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THE PRESIDENCY

No. 559

28 April 2004

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 12 of 2004: Prevention and Combating of Corrupt Activities Act, 2003.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

*(English text signed by the President.)
(Assented to 27 April 2004.)*

ACT

To provide for the strengthening of measures to prevent and combat corruption and corrupt activities; to provide for the offence of corruption and offences relating to corrupt activities; to provide for investigative measures in respect of corruption and related corrupt activities; to provide for the establishment and endorsement of a Register in order to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts; to place a duty on certain persons holding a position of authority to report certain corrupt transactions; to provide for extraterritorial jurisdiction in respect of the offence of corruption and offences relating to corrupt activities; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the Constitution enshrines the rights of all people in the Republic and affirms the democratic values of human dignity, equality and freedom;

AND WHEREAS the Constitution places a duty on the State to respect, protect, promote and fulfil all the rights as enshrined in the Bill of Rights;

AND WHEREAS corruption and related corrupt activities undermine the said rights, endanger the stability and security of societies, undermine the institutions and values of democracy and ethical values and morality, jeopardise sustainable development, the rule of law and the credibility of governments, and provide a breeding ground for organised crime;

AND WHEREAS the illicit acquisition of personal wealth can be particularly damaging to democratic institutions, national economies, ethical values and the rule of law;

AND WHEREAS there are links between corrupt activities and other forms of crime, in particular organised crime and economic crime, including money-laundering;

AND WHEREAS corruption is a transnational phenomenon that crosses national borders and affects all societies and economies, and is equally destructive and reprehensible within both the public and private spheres of life, so that regional and international cooperation is essential to prevent and control corruption and related corrupt activities;

AND WHEREAS a comprehensive, integrated and multidisciplinary approach is required to prevent and combat corruption and related corrupt activities efficiently and effectively;

AND WHEREAS the availability of technical assistance can play an important role in enhancing the ability of States, including by strengthening capacity and by institution-building, to prevent and combat corruption and related corrupt activities efficiently and effectively;

Act No. 12, 2004 PREVENTION AND COMBATING OF CORRUPT
ACTIVITIES ACT, 2004

AND WHEREAS the prevention and combating of corruption and related corrupt activities is a responsibility of all States requiring mutual cooperation, with the support and involvement of individuals and groups outside the public sector, such as organs of civil society and non-governmental and community-based organizations, if their efforts in this area are to be efficient and effective;

AND WHEREAS the United Nations has adopted various resolutions condemning all corrupt practices, and urged member states to take effective and concrete action to combat all forms of corruption and related corrupt practices;

AND WHEREAS the *Southern African Development Community Protocol against Corruption*, adopted on 14 August 2001 in Malawi, reaffirmed the need to eliminate the scourges of corruption through the adoption of effective preventive and deterrent measures and by strictly enforcing legislation against all types of corruption;

AND WHEREAS the Republic of South Africa desires to be in compliance with and to become Party to the *United Nations Convention against Corruption* adopted by the General Assembly of the United Nations on 31 October 2003;

AND WHEREAS it is desirable to unbundle the crime of corruption in terms of which, in addition to the creation of a general, broad and all-encompassing offence of corruption, various specific corrupt activities are criminalized,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

Section

CHAPTER 1

5

DEFINITIONS AND INTERPRETATION

1. Definitions
2. Interpretation

CHAPTER 2

OFFENCES IN RESPECT OF CORRUPT ACTIVITIES

10

Part 1: General offence of corruption

3. General offence of corruption

Part 2: Offences in respect of corrupt activities relating to specific persons

4. Offences in respect of corrupt activities relating to public officers
5. Offences in respect of corrupt activities relating to foreign public officials 15
6. Offences in respect of corrupt activities relating to agents
7. Offences in respect of corrupt activities relating to members of legislative authority
8. Offences in respect of corrupt activities relating to judicial officers
9. Offences in respect of corrupt activities relating to members of prosecuting authority 20

Part 3: Offences in respect of corrupt activities relating to receiving or offering of unauthorised gratification

10. Offences of receiving or offering of unauthorised gratification by or to party to an employment relationship

Part 4: Offences in respect of corrupt activities relating to specific matters 5

11. Offences in respect of corrupt activities relating to witnesses and evidential material during certain proceedings
12. Offences in respect of corrupt activities relating to contracts
13. Offences in respect of corrupt activities relating to procuring and withdrawal of tenders 10
14. Offences in respect of corrupt activities relating to auctions
15. Offences in respect of corrupt activities relating to sporting events
16. Offences in respect of corrupt activities relating to gambling games or games of chance

Part 5: Miscellaneous offences relating to possible conflict of interest and other unacceptable conduct 15

17. Offence relating to acquisition of private interest in contract, agreement or investment of public body
18. Offences of unacceptable conduct relating to witnesses
19. Intentional interference with, hindering or obstructing of investigation of offence 20

Part 6: Other offences relating to corrupt activities

20. Accessory to or after an offence
21. Attempt, conspiracy and inducing another person to commit offence

CHAPTER 3 25**INVESTIGATIONS REGARDING POSSESSION OF PROPERTY
RELATING TO CORRUPT ACTIVITIES**

22. Investigations regarding property relating to corrupt activities
23. Application for, and issuing of investigation direction in respect of possession of property disproportionate to a person's present or past known sources of income or assets 30

CHAPTER 4**PRESUMPTIONS AND DEFENCES**

24. Presumptions
25. Defences 35

CHAPTER 5**PENALTIES AND RELATED MATTERS**

26. Penalties
27. Authorisation by National Director, Deputy National Director or Director to institute proceedings in respect of certain offences 40
28. Endorsement of Register.

CHAPTER 6**REGISTER FOR TENDER DEFAULTERS**

- | | |
|---|---|
| 29. Establishment of Register | |
| 30. Designation of Registrar | |
| 31. Powers, duties and functions of Registrar | 5 |
| 32. Access to Register | |
| 33. Regulations pertaining to Register | |

CHAPTER 7**MISCELLANEOUS MATTERS**

- | | |
|--|----|
| 34. Duty to report corrupt transactions | 10 |
| 35. Extraterritorial jurisdiction | |
| 36. Repeal and amendment of laws and transitional provisions | |
| 37. Short title and commencement | |

SCHEDULE**CHAPTER 1**

15

DEFINITIONS AND INTERPRETATION**Definitions****1.** In this Act, unless the context indicates otherwise—

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| (i) “ agent ” means any authorised representative who acts on behalf of his or her principal and includes a director, officer, employee or other person authorised to act on behalf of his or her principal, and “ agency ” has a corresponding meaning; | 20 |
| (ii) “ animal ” means any living vertebrate member of the animal kingdom, domestic or wild, but does not include a human being; | |
| (iii) “ business ” means any business, trade, occupation, profession, calling, industry or undertaking of any kind, or any other activity carried on for gain or profit by any person within the Republic or elsewhere, and includes all property derived from or used in or for the purpose of carrying on such other activity, and all the rights and liabilities arising from such other activity; | 25 |
| (iv) “ dealing ” includes— | 30 |
| (a) any promise, purchase, sale, barter, loan, charge, mortgage, lien, pledge, caveat, transfer, delivery, assignment, subrogation, transmission, gift, donation, trust, settlement, deposit, withdrawal, transfer between accounts or extension of credit; | |
| (b) any agency or grant of power of attorney; or | 35 |
| (c) any act which results in any right, interest, title or privilege, whether present or future or whether vested or contingent, in the whole or in part of any property being conferred on any person; | |
| (v) “ foreign public official ” means— | |
| (a) any person holding a legislative, administrative or judicial office of a foreign state; | 40 |
| (b) any person performing public functions for a foreign state, including any person employed by a board, commission, corporation or other body or authority that performs a function on behalf of the foreign state; or | |
| (c) an official or agent of a public international organisation; | 45 |
| (vi) “ foreign state ” means any country other than South Africa, and includes— | |
| (a) any foreign territory; | |
| (b) all levels and subdivisions of government of any such country or territory; or | |
| (c) any agency of any such country or territory or of a political subdivision of any such country or territory; | 50 |

