

ANTI-CORRUPTION (AMENDMENT) ACT, 2021*(Act 19 of 2021)***ARRANGEMENT OF SECTIONS****Sections**

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ANTI-CORRUPTION (AMENDMENT) ACT, 2021

(Act 19 of 2021)



I assent

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

Wavel Ramkalawan
President

16th April, 2021

AN ACT to amend the Anti-Corruption Act, 2016 (Act 2 of 2016).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Anti-Corruption (Amendment) Act, 2021.

Amendment of section 2 of Act 2 of 2016

2. Section 2 of the Anti-Corruption Act, 2016 (Act 2 of 2016) (hereinafter referred to as the “principal Act”) is amended —

- (a) by repealing the definitions of “Chairperson”, “Chief Executive Officer” and “Commissioner”;
- (b) by inserting, in alphabetical order, the following definition —
“ “Commissioner” means the Commissioner to the Commission appointed under section 6;”;
- (c) in the definition of “seizure”, by repealing the words “Chief Executive Officer”, and substituting therefor the words “Commissioner”.

Amendment of section 5

3. Section 5(1) of the principal Act is amended —

- (a) by repealing paragraph (e) and relettering the paragraphs accordingly;
- (b) by repealing the word “and” appearing at the end of paragraph (m)(v), and by inserting after paragraph (n), the following paragraph —
“(o) to perform any other duty as may be assigned to it by any other Act.”.

Substitution of sections 6 to 13

4. The principal Act is amended by repealing sections 6 to 13 (both inclusive) and substituting therefor the following sections —

“Appointment of Commissioner

6.(1) There shall be a Commissioner of the Commission who shall be appointed by the President from suitably qualified

candidates proposed by the Constitutional Appointments Authority.

(2) The Commissioner shall be the chief executive of the Commission and shall be responsible for the control, direction and administration of the Commission.

(3) The term of office of the Commissioner shall be five years from the date of the appointment and the Commissioner shall be eligible for reappointment.

(4) The Commissioner shall hold office for not more than two terms, whether consecutive or otherwise.

(5) The salary and allowances of the Commissioner shall be such as may be prescribed.

(6) The Commissioner shall not, while holding the office of Commissioner, hold or discharge the duties of any other office of emolument in the Republic.

Resignation and removal of Commissioner

7.(1) The Commissioner may resign from office upon giving two months written notice to the President.

(2) The President may, on the recommendation of the Constitutional Appointments Authority, remove the Commissioner from office, if he or she —

- (a) has been found guilty of any misconduct, default or breach of trust in the discharge of any duties;
- (b) is an undischarged insolvent or bankrupt;
- (c) is convicted of an offence and sentenced to a term of imprisonment of three months or more; or
- (d) is mentally or physically incapable of carrying out the functions under this Act.

(3) The Commissioner shall not be removed from office under subsection (2) (a) or (d), unless the Constitutional Appointments Authority holds an inquiry, in which the Commissioner has been given an opportunity of being heard, and recommends to the President that the Commissioner ought to be removed on such ground.

(4) Where an inquiry is contemplated under subsection (3), the President may, if the President considers it necessary so to do, suspend the Commissioner until the completion of the inquiry.

(5) The President may, on receipt of any complaint or any report from the Advisory Council against the Commissioner, refer the complaint or report to the Constitutional Appointments Authority for holding an inquiry and making a recommendation thereon.

Temporary appointment of Commissioner

8. Where the office of the Commissioner is vacant for any reason or the Commissioner is unable to perform the functions of the Commissioner, or the Commissioner is suspended under subsection (4), the President may appoint a person, who is qualified to be appointed as Commissioner, to perform the functions of Commissioner for a period not exceeding 6 months.

Powers and functions of Commissioner

9.(1) The Commissioner —

- (a) may sign documents on behalf of the Commission; and
- (b) may delegate any function of the Chief Executive Commissioner to any employee of the Commission.

(2) The Commissioner may make standing orders providing for —

- (a) the implementation of the decisions of the Commission for the effective management and carrying out of the affairs of the Commission;

- (b) the discipline, training, classification and promotion of officers of the Commission;
- (c) the duties of officers of the Commission; and
- (d) such other matters as he or she may consider necessary or expedient for preventing abuse of power or neglect of duty by officers or other staff of the Commission.

(3) The Commissioner may, by an order in writing, direct an officer of the Commission to conduct an inquiry or investigation into an alleged or suspected offence under this Act.

(4) The Commissioner may, by an order in writing, require the head of any public body to produce or furnish, within such time as the Commissioner specifies, any document or a certified true copy of any document, which is in that person's possession or under that person's control and which the Commissioner considers necessary for the conduct of an investigation into an alleged or suspected offence under this Act.

Advisory Council

10.(1) There shall be an Advisory Council consisting of four members appointed by the President on the recommendation of Constitutional Appointments Authority, out of whom one member shall be designated as the chairperson.

(2) The recommendation of the Constitutional Appointments Authority shall be made on the basis of integrity and qualification or experience of the member in the field of —

- (a) anti-corruption;
- (b) law or law enforcement;
- (c) accounting, finance or administration, or
- (d) investigation, including forensic investigation.

(3) A person appointed as a member of the Advisory Council shall hold office for a term of three years and shall be eligible for reappointment.

(4) There shall be paid to the members of the Advisory Council such remuneration or allowances as may be prescribed.

Functions of Advisory Council

11.(1) The Advisory Council shall be responsible to —

- (a) oversee the administrative policy of the Commission;
- (b) review and recognise provisions of laws for the prevention of corruption and make recommendations to the President for their effective implementation.

