purpose of the search, and seize any article found on such person;
- (d) break open, examine, and search any article, safe, container or receptacle.

**Responsibility
for seized
property.**

72. (1) The Commission shall take all reasonably necessary steps to protect anything obtained pursuant to a requirement or anything seized under a search warrant under this Part, while it is in the custody of the Commission.

(2) Where the Commission does not propose to use anything obtained or seized under this Part as evidence in any proceedings, it shall make arrangements for such thing to be returned forthwith to the person from whom it was obtained or under whose control or possession it was seized.

**Admissibility
of things
produced
or found.**

73. Anything, including the contents thereof, provided by a person pursuant to a requirement or obtained on a search of any person or premises under this Part, may be taken and retained by the Commission for such time as is reasonable for the purposes of the investigation concerned and is admissible in evidence in a prosecution of any person, including the person who produced it or from whom it was obtained, for an offence.

**Unlawful
disclosure of
investigation.**

74. (1) Any person who knowing or being likely to know that an investigation for an offence under this Act is taking place, without lawful authority or reasonable excuse, discloses to-

- (a) the person under investigation the fact of his being investigated or any details of the investigation, including the identity of an informer in the investigation; or
- (b) any other person the identity of the person under investigation or the fact that such person is being investigated or the details of the investigation, including the identity of any informer in the investigation,

is commits an offence.

(2) A disclosure referred to in subsection (1) shall not be an offence where, in connection with the investigation concerned-

- (a) the person under investigation has been requested to furnish a statement in writing under subsection (1) of section 54;

- (b) a property restriction notice has been served under subsection (1) of section 59 on the person under investigation;
- (c) the person under investigation has been committed to prison under subsection (4) of section 63; or
- (d) the person under investigation has been arrested or detained under section 66 or section 67.

(3) Any person who commits an offence under subsection (1) shall be liable on conviction to a fine not less than five million leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.

Identification for investigating officers.

75. (1) The Commission shall issue identification documentation to every investigating officer and such identification shall be evidence that the person to whom it is issued is an investigating officer.

(2) The identification documentation issued by the Commission shall be signed by the Commissioner.

Impersonation of officer of Commission.

76. Any person who impersonates an officer of the Commission commits an offence and shall, on conviction be liable to a fine not less than three million leones or to imprisonment for a term not less than six months or to both such fine and imprisonment.

Duty to report acts of corruption.

77. (1) Where a public officer suspects that an act constituting an offence under Part IV has been committed or is about to be committed within or in relation to a public body, he shall forthwith make a written report to the Commission.

(2) The Commission shall issue such guidelines as it considers appropriate to ensure compliance with subsection (1).

Referrals to Commission.

78. (1) Notwithstanding section 77, where in the exercise of his functions-

- (a) a judge or magistrate;
- (b) the Ombudsman;

- (c) the Director of Public Prosecutions;
- (d) the Auditor-General or an auditor appointed by him;
- (e) the Accountant-General;
- (f) the Commissioner General, National Revenue Authority; or
- (g) the Chief Executive of a public body; or
- (h) Parliament,

is of the opinion that an act constituting an offence under Part IV may have occurred, he or it shall refer the matter to the Commission for investigation.

(2) Where in the course of a police investigation-

- (a) it is suspected that an act constituting an offence under Part IV has been committed; and
- (b) the Inspector-General of Police is of the opinion that the matter ought to be investigated by the Commission,

the Inspector-General of Police shall refer the matter to the Commission for investigation.

Particulars of reports.

79. Where an alleged or suspected case of corruption by a public officer is referred to the Commission by any member of the public or by another public officer such reference shall be accompanied by sufficient particulars of the basis of the allegation or suspicion, including, where possible, documents, papers and other things connected with the matter alleged or suspected.

Commission may decline investigation.

80. (1) The Commission may decline to conduct an investigation into any complaint alleging an offence under this Act or to proceed with any further investigation if the Commission is satisfied that-

- (a) the complaint is frivolous or vexatious; or

(b) the investigation would be unnecessary or futile.

(2) Where the Commission declines to conduct an investigation or proceed further with any investigation into any complaint, the Commission shall inform the complainant, in writing if practicable, of its decision but shall not be bound to assign any reason for its decision.

Protection of informers.

81. (1) Where the Commission receives information in confidence to the effect that an act constituting an offence under Part IV has occurred, that information and the identity of the informer shall be held secret between the Commission and the informer, and all matters relating to such information shall be privileged and shall not be disclosed in any proceedings before any court, tribunal or other authority.

(2) Where any record, which is given in evidence or liable to inspection in any civil, criminal or other proceedings, contains an entry relating to the informer or the information given by the informer, the Commissioner shall cause all parts relating to the informer or the information given to be concealed from view or to be obliterated so far as may be necessary to protect the identity of the informer.

(3) A person who gives information that results in the conviction of another person, of an offence under this Act shall be paid ten percent of the proceeds of any property forfeited as a result of the conviction.

Protection of witnesses.

82. (1) Subject to subsection (6), where a person-

(a) discloses to the Commissioner or Deputy Commissioner or an officer of the Commission that a public officer, body corporate or public body is or has been involved in any act constituting an offence under Part IV; and

(b) at the time he makes the disclosure, believes on reasonable grounds that the information he discloses may be true and is of such a nature as to warrant an investigation under this Act,

he shall incur no civil or criminal liability as a result of such disclosure.

(2) Subject to subsection (6), where a public officer-

- (a) discloses to his superior officer or to the Commissioner that an act constituting an offence under Part IV may have occurred within the public body in which he is employed; and
- (b) believes on reasonable grounds that the information is true,

he shall incur no civil or criminal liability as a result of such disclosure and no disciplinary action shall be instituted against him by reason only of such disclosure.

(3) A person who makes a disclosure under subsection (1) or (2) shall assist the Commission in any investigation which the Commission may undertake in relation to matters disclosed by him.

(4) A person to whom a disclosure is made under subsection (1) or (2) shall not, without the consent of the person making the disclosure, divulge the identity of that person except where it is necessary to ensure that the matters to which the information relates are properly investigated.

(5) A person who commits an act of victimization commits an offence and shall on conviction be liable to a fine not less than five million leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.

(6) A person who makes a false disclosure under subsection (1) or (2) knowing it to be false commits an offence and shall on conviction be liable to a fine not less than five million leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.

(7) In this section, “victimization” includes an act-

- (a) which causes injury, damage or loss;
- (b) of intimidation or harassment;
- (c) of discrimination, disadvantage or adverse treatment in relation to a person’s employment; or
- (d) amounting to threat or reprisal.

Additional measures to protect witnesses.

83. (1) Subject to this section, any party to proceedings under this Act may apply *ex parte* to a Judge to order the non disclosure of the identity of a witness who in the opinion of the Judge may be in danger or at risk.

(2) A Judge may, on his own motion, or at the request of either party, or the witness concerned, order appropriate measures to safeguard the privacy and security of the witness, provided that such measures are consistent with the rights of the accused person.

(3) A Judge may hold *in camera* proceedings to determine whether to order measures to prevent disclosure to the public of the identity or whereabouts of a witness or persons related or associated with him by such means including-

- (a) expunging the names and identifying information from the court's public records;
- (b) non-disclosure to the public of any records identifying the witness;
- (c) assignment of a pseudonym to the witness;
- (d) holding proceedings *in camera*.

(4) When making an order under subsection (1), a Judge shall where appropriate state whether the transcripts of those proceedings relating to the evidence of the witness to whom the measures relate shall be made available for use in any other proceedings before the court.

(5) Where protective measures have been ordered in respect of a witness or victim in any proceedings, before the court, such protective measures shall continue to have effect *mutatis mutandis* in any other proceedings before the court unless and until they are revoked, rescinded, varied or augmented.

(6) A party to any subsequent proceedings seeking to revoke, rescind, vary or augment protective measures shall apply to the court seized of the subsequent proceedings.

Power to obtain assistance.

84. (1) Any investigating officer conducting an investigation into an offence alleged or suspected to have been committed under this Act may apply to any public officer for assistance in the exercise of his powers or the discharge of his duties under this Act.

(2) A public officer who when requested under subsection (1) to render assistance, without reasonable excuse neglects or fails to render such assistance is guilty of an offence and shall on conviction be liable to a fine not less than five million leones or to imprisonment for a term not less than six months or to both such fine and imprisonment.

**Protection
for assisting
Commission.**

85. (1) No action or proceeding, including disciplinary action, may be instituted or maintained against a person in respect of assistance given by the person to the Commission or an investigating officer.

(2) Subsection (1) does not apply with respect to a statement made by a person who did not believe it to be true.

(3) In a prosecution for an offence under Part IV or a proceeding under this Act, no witness shall be required to identify, or provide information that might lead to the identification of a person who assisted the Commission or an investigating officer.

(4) In a prosecution for an offence under Part IV or a proceeding under this Act, the court shall ensure that information that identifies or might lead to the identification of a person who assisted the Commission or an investigating officer is concealed from view or obliterated so far as may be necessary to protect the identity of that person.

**Penalty for
false report.**

86. Any person who-

- (a) willfully makes or causes to be made to the Commission a false complaint or report that an offence has been committed under this Act; or
- (b) misleads the Commission by giving false information or making a false statement or accusation

commits an offence and shall be liable on conviction to a fine not less than five million leones or to imprisonment for a term not less than six months or to both such fine and imprisonment.

**Application for
attachment order.**

87. (1) Notwithstanding any other enactment to the contrary, where a court, on an *ex parte* application by the Commission, is satisfied that the Commission has reasonable grounds to suspect that a person has committed an offence under Part IV, the court may make an attachment order under this section.

(2) An order under this section shall-

- (a) attach in the hands of any person named in the order all moneys and other property due or owing or belonging to or held on behalf of the suspect;
- (b) require the person named in the order to declare in writing to the Commission, within forty eight hours of service of the order, the nature and source of all moneys and other property so attached; and
- (c) prohibit the person from transferring, pledging or otherwise disposing of any money or other property so attached except in such manner as may be specified in the order.

(3) Where an order is made under this section, the Commission shall-

- (a) cause notice of the order to be published in the next issue of the *Gazette* and in at least two daily newspapers published in Sierra Leone or broadcast on a radio station in the locality of the suspect's last known place of business or residence; and
- (b) give notice of the order to any other person who may hold or be vested with property belonging to or held on behalf of the suspect.

Forfeiture of property if suspect has absconded.

88. Notwithstanding any other enactment to the contrary, where a court, on an *ex parte* application by the Commission, is satisfied that having regard to the evidence before the court the suspect has committed an offence under Part IV, and on the balance of probabilities, that the person has absconded from Sierra Leone in order to evade prosecution under this Act, it may make an order for forfeiture of property due or owing or belonging to or held on behalf of the suspect.

PART VI - PROSECUTION OF OFFENCES

Procedure.

89. (1) Where the Commissioner is of the opinion that the findings of the Commission on any investigation warrant a prosecution under this Act, he shall do so in the Court.

(2) An indictment relating to an offence under this Act shall be preferred without any previous committal for trial, and it shall in all respects be deemed to have been preferred pursuant to a consent in writing by a judge granted under subsection (1) of section 136 of the Criminal Procedure Act, 1965 and shall be proceeded with accordingly.

Act No. 32
of 1965.

(3) On a trial on indictment preferred under this section, an extract of the findings of the Commission, signed by the Commissioner, to the effect that a particular person is, or particular persons are implicated in any offence under this Act shall, without more, be sufficient authority for preferring that indictment in respect of such offence as is disclosed in or based on the report of those findings.

(4) An indictment preferred under this section shall be filed and served on the accused together with the summary of the evidence of the witnesses which the Commission relies on for the proof of the charge contained in that indictment and the names of such witnesses shall be listed on the back of the indictment.

(5) The Commission may, upon giving to the Registrar of the Court and to the accused a notice of its intention to do so together with a summary of the evidence to be given by that witness, call as additional witness any person not listed on the back of the indictment who may give necessary or material evidence at the trial of any indictment under this section, whether or not that person gave any evidence during an investigation by the Commission.

(6) The trial of any offence under this Act shall have priority of hearing in the Court over any other indictment except an indictment for treason, murder or other capital offence.

Bail for accused persons.

90. (1) The judge trying any person under this Act may, on application by the Commissioner or any officer representing him, issue a warrant to arrest such person and to cause him to be brought before him as soon as practicable to be dealt with under this section.

(2) Any person brought before the Court in pursuance of subsection (1), shall, if he satisfies the Court that he is not preparing or about to leave Sierra Leone, be admitted to bail, on his procuring or producing such surety or sureties as, in the opinion of the judge, will be sufficient to ensure his appearance on such day, and at such time and place on that day, as may from time to time, on his appearing be decided by the judge.

(3) The Court may dispense with sureties if, in its opinion, its so dispensing will not tend to defeat the ends of justice and may order one or more of the following-

- (a) that the defendant surrenders his traveling documents to the court pending the trial;
- (b) that the defendant reports at a local police station at such times as the court may determine;
- (c) that the defendant gives a definite place of abode or residence where he shall live and sleep;
- (d) that the defendant may be subjected to curfew if the court deems it fit.

**Admissibility
of accused's
declarations
and statements.**

91. In any proceedings against a person for an offence under this Act-

- (a) if such person tenders himself as a witness then any statutory declaration or statement in writing furnished by him in compliance or purported compliance with the terms of a notice served on him under section 54 shall be regarded as a formal statement made by him relative to the subject-matter of the proceedings;
- (b) the fact of the person's failure in any respect to comply with the terms of a notice served on him under section 54 may be adduced in evidence and made the subject of comment by the court and the prosecution.

**Evidence of
pecuniary
resources or**

92. (1) In any proceedings against a person for an offence under Part IV, other than section 27, the fact that the accused was, at or about the date of or at any time since the date of

property.

the alleged offence, or is in possession, of pecuniary resources or property disproportionate to his known sources of income, or that he had, at or about the date of or at any time since the date of the alleged offence, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken by the court-

(a) as corroborating the testimony of any witness giving evidence in such proceedings that the accused accepted or solicited any advantage;

and

(b) as showing that such advantage was accepted or solicited as an inducement or reward.

(2) For the purposes of subsection (1) a person accused of an offence under Part IV, other than section 27, shall be presumed to be or to have been in possession of pecuniary resources or property, or to have obtained an accretion thereto, where such resources or property are or were held, or such accretion was obtained, by any other person whom, having regard to his relationship to the accused or to any other circumstances, there is reason to believe is or was holding such resources or property or obtained such accretion in trust for or otherwise on behalf of the accused or as a gift from the accused.

**Certificate
as to official
emoluments, etc.**

93. (1) In any proceedings against a person for an offence under this Act, a certificate purporting-

(a) to certify-

(i) the rate of, and the total amount of, official emoluments and the allowances, other than such emoluments, paid to any public officer in relation to the discharge by him of his duties as a public officer;

(ii) that any person was or was not serving at any specified time or during any specified period as a public officer or ceased to be a public officer at or before any specified time; or

(iii) that a public officer held or did not hold at any specified time any public office; and

(b) to be signed by the Establishment Secretary or head of administration of a public body,

shall be admitted in such proceedings by any court on its production without further proof.

(2) On the production of a certificate under subsection (1) the court before which it is produced shall, until the contrary is proved, presume-

(a) that the facts stated therein are true; and

(b) that the certificate was signed by the Establishment Secretary or head of administration of a public body.

Act No.5 of 2001

(3) In this section, "official emoluments" includes a pension or gratuity payable under the National Social Security and Insurance Trust Act, 2001.

Burden of proof.

94. In any proceedings against a person for an offence under this Act, the burden of proving a defence of lawful authority or reasonable excuse shall lie upon the accused.

Impossibility of achieving purpose not defence.

95. (1) If, in any proceedings for an offence under this Act, it is proved that the accused accepted any advantage, believing or suspecting or having grounds to believe or suspect that the advantage was given on account of his doing or abstaining from doing anything as is referred to in this Act, it shall be no defence that-

(a) he did not actually have the power, right or opportunity to do so or abstain;

(b) he accepted the advantage without intending so to do or abstain; or

(c) he did not in fact so do or abstain.

(2) If in any proceedings for an offence under this Act, it is proved that the accused offered any advantage to any other person as an inducement to or reward for or otherwise on account of that other person's doing or abstaining from doing, or having done or

abstained from doing, any act as is referred to in this Act, believing or suspecting or having reason to believe or suspect that such other person had the power, right or opportunity so to do or abstain from doing, it shall be no defence that such other person had no such power, right or opportunity.

Person giving or receiving bribe not regarded as accomplice.

96. A witness in any proceedings for an offence under this Act shall not be regarded as an accomplice by reason only of any payment or delivery by him or on his behalf of any advantage to the person accused or, as the case may be, by reason only of payment or, delivery of any advantage by or on behalf of the person accused to him.

Presumption of corruption.

97. Where, in any proceedings for an offence under this Act, it is proved that the accused gave or accepted an advantage, the advantage shall be presumed to have been given or accepted as such inducement or reward as is alleged in the particulars of the offence unless the contrary is proved.

Forfeiture of property of persons convicted.

98. (1) Upon application by the Commission to the court, any property of or in the possession or under the control of any person who is convicted of an offence under Part IV and any property of that person, subject of a restriction notice shall, unless proved to the contrary, be deemed to be derived from corruption and forfeited by order of the court.

(2) In making a forfeiture order the court may give directions-

- (a) for the purpose of determining any dispute as to the ownership of or other interest in the property or any part thereof;
- (b) as to the disposal of the property.

(3) Upon application to the court by a person against whom a forfeiture order has been made under this section, the court may order that a sum deemed by the court to be the value of the property so ordered to be forfeited be paid by that person to the court and upon satisfactory payment of that sum by that person the property ordered to be forfeited shall be returned to him.

Property tracking and monitoring order.

99. (1) For the purpose of determining whether any property belongs to, or is in the possession or under the control of any person, the court may, upon application by the Commission

and if satisfied that there are reasonable grounds for so doing, order-

- (a) that any document relevant to-
 - (i) identifying, locating or quantifying property of that person;
 - (ii) identifying or locating any document necessary for the transfer of property to that person,be delivered forthwith to the Commission;
- (b) a financial institution forthwith to produce to the Commission all information obtained by the institution about any business transaction conducted by or for that person with the institution during such period before or after the date of the order as the court directs;
- (c) upon being satisfied by the Commission that any person is failing to comply with, is delaying or is otherwise obstructing an order made in accordance with paragraph (a) or (b), that the Commission may enter any premises and remove any document material or other thing therein for the purposes of executing such order.

(2) Where a person produces or delivers a document pursuant to an order under this section, the production or delivery of the document or any information, document or thing obtained as a direct or indirect consequence of the production or delivery of the document, is not admissible against the person in any proceedings except a proceeding for an offence of failing to comply with an order of a court.

Offences in relation to property tracking, etc.

100. It is an offence-

- (a) for any person to falsify, conceal, destroy or otherwise dispose of, or cause or permit the falsification, concealment, destruction or disposal of any document or material which is or is likely to be relevant to the execution of any order made in accordance with paragraph (a) or (b) of subsection (1) of section 99;

- (b) for a person who is the subject of an order made under paragraph (a) or (b) of subsection (1) of section 99 to disclose the existence or operation of the order to any person except to an officer or agent of the Commission or any law enforcement authority named in the order, for the purposes of ensuring that its order is complied with or a legal practitioner, for the purpose of obtaining legal advice or representation in relation to the order.

Limitation on forfeiture of property.

101. Section 98 shall apply only to property coming into the possession or under the control of a person after the commencement of this Act.

Appeals.

102. Nothing in this Part shall prevent the operation of any appeal normally available against orders made by the court.

PART VII - MUTUAL ASSISTANCE

Co-operation with foreign State.

103. Subject to section 108, where a foreign State makes a request for assistance in the investigation or prosecution of a corruption offence, the Commissioner shall, after consultation with the Minister responsible for Foreign Affairs and the Attorney-General and Minister of Justice-

- (a) execute the request; or
- (b) inform the foreign State making the request of any reason-
 - (i) for not executing the request forthwith; or
 - (ii) for delaying the execution of the request.

Power of Commissioner to obtain search warrant.

104. (1) The Commissioner upon application to a court and upon production to the court of a request, may obtain a warrant-

- (a) to enter any premises belonging to, or in the possession or control of, any person named in the application and to search the premises;
- (b) to search the person of any person named in the warrant,

and remove any document or material for the purpose of executing the request as directed in the warrant.

(2) The court shall not issue a warrant unless it is satisfied that-

- (a) the documents emanating from the foreign State and accompanying the request in support of the application are duly authenticated;
- (b) there are reasonable grounds to believe that a corruption offence has been committed in the requesting State; and
- (c) that the warrant is necessary for the purpose of the investigation or prosecution, as the case may be.

Property tracking etc., for foreign State.

105. The Commissioner, upon application to the court and upon production to the court of a request, may obtain an order-

- (a) that any document relevant to-
 - (i) identifying, locating or quantifying any property;
 - (ii) identifying or locating any document necessary for the transfer of any property,

belonging to, in the possession or under the control of any person named in the request be delivered to the Commission.

- (b) that a financial institution forthwith produce to the Commission all information obtained by the institution about any business transaction conducted by or for a person named in the request with the institution during such period before or after the date of the order as the court directs;

Freezing and forfeiture of

106. (1) Subject to section 108, the Commissioner upon application to the High Court and upon production to the

**property in
international
co-operation.**

High Court of a request for a freezing or forfeiture of property of or in the possession or under the control of a person named in the request, may obtain an order-

- (a) freezing the property of or in the possession or under the control of the person named in the request for such period as is indicated in the order;
- (b) giving directions as to the disposal of that property for the purpose of-
 - (i) determining any dispute as to ownership of or interest in the property or any part thereof;
 - (ii) its proper administration during the period of freezing;
 - (iii) the payment of debts, incurred in good faith, due to creditors prior to the request;
 - (iv) the payment of moneys to that person for the reasonable subsistence of that person and his family; and
 - (v) the payment of costs and other expenses to defend any criminal proceedings referred to in the request; and
- (c) forfeiting the property of or in the possession or under the control of any person named in the request.

(2) An application under subsection (1) shall be accompanied by the request from the foreign State and-

- (a) an authenticated copy of an order of the court in the requesting foreign State ordering the freezing of property of a person who has been charged with a relevant offence in the requesting State; or

- (b) an affidavit of a competent officer in or of the requesting State stating that a person has been charged with a relevant offence in that State.

(3) For the purposes of this section, a relevant offence is an offence constituted by an act or omission which, had it occurred in or within Sierra Leone would have constituted a corruption offence.

(4) This section shall apply only to property coming into the possession or under the control of a person after the commencement of this Act.

Request to be accompanied by an evidence order.

107. (1) Subject to section 108, the Commissioner may, upon application to the Court and upon production to the Court of a request accompanied by an order issued by a Court of the requesting State directed to any person within the jurisdiction of the Court to deliver himself or any document or material in his possession or under his control to the jurisdiction of the Court of the requesting State for the purpose of giving evidence in specified proceedings in that Court, obtain an order directed to that person in the same terms as in the order accompanying the request.

(2) Upon being served with an order issued in accordance with subsection (1), the person served shall, for the purposes of the order either-

- (a) deliver himself to the jurisdiction of the Court; or
- (b) deliver himself to the jurisdiction of the Court of the requesting State,

in accordance with the directions in the order.

(3) If a person served with an order issued in accordance with subsection (1) elects to deliver himself to the jurisdiction of the Court of the requesting State and fails to comply with any direction in the order, he shall be deemed immediately to have delivered himself to the jurisdiction of the Court as provided in paragraph (a) of subsection (2).

(4) The Court shall conduct such proceedings as are necessary to take the evidence of the person delivering himself to the jurisdiction of the Court pursuant to paragraph (a) of subsection (2) and the evidence shall subsequently be transmitted by the Court to the foreign State.

Limitations on compliance with request.

108. The Commissioner may refuse to comply with a request if-

Act No. 6

- (a) the action sought by the request is contrary to, or is likely to be contrary of 1991. to, the Constitution;
- (b) the execution of the request is likely to prejudice the national interest;
- (c) under the law of the requesting State the grounds for refusing to comply with a request from another State is substantially different from paragraph (a) or (b).

Request to Foreign States.

109. (1) The Commissioner may, after consultation with the Minister responsible for Foreign Affairs and the Attorney-General and Minister of Justice, make a request to a foreign State-

- (a) which he considers may be able to provide evidence or information relating to a corruption offence; or
- (b) for the freezing and forfeiture of property located in that State and which is liable to be forfeited by reason of it being the proceeds of a corruption offence.

(2) Where the foreign State, to which a request for assistance is made under subsection (1), requires the request to be signed by an appropriate competent authority, the Commissioner shall, for the purposes only of making such a request, be considered as the appropriate competent authority.

Issuing evidence order against person resident in foreign State.

110. The Commissioner may, in respect of any proceedings for a corruption offence, apply to a Judge in chambers for an order directed to any person resident in a foreign State to deliver himself or any document or material in his possession or under his control to the jurisdiction of the Court or, subject to the approval of the foreign State, to the jurisdiction of the Court of the foreign State for the purpose of giving evidence in relation to those proceedings.

Evidence pursuant to requests.

111. Evidence taken pursuant to a request in any proceedings in a Court of a foreign State shall be received as *prima facie* evidence in any proceedings to which such evidence relates.

Authentication of documents.

112. For the purposes of this part, a document is authenticated if-

- (a) it purports to be signed or certified by a Judge, Magistrate or officer in or of the requesting State; and
- (b) it purports to be authenticated by the oath or affirmation of a witness or to be sealed with an official or public seal -
 - (i) of a Minister, Department of State or Department or officer in or of the Government of the requesting State; or
 - (ii) in the case of a territory, protectorate or colony, of the person administering the Government of the requesting territory, protectorate or colony, or of a person administering a department of that territory, protectorate or colony.

Form of requests.

113. A request shall be in writing, including facsimile transmittal writing, dated and signed by or on behalf of the person making the request.

Contents of requests.

114. The request shall-

- (a) confirm either that an investigation or prosecution is being conducted in respect of a suspected corruption offence or that a person has been convicted of any such offence;
- (b) state the grounds on which any person is being investigated or prosecuted for any corruption offence, or give details of the conviction of the person for a corruption offence;
- (c) give sufficient particulars of the identity of the person;
- (d) give particulars sufficient to identify any financial institution or other person believed to have information, documents or material which may be of assistance to the investigation or prosecution;

- (e) request assistance to obtain from a financial institution or other person all and any information, documents or material which may be of assistance to the investigation or prosecution;
- (f) specify the manner in which and to whom any information, document or material obtained pursuant to the request is to be produced;
- (g) state whether a freezing order or forfeiture order is required and identify the property to be the subject of such an order; and
- (h) contain such other information as may assist the execution of the request.

Request for forfeiture.

115. A request for forfeiture shall have attached to it a copy of the final forfeiture order of the Court and a statement signed by a judge of that Court to the effect that no further appeal against such order can be made.

Request not to be invalidated.

116. A request shall not be invalidated for the purposes of this Act or any legal proceedings by virtue of any failure to comply with any provisions of this Part, where the Commissioner is satisfied that there is sufficient compliance to enable him properly to execute the request.

Asset sharing.

117. Where the Minister responsible for finance considers it appropriate, either because an international arrangement so requires or permits or in the interest of comity, he may order that the whole or any part of any property forfeited under this Part, or the value thereof, be given or remitted to the requesting State.

Offence of interference with mutual assistance orders.

118. It is an offence-

- (a) for any person to falsify, conceal, destroy or otherwise dispose of or cause or permit the falsification, concealment, destruction or disposal of any document or material which he knows or has reasonable grounds for believing that it is likely to be relevant to the execution of any order made in accordance with this Part;
- (b) for any person who knows or has reasonable grounds for believing that an investigation into a corruption offence has been, is being or is about to be made, or that an order has been made or may be

made requiring the delivery or production of any document under this Part to divulge that fact or other information to another person whereby the investigation is likely to be prejudiced.

PART VIII - INTEGRITY IN PUBLIC LIFE

Public officers to declare assets and liabilities.

119. (1) Every public officer shall within three months of becoming a public officer deposit with the Commission a sworn declaration of his income, assets and liabilities and thereafter not later than 31st March in each succeeding year that he is a public officer, he shall deposit further declarations of his income, assets and liabilities and also while leaving office.

(2) Every person who at the commencement of this Act is a public officer shall within three months of commencement of this Act deposit with the Commission a sworn declaration of his income, assets and liabilities and thereafter not later than 31st March in each succeeding year that he is a public officer, he shall deposit further declarations of his income, assets and liabilities.

(3) In the case of every person who ceases to be a public officer, at any time after the commencement of this Act, on the first anniversary of the date on which he ceases to be a public officer he shall file in respect of his assets, income and liabilities, covering the period from the date of his last declaration to the date on which he is required by this paragraph to furnish a declaration.

(4) Notwithstanding the provisions of subsection (1), the Commission may in any particular case, for good cause, extend the time for the furnishing of a declaration for a period not exceeding six months.

(5) A declaration required under this Part shall include such particulars as are known to the declarant of the assets, income and liabilities of himself, of his spouse and of his children:

Provided that-

- (a) if the spouse was not ordinarily living with the declarant for a continuous period of two years during the period in relation to which the declaration is made; or

- (b) if a child of the declarant was not ordinarily living with the declarant at any time during the period in relation to which the declaration is made,

the particulars required to be furnished by this subsection shall be limited to assets held by the spouse or child (as the case may be) in trust for, or as agent of the declarant, so, however, that nothing in this subsection shall be construed as precluding the Commission from requiring from a declarant any additional particulars the Commission may think fit.

(6) Where a public officer who is required to furnish a declaration fails to do so in accordance with this section or without reasonable cause, fails to furnish details in accordance with the prescribed form, the Commission shall publish such fact in the *Gazette* and in at least two daily newspapers published in Sierra Leone or broadcast such fact on a radio station in the locality of such public officer's last known place of residence .

(7) The Commission may at any time after publication in the *Gazette* pursuant to subsection (6), make an *ex parte* application to the Court for an order directing such person to comply with the Act and the Court may, in addition to making such order, impose such conditions as it thinks fit.

(8) Where a public officer holds money or other property in trust for another person, he may so state in his declaration, but shall not be required to disclose the terms of the trust.

(9) For the purposes of a declaration under this Part, the income, assets and liabilities of a person in public life include the income, assets and liabilities acquired, held or incurred by any other person as his agent or on his behalf.

(10) Subject to this Act, Parliament may by resolution apply this section to any other persons employed by the Government not mentioned herein.

(11) Before passing the resolution referred to in subsection (10), Parliament shall give a reasonable opportunity to public appointees and public officers affected thereby to express their views, and shall duly take such views into consideration.

(12) Any person to whom this section applies shall, from the date of such application, be deemed to be a public officer and this Act

regarding the furnishing of declarations to the Commission and other matters relating to public officers shall apply to him in like manner.

(13) Subject to this Act, the Commissioner, Deputy Commissioner, Directors and other persons having an official duty under this Act, or being employed in the administration of this Act, shall deal with all documents and information, and all other matters relating to a declaration under this Part, as secret and confidential, except where a particular declaration or record is required to be produced for the purpose of, or in connection with any court proceedings against, or inquiry in respect of a declarant under this Act, the Commissions of Inquiry.

(14) The Commissioner, Deputy Commissioner Directors and other persons referred to in subsection (13) shall make and subscribe such oath of secrecy as the Commission may prescribe.

(15) The declaration shall be in such form as the Commission may prescribe.

**Examination
and publication
of declaration.**

120. (1) The Commission shall examine every declaration furnished to it and may request from the declarant any information or explanation relevant to a declaration made by him, which in its opinion, would assist it in its examination.

(2) Where upon an examination under subsection (1), the Commission is satisfied that a declaration has been fully made, it shall publish or cause to be published a certificate in the *Gazette* in the form prescribed by the Commission.

(3) Where the Commission publishes or causes to be published a certificate under subsection (2), any person may make a written complaint to the Commission in relation to that certificate.

**Power to
investigate
particulars
in declaration.**

121. (1) Where-

(a) upon an examination under section 121, the Commission is not satisfied that a declaration has been fully made, it may decide that further investigation is necessary; or

(b) after a certificate has been published in the *Gazette* under section 121 any person makes a written complaint to the Commission in relation to that certificate, the Commission,

after consideration of the complaint, may decide that the complaint should be investigated.

(2) In conducting an investigation pursuant to subsection (1), the Commission may-

- (a) in writing request the public officer concerned or the complainant to furnish such further information or documents as it may require, within such time as it may specify;
- (b) in writing require the public officer concerned to attend on the Commission at such time as may be specified by the Commission;
- (c) make such independent inquiries and investigation relating to the declaration or complaint as it thinks necessary;
- (d) summon witnesses and require the production of documents;
- (e) in respect of a complaint under paragraph (b) of subsection (1), in addition to summoning the complainant, it may hear the complainant who may be represented by a legal practitioner and any witnesses in support of the complaint; and
- (f) do all such things as it considers necessary or expedient for the purpose of carrying out its functions.

(3) Where a public officer is required to attend on the Commission pursuant to subsection (2), he may have the right to be accompanied and represented by a legal practitioner for the purposes of such inquiry and may require the Commission to summon such witnesses as he thinks necessary.

(4) For the purpose of investigation of a complaint under this section, the Commission may, on good cause being shown to its satisfaction, allow the complainant to have access to the declaration of the public officer concerned filed under this Act.

(5) Where the Commission after conducting an inquiry in accordance with paragraph (b) of subsection (1) is satisfied that the complaint is groundless or has not been substantiated, it shall publish a statement in the Gazette to that effect, and in addition, where there is evidence of the commission of an offence under this Act either by the complainant or by the public officer concerned the Commission shall take such action as it may consider necessary.

Offences in relation to declarations.

122. Any person who-

- (a) fails without reasonable cause, to furnish to the Commission a declaration which he is required to furnish in accordance with the provisions of this Act;
- (b) knowingly makes any false statement in such declaration;
- (c) fails without reasonable cause to give such information or explanation as the Commission may require;
- (d) after a certificate in respect of a declaration has been published in the Gazette pursuant to subsection (2) of section 121, publishes any statement whatever (orally or in writing) challenging the accuracy of that certificate or the honesty or credibility of the declarant, otherwise than by way of a complaint to the Commission;
- (e) contrary to section 120, discloses or makes known to any person any information contained in any such declaration otherwise than in accordance with this Act or any other enactment;
- (f) makes any frivolous, vexatious or groundless complaint to the Commission in relation to a declaration or a certificate in respect of such declaration; or
- (g) fails without reasonable cause to attend an investigation being conducted by the Commission pursuant to section 122, or knowingly gives any false information in such investigation,

commits an offence and shall be liable on conviction to a fine not less than twenty million leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.

PART IX - MISCELLANEOUS

Effect of death of person involved.

123. A notice authorised or required to be given to a person under this Act is, for a person who is dead, taken to have been given if it is given to the person's legal personal representative.

Effect of death of joint owner of restrained property.

124. (1) If a person has an interest in property as joint owner of the property, the person's death after a restriction notice issued in relation to the interest does not, while the notice is in force, operate to vest the interest in the surviving joint owner or owners and the restriction notice continues to apply to the interest as if the person had not died.

(2) A forfeiture order made in relation to the interest applies as if the order took effect immediately before the person died.

(3) If a restriction notice ceases to apply to an interest in property without a forfeiture order being made in relation to the interest, subsection (1) is taken not to have applied to the interest.

Arrangements to avoid operation of Act.

125. (1) If the court is satisfied on an application by the Commission that a scheme was carried out by a person for the purpose of directly or indirectly defeating the operation of this Act in any way, the court may for the purpose of defeating that purpose-

- (a) make an order declaring all or part of the scheme void; or
- (b) make an order varying the operation of all or part of the scheme.

(2) The court may also make such orders as the court considers just in the circumstances for consequential or a related matter or for giving effect to any order of the court under this section, including any order about the following-

- (a) any disposition of property;
- (b) the payment of money;

- (c) the sale or other realisation of property and the disposition of the proceeds;
- (d) the creation of a charge on property in favour of any person and the enforcement of the charge created.

(3) In this section-

- (a) "defeating" includes avoiding, preventing and impeding;
- (b) "scheme" includes-
 - (i) any agreement, arrangement, promise, understanding or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; or
 - (ii) any action, course of action, course of conduct, plan or proposal.

**Corruption offence
extraditable.
Act No.11 of 1974**

126. Any request for extradition of an offender shall be subject to the Extradition Act, 1974 which shall be applied as if any corruption offence or economic crime is an offence for which extradition may be granted.

**Obstruction
of justice.**

127. (1) No person shall-

- (a) without justification or lawful excuse, obstruct or hinder, or assault or threaten, a person acting under this Act;
- (b) deceive or knowingly mislead the Commission or a person acting under this Act;
- (c) destroy, alter, conceal or remove documents, records or evidence that the person believes, or has grounds to believe, may be relevant to an investigation or proceeding under this Act; or

- (d) make false accusations to the Commission or a person acting under this Act.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not less than five million leones or to imprisonment for a term not less than three years or to both such fine and imprisonment.

Conspiracy.

128. (1) Any attempt or conspiracy to commit a corruption offence or aiding, abetting, counseling, commanding or procuring the commission of a corruption offence shall be punishable as if the offence had been completed and any rules of evidence which apply with respect to the proof of any such offence shall apply in like manner to the proof of conspiracy to commit such offence.

(2) The powers of investigation conferred by Part V shall apply with respect to a conspiracy to commit an offence under this Act in like manner as they apply to the investigation of any such offence.

Offence by body of persons.

129. Where an offence under this Act is committed by a body of persons-

- (a) if the body of persons is a body corporate, every director or officer of that body shall be deemed to have committed that offence;
- (b) if the body of persons is a firm, every partner of that firm shall be deemed to have committed that offence.

General penalty.

130. (1) A person who fails to comply with any requirement under this Act for which no offence is specifically created commits an offence and shall be liable on conviction to a fine not less than five million leones.

(2) Any person who commits an offence for which no penalty is provided shall be liable on conviction to a fine not less than thirty million leones or to imprisonment for a term not less than 3 years or to both such fine and imprisonment.

Court may impose ban.

131. A court may in addition to any other penalty, permanently or for a maximum period of five years, ban any person convicted of an offence under Part IV from pursuing the profession, trade, vocation or occupation which provided the opportunity for the commission of the offence.

Custom not a defence.

132. Unless otherwise provided in this Act, in any prosecution of an offence under Part IV, it shall be no defence that the receiving, soliciting, giving, offering or obtaining of any advantage is customary in any business, undertaking, office, profession or calling.

Civil proceedings.

133. Where the Commission is satisfied that a person has been a party to corruption and has benefited from it, the Commission shall institute civil proceedings for damages in respect of the corruption.

Suspension of public officer charged with corruption.

134. (1) A public officer who is charged with corruption or economic crime shall be suspended, at half pay, with effect from the date of the charge.

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

(3) This section does not derogate from any power or requirement under any law under which the public officer may be suspended without pay or dismissed.

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

Suspension of public officer convicted of corruption.

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

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

(3) The public officer shall be dismissed if-

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

(b) the conviction is upheld on appeal.

(4) This section does not apply to an office in respect of which the Constitution limits or provides for the grounds upon which a

holder of the office may be removed or the circumstances in which the office must be vacated.

Commissioner to report on charges and convictions for corruption.

136. (1) The Commissioner shall report to the appropriate appointing authority the fact that a public officer has been charged for or convicted of corruption or economic crime.

(2) Where a public officer is convicted of corruption or economic crime, the Commissioner may, in the report made pursuant to subsection (1), make such recommendations as to possible disciplinary action to be taken against such public officer as he may deem appropriate.

Conduct outside Sierra Leone constituting offenders.

137. Conduct by a citizen of Sierra Leone that takes place outside Sierra Leone constitutes an offence under this Act if the conduct would constitute an offence under this Act if it took place in Sierra Leone.

Costs on acquittal.

138. Where a person is acquitted after trial before the Court for an offence under Part IV, the court may award costs to that person, such costs to be taxed and paid out of the Consolidated Fund.

Supplementary funds.

139. The Commission shall retain ten per cent of all debts recovered in civil proceedings in the course of its work and shall supplement its budget with it and the remaining ninety per cent shall be paid into the Consolidated Fund.

Regulations.

140. The Commission, may by statutory instrument, make regulations for the carrying out of the provisions of this Act.

Repeal and savings.

Act No. 1 of 2000.

141. (1) The Anti-Corruption Act, 2000 is repealed.

(2) Notwithstanding subsection (1), any rules, regulations, orders, notices, prescriptions and other instruments or directives issued under the repealed Act and in existence immediately before the commencement of this Act, shall continue in operation until their expiration or until their express repeal or revocation.

(3) Any person holding or deriving office by appointment under the repealed Act shall be deemed to have been appointed or to derive office under this Act.

(4) All investigations, prosecutions and other legal proceedings, instituted or

commenced under the repealed Act and which have not been concluded before the commencement of this Act, shall be continued and concluded in all respects as if that Act had not been repealed.

Passed in Parliament this day of in the year of our Lord two thousand and eight

VICTOR A KAMARA
Clerk of Parliament

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill

VICTOR A KAMARA
Clerk of Parliament

MEMORANDUM OF OBJECTS AND REASONS

The Anti-Corruption Act 2000 (Act No. 1 of 2000) was enacted to prevent corrupt practices. The Act, since its enactment has been the subject of many criticisms. One of such criticisms is that the Act did not go far enough in its provisions especially when viewed against the United National Convention Against Corruption and the African Union Convention on Preventing and Combating Corruption and Related Offences, both of which Sierra Leone has ratified.

Another criticism was that the Anti-Corruption Commission did not have power to prosecute offences under that Act and relied on a three member Committee established by the Law Officers (Prosecution of Anti-Corruption Cases) Instructions, 2005 to make decisions as to whom to prosecute under that Act, the constitutionality of which remains doubtful.

The object of this Bill is therefore to plug the holes in the Anti-Corruption Act 2000 whilst adopting the provisions in the two conventions.

Part 1 of the Bill provides for the establishment of the Anti-Corruption Commission as a body corporate with the power to acquire, hold and dispose of moveable and immovable

properties, etc. the Bill also seeks to limit the tenure of office of the Commissioner and Deputy Commissioner to a maximum of two terms of five years each. Unlimited renewals of appointment as provided for in the Anti-Corruption Act, 2000 tended to breed inefficiency and laissez faire attitude to work. It could also engender corruption as the renewals may well develop “goodwill” for the time when a favour is needed.

Parts IV deals with offences. Clause 26 provides for the corrupt acquisition of wealth by public officers whilst Clause 27 provides for possession of unexplained wealth.

Parts V and VI deal with powers of investigation and prosecution of offences respectively. Clause 89 in particular empowers the Anti-Corruption Commission to prosecute offences where the Commission, after its investigations thinks that prosecution is warranted.

Part VII provides for mutual assistance whereby the Commission is to co-operate with foreign states in the investigation or prosecution of corrupt practices upon being requested by a foreign state.

However, where the request (a) is contrary to or likely to be contrary to the Constitution of Sierra Leone (b) the execution of the request is likely to prejudice the national interest or (c)

under the law of the requesting states, the grounds for refusing to comply with the request is substantially different from the ones stated in (a) and (b), then the Commission may refuse such request.

ABDUL SERRY KAMAL
Attorney-General and Minister of Justice

Freetown
Sierra Leone
May, 2008