- (vii) **“gambling game”** means any gambling game as defined in section 1 of the National Gambling Act, 1996 (Act No. 33 of 1996);
- (viii) **“game of chance”**, includes a lottery, lotto, numbers game, scratch game, sweepstake, or sports pool;
- (ix) **“gratification”**, includes— 5
- (a) money, whether in cash or otherwise;
- (b) any donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable, or any other similar advantage;
- (c) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage; 10
- (d) any office, status, honour, employment, contract of employment or services, any agreement to give employment or render services in any capacity and residential or holiday accommodation;
- (e) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part; 15
- (f) any forbearance to demand any money or money’s worth or valuable thing;
- (g) any other service or favour or advantage of any description, 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 includes the exercise or the forbearance from the exercise of any right or any official power or duty; 20
- (h) any right or privilege;
- (i) any real or pretended aid, vote, consent, influence or abstention from voting; or 25
- (j) any valuable consideration or benefit of any kind, including any discount, commission, rebate, bonus, deduction or percentage;
- (x) **“induce”** includes to persuade, encourage, coerce, intimidate or threaten or cause a person, and **“inducement”** has a corresponding meaning; 30
- (xi) **“judicial officer”** means—
- (a) any constitutional court judge or any other judge as defined in section 1 of the Judges’ Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001);
- (b) a judge of the Labour Court appointed under section 153(1)(a) or (b), (4) or (5) of the Labour Relations Act, 1995 (Act No. 66 of 1995); 35
- (c) the President or judge of the Land Claims Court appointed under section 22(3), (4) or (8) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);
- (d) any judge of the Competition Appeal Court appointed under section 36(2) of the Competition Act, 1998 (Act No. 89 of 1998); 40
- (e) a judge or additional member appointed under section 7 of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), to a Special Tribunal established in terms of section 2 of that Act;
- (f) the presiding officer or member of the court of marine enquiry, the maritime court and the court of survey referred to in sections 267(1), 271(1) and 276(1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), respectively; 45
- (g) any presiding officer appointed under section 10(3)(b) of the Administration Amendment Act, 1929 (Act No. 9 of 1929), to a divorce court established in terms of section 10(1) of that Act; 50
- (h) any regional magistrate or magistrate defined in section 1 of the Magistrates Act, 1993 (Act No. 90 of 1993);
- (i) any commissioner appointed under section 9 of the Small Claims Courts Act, 1984 (Act No. 61 of 1984); 55

- (j) any arbitrator, mediator or umpire, who in terms of any law presides at arbitration or mediation proceedings for the settlement by arbitration or mediation of a dispute which has been referred to arbitration or mediation;
- (k) any adjudicator appointed under section 6 of the Short Process Courts and Mediation in Certain Civil Cases Act, 1991 (Act No. 103 of 1991); 5
- (l) where applicable, any assessor who assists a judicial officer;
- (m) any other presiding officer appointed to any court or tribunal established under any statute and who has the authority to decide causes or issues between parties and render decisions in a judicial capacity; 10
- (n) any other person who presides at any trial, hearing, commission, committee or any other proceedings and who has the authority to decide causes or issues between parties and render decisions in a judicial capacity; or
- (o) any person contemplated in paragraphs (a) to (n) who has been appointed in an acting or temporary capacity; 15
- (xii) **“legislative authority”**, means the legislative authority referred to in section 43 of the Constitution;
- (xiii) **“listed company”** means a company, the equity share capital of which is listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985); 20
- (xiv) **“National Commissioner”** means the National Commissioner of the South African Police Service appointed in terms of section 207(1) of the Constitution;
- (xv) **“National Director”** means the National Director of Public Prosecutions appointed in terms of section 179(1) of the Constitution; 25
- (xvi) **“official”** means any director, functionary, officer or agent serving in any capacity whatsoever in a public body, private organisation, corporate body, political party, institution or other employment, whether under a contract of service or otherwise, and whether in an executive capacity or not; 30
- (xvii) **“person who is party to an employment relationship”**, includes any person who in any manner assists in carrying on or conducting the business of an employer;
- (xviii) **“police official”** means a **“member”** of the South African Police Service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995); 35
- (xix) **“principal”**, includes—
- (a) any employer;
- (b) any beneficiary under a trust and any trust estate;
- (c) the estate of a deceased person and any person with a beneficial interest in the estate of a deceased person; 40
- (d) in the case of any person serving in or under a public body, the public body; or
- (e) in the case of a legal representative referred to in the definition of **“agent”**, the person represented by such legal representative; 45
- (xx) **“private sector”** means all persons or entities, including any—
- (a) natural person or group of two or more natural persons who carries on a business;
- (b) syndicate, agency, trust, partnership, fund, association, organisation or institution; 50
- (c) company incorporated or registered as such;
- (d) body of persons corporate or unincorporate; or
- (e) other legal person,
but does not include—
- (a) public officers; 55
- (b) public bodies;
- (c) any legislative authority or any member thereof;
- (d) the judicial authority or any judicial officer; or
- (e) the prosecuting authority or any member thereof;
- (xxi) **“property”** means money or any other movable, immovable, corporeal or incorporeal thing, whether situated in the Republic or elsewhere and includes any rights, privileges, claims, securities and any interest therein and all proceeds thereof; 60

- (xxii) **“public body”** means—
- (a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or
 - (b) any other functionary or institution when—
 - (i) exercising a power or performing a duty or function in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public duty or function in terms of any legislation;
- (xxiii) **“public international organisation”** means—
- (a) an organisation—
 - (i) of which two or more countries are members; or
 - (ii) that is constituted by persons representing two or more countries;
 - (b) an organisation established by, or a group of organisations constituted by—
 - (i) organisations of which two or more countries are members; or
 - (ii) organisations that are constituted by the representatives of two or more countries; or
 - (c) an organisation that is—
 - (i) an organ of, or office within, an organisation described in paragraph (a) or (b);
 - (ii) a commission, council or other body established by an organisation or organ referred to in subparagraph (i); or
 - (iii) a committee or a subcommittee of a committee of an organisation referred to in paragraph (a) or (b) or of an organ, council or body referred to in subparagraph (i) or (ii);
- (xxiv) **“public officer”** means any person who is a member, an officer, an employee or a servant of a public body, and includes—
- (a) any person in the public service contemplated in section 8(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994);
 - (b) any person receiving any remuneration from public funds; or
 - (c) where the public body is a corporation, the person who is incorporated as such,
- but does not include any—
- (a) member of the legislative authority;
 - (b) judicial officer; or
 - (c) member of the prosecuting authority;
- (xxv) **“sporting event”** means any event or contest in any sport, between individuals or teams, or in which an animal competes, and which is usually attended by the public and is governed by rules which include the constitution, rules or code of conduct of any sporting body which stages any sporting event or of any regulatory body under whose constitution, rules or code of conduct the sporting event is conducted; and
- (xxvi) **“valuable security”** means any document—
- (a) creating, transferring, surrendering or releasing any right to, in or over property;
 - (b) authorising the payment of money or delivery of any property; or
 - (c) evidencing the creation, transfer, surrender or release of any such right, the payment of money or delivery of any property or the satisfaction of any obligation.

Interpretation

2. (1) For purposes of this Act a person is regarded as having knowledge of a fact if—
- (a) that person has actual knowledge of the fact; or
 - (b) the court is satisfied that—
 - (i) the person believes that there is a reasonable possibility of the existence of that fact; and
 - (ii) the person has failed to obtain information to confirm the existence of that fact,

and **“knowing”** shall be construed accordingly.

Act No. 12, 2004 PREVENTION AND COMBATING OF CORRUPT
ACTIVITIES ACT, 2004

(2) For the purposes of this Act a person ought reasonably to have known or suspected a fact if the conclusions that he or she ought to have reached are those which would have been reached by a reasonably diligent and vigilant person having both—

- (a) the general knowledge, skill, training and experience that may reasonably be expected of a person in his or her position; and 5
- (b) the general knowledge, skill, training and experience that he or she in fact has.

(3) (a) A reference in this Act to accept or agree or offer to accept any gratification, includes to—

- (i) demand, ask for, seek, request, solicit, receive or obtain; 10
- (ii) agree to demand, ask for, seek, request, solicit, receive or obtain; or
- (iii) offer to demand, ask for, seek, request, solicit, receive or obtain,

any gratification.

(b) A reference in this Act to give or agree or offer to give any gratification, includes to—

- (i) promise, lend, grant, confer or procure; 15
- (ii) agree to lend, grant, confer or procure; or
- (iii) offer to lend, grant, confer or procure,

such gratification.

(4) A reference in this Act to any act, includes an omission and “**acting**” shall be construed accordingly. 20

(5) A reference in this Act to any person includes a person in the private sector.

CHAPTER 2
OFFENCES IN RESPECT OF CORRUPT ACTIVITIES

Part 1: General offence of corruption

General offence of corruption 25

3. Any person who, directly or indirectly—

- (a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or
- (b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person, 30

in order to act, personally or by influencing another person so to act, in a manner—

- (i) that amounts to the—
 - (aa) illegal, dishonest, unauthorised, incomplete, or biased; or
 - (bb) misuse or selling of information or material acquired in the course 35

of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;

- (ii) that amounts to— 40
 - (aa) the abuse of a position of authority;
 - (bb) a breach of trust; or
 - (cc) the violation of a legal duty or a set of rules;

- (iii) designed to achieve an unjustified result; or
- (iv) that amounts to any other unauthorised or improper inducement to do or 45

is guilty of the offence of corruption.

Part 2: Offences in respect of corrupt activities relating to specific persons

Offences in respect of corrupt activities relating to public officers

4. (1) Any— 50

- (a) public officer who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or
- (b) person who, directly or indirectly, gives or agrees or offers to give any gratification to a public officer, whether for the benefit of that public officer or 55

for the benefit of another person,

Act No. 12, 2004 PREVENTION AND COMBATING OF CORRUPT
ACTIVITIES ACT, 2004

in order to act, personally or by influencing another person so to act, in a manner—

- (i) that amounts to the—
 - (aa) illegal, dishonest, unauthorised, incomplete, or biased; or
 - (bb) misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation; 5
- (ii) that amounts to—
 - (aa) the abuse of a position of authority;
 - (bb) a breach of trust; or 10
 - (cc) the violation of a legal duty or a set of rules;
- (iii) designed to achieve an unjustified result; or
- (iv) that amounts to any other unauthorised or improper inducement to do or not to do anything.

is guilty of the offence of corrupt activities relating to public officers. 15

(2) Without derogating from the generality of section 2(4), “to act” in subsection (1), includes—

- (a) voting at any meeting of a public body;
- (b) performing or not adequately performing any official functions;
- (c) expediting, delaying, hindering or preventing the performance of an official act; 20
- (d) aiding, assisting or favouring any particular person in the transaction of any business with a public body;
- (e) aiding or assisting in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person in relation to the transaction of any business with a public body; 25
- (f) showing any favour or disfavour to any person in performing a function as a public officer;
- (g) diverting, for purposes unrelated to those for which they were intended, any property belonging to the state which such officer received by virtue of his or her position for purposes of administration, custody or for any other reason, to another person; or 30
- (h) exerting any improper influence over the decision making of any person performing functions in a public body.

Offences in respect of corrupt activities relating to foreign public officials 35

5. (1) Any person who, directly or indirectly gives or agrees or offers to give any gratification to a foreign public official, whether for the benefit of that foreign public official or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner—

- (a) that amounts to the— 40
 - (i) illegal, dishonest, unauthorised, incomplete, or biased; or
 - (ii) misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation; 45
- (b) that amounts to—
 - (i) the abuse of a position of authority;
 - (ii) a breach of trust; or
 - (iii) the violation of a legal duty or a set of rules;
- (c) designed to achieve an unjustified result; or 50
- (d) that amounts to any other unauthorised or improper inducement to do or not to do anything,

is guilty of the offence of corrupt activities relating to foreign public officials.

Act No. 12, 2004 PREVENTION AND COMBATING OF CORRUPT
ACTIVITIES ACT, 2004

(2) Without derogating from the generality of section 2(4), “to act” in subsection (1) includes—

- (a) the using of such foreign public official’s or such others person’s position to influence any acts or decisions of the foreign state or public international organisation concerned; or 5
- (b) obtaining or retaining a contract, business or an advantage in the conduct of business of that foreign state or public international organisation.

Offences in respect of corrupt activities relating to agents

6. Any—

- (a) agent who, directly or indirectly— 10
 - (i) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or
 - (ii) gives or agrees or offers to give to any person any gratification, whether for the benefit of that person or for the benefit of another person; or 15
 - (b) person who, directly or indirectly—
 - (i) accepts or agrees or offers to accept any gratification from an agent, whether for the benefit of himself or herself or for the benefit of another person; or
 - (ii) gives or agrees or offers to give any gratification to an agent, whether for the benefit of that agent or for the benefit of another person. 20
- in order to act, personally or by influencing another person so to act, in a manner—
- (aa) that amounts to the—
 - (aaa) illegal, dishonest, unauthorised, incomplete, or biased; or
 - (bbb) misuse or selling of information or material acquired in the course of 25
 - the,
 - exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;
 - (bb) that amounts to— 30
 - (aaa) the abuse of a position of authority;
 - (bbb) a breach of trust; or
 - (ccc) the violation of a legal duty or a set of rules;
 - (cc) designed to achieve an unjustified result; or
 - (dd) that amounts to any other unauthorised or improper inducement to do or not to 35
 - do anything.

is guilty of the offence of corrupt activities relating to agents.

Offences in respect of corrupt activities relating to members of legislative authority

7. (1) Any—

- (a) member of the legislative authority who, directly or indirectly, accepts or 40
 - agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or
 - (b) person who, directly or indirectly, gives or agrees or offers to give any 45
 - gratification to a member of the legislative authority, whether for the benefit of that member or for the benefit of another person,
- in order to act, personally or by influencing another person so to act, in a manner—
- (i) that amounts to the—
 - (aa) illegal, dishonest, unauthorised, incomplete, or biased; or
 - (bb) misuse or selling of information or material acquired in the course of the, 50
 - exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;
 - (ii) that amounts to—

Act No. 12, 2004

PREVENTION AND COMBATING OF CORRUPT
ACTIVITIES ACT, 2004

- (aa) the abuse of a position of authority;
 (bb) a breach of trust; or
 (cc) the violation of a legal duty or a set of rules;
- (iii) designed to achieve an unjustified result; or
 (iv) that amounts to any other unauthorised or improper inducement to do or not to do anything. 5
- is guilty of the offence of corrupt activities relating to members of the legislative authority.
- (2) Without derogating from the generality of section 2(4), “to act” in subsection (1) includes— 10
- (a) absenting himself or herself from;
 (b) voting at any meeting of;
 (c) aiding or assisting in procuring or preventing the passing of any vote in;
 (d) exerting any improper influence over the decision making of any person performing his or her functions as a member of; or 15
 (e) influencing in any way, the election, designation or appointment of any functionary to be elected, designated or appointed by,
- the legislative authority of which he or she is a member or of any committee or joint committee of that legislative authority.
- Offences in respect of corrupt activities relating to judicial officers** 20
- 8. (1) Any—**
- (a) judicial officer who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or
 (b) person who, directly or indirectly, gives or agrees or offers to give any gratification to a judicial officer, whether for the benefit of that judicial officer or for the benefit of another person, 25
- in order to act, personally or by influencing another person so to act, in a manner—
- (i) that amounts to the—
- (aa) illegal, dishonest, unauthorised, incomplete, or biased; or 30
 (bb) misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;
- (ii) that amounts to— 35
- (aa) the abuse of a position of authority;
 (bb) a breach of trust; or
 (cc) the violation of a legal duty or a set of rules;
- (iii) designed to achieve an unjustified result; or
 (iv) that amounts to any other unauthorised or improper inducement to do or not to do anything. 40
- is guilty of the offence of corrupt activities relating to judicial officers.
- (2) Without derogating from the generality of section 2(4), “to act” in subsection (1) includes—
- (a) performing or not adequately performing a judicial function; 45
 (b) making decisions affecting life, freedoms, rights, duties, obligations and property of persons;
 (c) delaying, hindering or preventing the performance of a judicial function;
 (d) aiding, assisting or favouring any particular person in conducting judicial proceedings or judicial functions; 50
 (e) showing any favour or disfavour to any person in the performance of a judicial function; or
 (f) exerting any improper influence over the decision making of any person, including another judicial officer or a member of the prosecuting authority, performing his or her official functions. 55

Offences in respect of corrupt activities relating to members of prosecuting authority**9. (1) Any—**

- (a) member of the prosecuting authority who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; 5
- (b) person who, directly or indirectly, gives or agrees or offers to give any gratification to a member of the prosecuting authority, whether for the benefit of that member or for the benefit of another person.
- in order to act, personally or by influencing another person so to act, in a manner— 10
- (i) that amounts to the—
- (aa) illegal, dishonest, unauthorised, incomplete, or biased; or
- (bb) misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation; 15
- (ii) that amounts to—
- (aa) the abuse of a position of authority;
- (bb) a breach of trust; or
- (cc) the violation of a legal duty or a set of rules; 20
- (iii) designed to achieve an unjustified result; or
- (iv) that amounts to any other unauthorised or improper inducement to do or not to do anything.

is guilty of the offence of corrupt activities relating to members of the prosecuting authority. 25

(2) Without derogating from the generality of section 2(4), “to act” in subsection (1) includes—

- (a) performing or not adequately performing a function relating to the—
- (i) institution or conducting of criminal proceedings;
- (ii) carrying out of any necessary functions incidental to the institution or conducting of such criminal proceedings; or 30
- (iii) continuation or discontinuation of criminal proceedings;
- (b) delaying, hindering or preventing the performance of a prosecutorial function;
- (c) aiding or assisting any particular person in the performance of a function relating to the institution or conducting of criminal proceedings; 35
- (d) showing any favour or disfavour to any person in the performance of a function relating to the institution or conducting of criminal proceedings; or
- (e) exerting any improper influence over the decision making of any person, including another member of the prosecuting authority or a judicial officer, performing his or her official functions. 40

Part 3: Offences in respect of corrupt activities relating to receiving or offering of unauthorised gratification**Offences of receiving or offering of unauthorised gratification by or to party to an employment relationship****10. Any person—** 45

- (a) who is party to an employment relationship and who, directly or indirectly, accepts or agrees or offers to accept from any other person any unauthorised gratification, whether for the benefit of that person or for the benefit of another person; or
- (b) who, directly or indirectly, gives or agrees or offers to give to any person who is party to an employment relationship any unauthorised gratification, whether for the benefit of that party or for the benefit of another person. 50