(2) The Advisory Council shall not interfere with the functioning or operation of the Commission in respect of any enquiry or conduct of investigation under this Act or any matter relating thereto.

(3) The Commissioner may seek the advice and guidance of the Advisory Council on any matter under this Act.

(4) Where the Advisory Council is of the opinion that the Commissioner is susceptible to disqualification under section 7(2), the Advisory Council shall make a report to the President.

(5) The Advisory Council may regulate its own procedure and meet when it deems necessary, which shall not be less than quarterly, but the chairperson shall convene a meeting as early as possible, when requested by the Commissioner.

Disclosure of interest by members of Advisory Council

12.(1) A member of the Advisory Council who has an interest in any matter under inquiry or investigation by the Commission or deliberation by the Advisory Council shall disclose to the Advisory Council the particulars of the interest; and the details of the disclosure shall be recorded in the minutes taken at the meeting at which the disclosure is made.

(2) Where a member of the Advisory Council discloses his or her interest under subsection (1), the member shall not take part in the deliberation of that matter by the Advisory Council.”.

Amendment of section 15

5. Section 15 of the principal Act is amended by repealing the words “the Chairperson, the Vice-Chairperson, a Commissioner or a member of the committee or staff of the Commission”, and substituting therefor the words “the Commissioner, a member of the Advisory Council or a member of the staff of the Commission”.

Amendment of section 17

6. Section 17(3) of the principal Act is amended by repealing the words “Chief Executive Officer” and substituting therefor the word “Commissioner”.

Repeal of sections 19 to 22

7. The principal Act is amended by repealing sections 19 to 22 (both inclusive).

Amendment of section 52

8. Section 52 of the principal Act is amended —

- (a) by repealing the words “Chief Executive Officer” wherever they appear, and substituting therefor the word “Commission”.
- (b) in subsection (6), by repealing the words “the Commission shall carry out”, and substituting therefor the words “to carry out”;
- (c) in subsection (7), by repealing the word “Commission”, and substituting therefor the word “Commissioner”.

Amendment of section 52A

9. Section 52A of the principal Act is amended by repealing the words “Chief Executive Officer” wherever they appear and substituting therefor the word “Commissioner”.

Amendment of section 53

10. Section 53(1) of the principal Act is amended by repealing the words “Chief Executive Officer” wherever they appear and substituting therefor the word “Commission”.

Amendment of section 55

11. Section 55 of the principal Act is amended by repealing the words “Chief Executive Officer” wherever they appear and substituting therefor the word “Commissioner”.

Amendment of section 56

12. Section 56(1) of the principal Act is amended by repealing the words “Chief Executive Officer” and substituting therefor the word “Commissioner”.

Amendment of section 57

13. Section 57 of the principal Act is amended by repealing the words “Chief Executive Officer” wherever they appear and substituting therefor the word “Commissioner”.

Amendment of section 58

14. Section 58(1) of the principal Act is amended by repealing the words “Chief Executive Officer” and substituting therefor the word “Commissioner”.

Amendment of section 59

15. Section 59(1) of the principal Act is amended by repealing the words “Chief Executive Officer” and substituting therefor the word “Commissioner”.

Amendment of section 60

16. Section 60 of the principal Act is amended by repealing the words “Chief Executive Officer” wherever they appear and substituting therefor the word “Commissioner”.

Amendment of section 61

17. Section 61 of the principal Act is amended by repealing the words “Chief Executive Officer” wherever they appear and substituting therefor the word “Commissioner”.

Amendment of section 63

18. Section 63 of the principal Act is amended by repealing the words “Chief Executive Officer” wherever they appear and substituting therefor the word “Commissioner”.

Amendment of section 69

19. Section 69 of the principal Act is amended by repealing the words “Chief Executive Officer” wherever they appear and substituting therefor the word “Commissioner”.

Amendment of section 72

20. Section 72 of the principal Act is amended by repealing the words “Chief Executive Officer” and substituting therefor the word “Commissioner”.

Amendment of section 83

21. Section 83 of the principal Act is amended by repealing the words “Chief Executive Officer” and substituting therefor the word “Commissioner”.

Insertion of new section 80A

22. The principal Act is amended by inserting, after section 80, the following section —

“Submission of annual financial statement

80A. The Commission shall prepare and submit to the Minister of Finance, in each financial year, an annual financial statement for the next financial year showing separately —

- (a) the expenditure which is proposed to be met from the internal sources of the Commission; and
- (b) the sum required from the government to meet other expenses, distinguishing revenue expenditure from other expenditure.”.

Transitional provisions

23. On the commencement of this Act —

- (a) the Chairperson, Vice Chairperson and Commissioners of the Commission appointed under section 6 of the Anti-Corruption Act, 2016 shall cease to be the Chairperson, Vice Chairperson or Commissioners and shall vacate their respective offices; and the Chairperson, Vice Chairperson and Commissioners of the Commission shall not be entitled to claim any compensation for the premature termination of the respective terms of their offices or of any contract of service with the Commission;
- (b) the Chief Executive Officer appointed under section 19 of the Anti-Corruption Act, 2016 shall be deemed to be the Commissioner, appointed on the same terms and conditions of employment, and shall continue until the expiry of his or her term of appointment and the provisions of the Anti-Corruption Act, 2016, as amended by this Act, shall apply as if he or she was appointed under the Anti-Corruption Act, 2016 as amended by this Act.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th April, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly