

THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

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THE PREVENTION AND COMBATING OF CORRUPTION ACT,
2007

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THE UNITED REPUBLIC OF TANZANIA



No. 11 of 2007

I ASSENT,

JAKAYA MRISHO KIKWETE,
*President*11th June, 2007**PREAMBLE**

WHEREAS corruption is an obstacle to principles of democracy, good governance and human rights and poses a threat to peace, tranquillity and security in the society;

AND WHEREAS the Government has resolved to undertake protracted measures that would ensure that Tanzania remain a corruption free State adhering to the principles of freedom, equality, justice, brotherhood, peace and wherein all people are equal and every person has a right to ownership and protection of property acquired by lawful means;

AND WHEREAS technological changes ushered in by globalization and development of science in communication and information technology has made it necessary to re-institute the Bureau, to devise modern tactics and strategies of preventing and combating corruption, and to review the current legal framework for the purposes of enabling the Bureau to effectively control corruption and corrupt practices;

AND WHEREAS it is necessary to make comprehensive provisions for the prevention, investigation and combating of corruption and related offences and to ensure that the Bureau conducts its operations independently and performs its functions effectively; NOW THEREFORE, be it ENACTED by Parliament of the United Republic of Tanzania as follows:

PART I

PRELIMINARY PROVISIONS

Short title	1. This Act may be cited as the Prevention and Combating of Corruption Act, 2007 and shall come into operation on such date as the Minister may, by notice in the <i>Gazette</i> , appoint.
Applica- tion of the Act	2.-(1) This Act shall apply in Mainland Tanzania. (2) This Act shall also apply to a person who commits any act or omission constituting an offence under this Act where- (a) the act or omission occurs elsewhere than in Tanzania; or (b) the act or omission is done by that person, or for him, by another person elsewhere than in Tanzania.
Interpreta- tion	3. In this Act, unless the context otherwise requires- “advantage” means a gift or any property movable or immovable, loan, fee, reward or favour and includes valuable consideration of any kind, discount, commission, rebate, bonus, deduction or percentage and employment or services or an agreement to give employment or render services in any capacity; “agent” includes- (a) any person in the employment of whether under a contract of service, a contract for services or otherwise, whether permanent or temporary, whether paid or unpaid, and whether full-time or part-time and whether such person is a natural person or body of persons or acting for another; (b) a trustee; (c) an administrator or an executor; (d) a public official; “bank account” includes any ledger, day book, cash book, account book and any other document including generated, stored, and displayed electronically used in the ordinary course of business by any person carrying on, whether on his own behalf as an agent for another, and whether exclusively or otherwise, any banking business whatsoever or not such person is a bank within the meaning of any law for the time being in force relating to banks; “Bureau” means the Prevention and Combating of Corruption Bureau established by Section 5; “conflict of interest” means a clash between public interest and the private pecuniary or any other interest of the individual concerned;

- “confiscation” which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court;
- “controlled delivery” means the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to investigating an offence and the identification of persons involved in the commission of the offence;
- “Director-General” means the Director-General of the Prevention and Combating of Corruption Bureau;
- “Director” means a person appointed under this Act to hold the position of a Director in the Bureau;
- “foreign public official” means any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed or elected; and any person exercising a public function for a foreign country, including for a public agency or public enterprise;
- “freezing” means temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;
- “informer” includes a person who in good faith reports the commission of an offence to the Bureau and includes a whistle blower;
- “Minister” means the Minister responsible for good governance;
- “officer” means an investigator of the Bureau including the Director-General;
- “official of a public international organization” means an international civil servant or any person who is authorized by such an organization to act on behalf of that organization;
- “principal” includes an employer, a beneficiary under a trust, a trust estate as though it were a person, any person beneficially interested in the estate of a deceased person as though it were a person, and, in relation to a public official, the authority or body of persons in which the public office is held;
- “private sector” means the sector of the economy under private ownership in which the allocation of productive resources is controlled by market forces;
- “proceeds of crime” means any property derived from or obtained, directly or indirectly, through the commission of an offence under this Act;
- “property” includes money, assets of any kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible and any document or legal instrument evidencing title to, or interest in such assets;

- Cap.212 “public body” includes a corporation established by or under the Companies Act in which the Government has vested interest;
 “public duty” means a duty in the discharge of which the Government, the public or the community at large has an interest;
 “public official” means any person holding a legislative, executive, judicial, administrative, political, military, security, law enforcement, and local government authority or any other statutory office and includes-
- (a) any person performing a public function or providing a public service; and
 - (b) any other person natural or legal so defined in any other written laws.
- Objective of the Act 4.-(1) The objective of this Act is to provide for promotion and enhancement of good governance and eradication of corruption.
- (2) In the promotion of the objectives referred to under subsection (1), this Act provides an institutional and legal framework necessary for prevention and combating corruption by-
- (a) examining and advising on practices and procedures of public, parastatal and private organisations, in order to facilitate the detection of corruption or prevent corruption;
 - (b) disseminating information to the public on evils and effects of corruption and corrupt practices as well as negative traditions and usage;
 - (c) cooperating and collaborating with local and international institutions, agencies or organisations in the fight against corruption;
 - (d) promote and foster public support in combating corruption; and
 - (e) investigate and prosecute offences relating to corruption.

PART II

ESTABLISHMENT OF THE BUREAU

- Establishment of the Bureau 5.-(1) There is hereby established the Bureau to be known as the Prevention and Combating of Corruption Bureau.
- (2) The Bureau shall be an independent public body.
- Composition of the Bureau 6.-(1) The Bureau shall consist of the Director-General, Deputy Director-General, and such other officers as may be necessary for efficient and effective carrying out of the functions of the Bureau.

(2) The Director-General and Deputy Director-General shall be appointed by the President.

(3) The Bureau shall employ such number of staff as may be necessary for efficient performance of the functions of the Bureau.

7. Functions of the Bureau shall be to take necessary measures for the prevention and combating of corruption in the public, parastatal and private sectors and in that regard, the Bureau shall-

Functions
of the
Bureau

- (a) examine and advise the practices and procedures of public, parastatal and private organisations, in order to facilitate the detection of corruption or prevent corruption and secure the revision of methods of work or procedure which appear to add to the efficiency and transparency of the institution concerned;
- (b) enlist and foster public support in combating corrupt practices;
- (c) advise public, private and parastatal bodies on ways and means of preventing corrupt practices, and on changes in methods of work or procedures of such public, private and parastatal bodies compatible with the effective performance of their duties, which the Bureau considers necessary to reduce the incidences of corrupt practices;
- (d) cooperate and collaborate with international institutions, agencies or organisations in the fight against corruption;
- (e) investigate and, subject to the directions of the Director of Public Prosecutions, prosecute offences under this Act and other offences involving corruption; and
- (f) investigate any alleged or suspected -
 - (i) offence under this Act;
 - (ii) conspiracy to commit an offence under this Act;
 - (iii) conduct of a public official which is connected to corruption.

8.-(1) The Director-General shall have and exercise powers as stipulated under this Act.

Power of
the
Director-
General

(2) A person authorised by the Director-General to perform functions under this Act shall have and exercise the powers-

- (a) of the Director-General;

Cap.322

- (b) of a police officer of or above the rank of Assistant Superintendent of Police and the provisions of the Police Force and Auxiliary Services Act conferring upon police officers, powers necessary or expedient for the prevention, combating and investigation of offence; and
- (c) to arrest, enter premises, search, detain suspects and seize property where there is a reasonable cause to believe that an offence involving corruption has been or is about to be committed by the suspect in the premises or in relation to the property.

(3) Where any property is seized in pursuance of the powers conferred in paragraph (b) of subsection (1), the Director-General or a person authorised by him seizing the property shall issue a receipt acknowledging seizure of that property, bearing the signature of the owner or occupier of the premises or his near relative or other person for the time being in possession or control of the premises and the signatures of witnesses to the search.

(4) The Director-General or a person authorized by him who, without reasonable ground for so doing, orders, authorizes or conducts search on a person, place, building, vessel, carriage or receptacle, commits an offence and upon conviction shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(5) Where the Director-General is satisfied that-

- (a) an offence under this Act may have been committed by any person; and
- (b) any share account, purchase account, club account, subscription account, investment account, trust account, mutual or trust fund account, expense account, bank account or other account of whatsoever kind or subscription any banker's books, company books, documents or any information from any other source, other article of or relating to any person named or otherwise identified in writing by the Director-General are likely to be relevant for the purpose of investigation of such offence,

he may, for that purpose, authorise in writing an officer of the Bureau to-

- (i) investigate and inspect such account, book or documents or other articles of or relating to the person named or otherwise identified by the Director-General;

- (ii) require from any person the production of such accounts, books, documents or other articles of or relating to the person named or otherwise identified by the Director-General as is required for the purpose of such investigation and the disclosure of all or any information relating thereto; and
- (iii) take copies of such account, books or documents or, of any relevant entry therein and photographs of any other article.

(6) Any person who fails to produce a bank account or any other information from other sources referred to in subsection (2) or to permit the officer or authorized person to scrutinize or to take copies of any relevant entry, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

9.-(1) The Director-General or a person authorized by him who seizes any property in pursuance of the powers conferred under this Act shall institute criminal proceedings against the owner of that property within six months from the date of seizure.

Institu-
tion of
criminal
proceed-
ings

(2) The Director-General or a person authorized by him who fails to institute criminal proceedings as provided for under subsection (1) shall, where there is a reasonable cause to continue with the detention of that property, apply to the Director of Public Prosecutions for an extension of time stating reasons for continued detention for a period not exceeding six months from the date of expiry of the initial six months.

(3) The Director-General or a person authorised by him who fails to institute criminal proceedings within the period specified under subsection (1) or (2) shall be required to return the seized property to the person from whom it was seized.

(4) The provisions of the Specified Officers (Recovery of Debts) Act shall apply to any officer who causes the Government to incur loss, costs or damages as a result of failure to discharge his duties in a reasonable manner.

Cap.76

(5) The powers conferred on the Director-General shall include the power to require information from, and to procure attendance of any person for the purpose of answering among others, questions of-

- (a) any person, or an employee of a person, who has acted for or is acting for any party to any particular land or property transaction; and

(b) any person or an employee of a person, who was concerned in the passing of any consideration, brokerage, commission or fee, or in the clearing or collection of any cheque or other instrument of exchange, in respect of any particular land or property transaction, as to any of the following matters, that is to say-

- (i) the full names, including aliases, and addresses of any of the persons referred to in paragraphs (a) and (b) and any other information in his possession which may be helpful in identifying or locating any such person;
- (ii) any consideration, brokerage, commission or fee paid or received in respect of or in connection with any such land or property transactions; and
- (iii) the terms and conditions of any such land or property transaction.

Special
powers of
investiga-
tion

10.-(1) An officer of the Bureau investigating an offence under this Act may-

- (a) order any person to attend before him for the purpose of being interviewed orally or in writing in relation to any matter which may assist investigation of the offence;
- (b) order any person to produce any book, document or any certified copy thereof, and any article which may assist the investigation of the offence; or
- (c) by written notice, require any person to furnish a statement on oath or affirmation setting out such information which may be of assistance in the investigation of the offence.

(2) Subject to the direction of the Director of Public Prosecutions, the Director-General may assume prosecution commenced by the police or any other law enforcement agency for an offence involving corruption.

(3) Any person who, in the course of investigation of, or in any proceedings relating to an offence alleged or suspected to have been committed under this Act, knowingly-

- (a) makes or cause to be made a false report of the commission of an offence to any investigating officer; or
- (b) misleads any investigating officer,

commits an offence and shall be liable on conviction to a fine of not less than one hundred thousand shillings but not more than two million shillings or to imprisonment for a term of one year or to both.

11.-(1) The Director-General shall issue to a member of the Bureau an identity card which shall be *prima facie* evidence of appointment as a member of the Bureau.

Identification and request for assistance

(2) Every member of the Bureau, shall on demand, produce his identity card to the person demanding that identity card.

(3) Any officer of the Bureau conducting investigations into an offence alleged or suspected to have been committed under this Act or any other law relating to corruption may request any public official for assistance in the reasonable exercise of his powers or the discharge of his duties under this Act.

12.-(1) The Director-General may, by writing, authorize any officer to search any person, if it is reasonably suspected that such person is in possession of property corruptly or illicitly acquired or to search any premises, vessel, boat, aircraft or other vehicle whatsoever in or upon which there is reasonable cause to believe that any property corruptly or illicitly acquired has been placed, deposited or concealed.

Search warrant

(2) The appropriate officer of the Bureau authorized to make any search under this section may make any search and, for the purpose of so doing may enter, using any reasonable force and accompanied by such other persons as he seems necessary to assist him, into or upon any premises, vessel, boat, aircraft or any other vehicle whatsoever.

13.-(1) Any person being an officer of Bureau who maliciously or without lawful cause procures arrest prosecution, seizure of property of another person or the exercise of powers vested in the Bureau by this Act against such person commits an offence.

Malicious arrest, prosecution, seizure and exercise of powers

(2) Any person who contravenes subsection (1) shall on the conviction be liable to a fine not exceeding one million shillings or to imprisonment for the term not exceeding six months or to both.

(3) The provisions of subsection (2) shall not prejudice the provisions of subsection (4) of section 9 in relation to recovery by the Government of loss, cost or damage suffered by reason of an officer of the Bureau.

Report of
activities

14. The Bureau shall on or before 31st March in every year, or by such later date as the President may allow, submit to the President a report on its activities in the previous year.

PART III

CORRUPTION AND RELATED OFFENCES

Corrupt
transac-
tions

15.-(1) Any person who corruptly by himself or in conjunction with any other person-

- (a) solicits, accepts or obtains, or attempts to obtain, from any person for himself or any other person, any advantage as an inducement to, or reward for, or otherwise on account of, any agent, whether or not such agent is the same person as such first mentioned person and whether the agent has or has no authority to do, or forbearing to do, or having done or forborne to do, anything in relation to his principal's affairs or business; or
- (b) gives, promises or offers any advantage to any person, whether for the benefit of that person or of another person, as an inducement to, or reward for, or otherwise on account of, any agent whether or not such agent is the person to whom such advantage is given, promised or offered and whether the agent has or has no authority to do, doing, or forbearing to do, or having done or forborne to do, anything in relation to his principal's affairs or business,

commits an offence of corruption.

(2) A person who is convicted of an offence under this section, shall be liable to a fine of not less than five hundred thousand shillings but not more than one million shillings or to imprisonment for a term of not less than three years but not more than five years or to both.

(3) In addition to a penalty provided for under subsection (2), the court shall where such person-

- (a) is an agent, order him to pay to his principal, in such manner as the court may direct-
 - (i) the amount or value of any advantage received by him, or any of its part;
 - (ii) part of the amount or value of any advantage received by him, and that the whole or part of the residue be confiscated to the Government; or

- (b) is an agent or not, order that the amount or value of any advantage received by him, or any of its part, be confiscated to the Government.

16.-(1) Any person who offers an advantage to a public official as an inducement to or reward for or otherwise on account of such public official's giving assistance or using influence in or having given assistance or used influence to assist in the promotion, execution or procuring of-

Corrupt
transac-
tions in
contracts

- (a) any contract with a public body for the performance of any work, the supply of any service, the doing of anything, the supplying of anything or the supplying of any article, material or substance;
 - (b) any subcontract to perform any work, supply of service, the doing of anything or supply any article, material or substance required to be performed, supplied, done under any contract with a public body,
- commits an offence of corruption.

(2) Any public official who solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his giving assistance or using influence in, or having given assistance or used influence to assist in the promotion, execution or procuring of the payment of the price, consideration or other moneys stipulated or otherwise provided for in, any such contract or subcontract as is referred to in paragraphs (a) and (b) of subsection (1), commits an offence.

(3) A person convicted of an offence under this section shall be liable to a fine of not less than one million shillings but not more than three million shillings or to imprisonment for a term of not less than three years but not more than five years or to both.

(4) In addition to the penalty prescribed for under this section the court shall, if such person-

- (a) is an agent, order him to pay to his principal, in such manner as the court may direct-
 - (i) the amount or money value of any advantage received by him or any part of it; or

Corrupt
transac-
tions in
procure-
ment

(ii) part of amount or money value of any advantage received by him, and that the whole or part of the residue be confiscated;

(b) is an agent or not, order that amount or value of any advantage received by him, or any part of it, be confiscated to the Government.

17.-(1) Any person who-

(a) offers any advantage to another person as an inducement for or a reward for or otherwise on account of the withdrawal of a tender, or refraining from inviting a tender, for any contract with a public or private body for the performance of any work, the supply of service, the doing of anything or the supplying of any article, material of substance; or

(b) solicits or accepts any advantage as an inducement for or a reward for or otherwise on account of the withdrawal of a tender, or refraining from inviting a tender, for such a contract as is referred to in paragraph (a),

commits an offence.

(2) A person convicted of an offence under this section shall be liable to a fine not exceeding fifteen million shillings or to imprisonment for a term not exceeding seven years or to both.

(3) In addition to the penalty prescribed for under this section the court shall, if such person-

(a) is an agent, order him to pay to his principal, in such manner as the court may direct-

(i) the amount or money value of any advantage received by him or any part of it; or

(ii) part of amount or money value of any advantage received by him, and that the whole or part of the residue be confiscated;

(b) is an agent or not, order that amount or value of any advantage received by him, or any part of it, be confiscated to the Government.

Corrupt
transac-
tions in
auctions

18.-(1) Any person who-

(a) offers any advantage to another person as an inducement to or reward for or otherwise on account of that other

person's refraining or having refrained from bidding at an auction conducted by or on behalf of any public or private body; or

- (b) solicits or accepts 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 or private body,

commits an offence of corruption under this Act.

(2) A person convicted of an offence under this section shall be liable to a fine not exceeding fifteen million shillings or to imprisonment for a term not exceeding seven years or to both.

(3) In addition to the penalty prescribed for under this section the court shall, if such person-

- (a) is an agent, order him to pay to his principal, in such manner as the court may direct-

- (i) the amount or money value of any advantage received by him or any part of it; or

- (ii) part of amount or money value of any advantage received by him, and that the whole or part of the residue be confiscated;

- (b) is an agent or not, order that amount or value of any advantage received by him, or any part of it, be confiscated to the Government.

19. The provisions of the Public Procurement Act shall apply in relation to investigation of offences and institution of proceedings for offences of corruption in procurement of goods, works and the supply of consultancy services.

Applica-
tion of
Act
No.21 of
2004

20.-(1) Any person who offers an advantage to another person as an inducement to or reward for or otherwise on account of such another person's giving assistance or using influence in or having given assistance or used influence to assist in obtaining employment, promotion or any other matter relating to employment commits an offence of corruption.

Corrupt
transac-
tions in
employ-
ment

(2) Any person who solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his giving

assistance or using influence in, or having given assistance or used influence to assist in obtaining of employment, promotion or any other matter relating to employment commits an offence of corruption.

(3) A person convicted of an offence under this section shall be liable to a fine not exceeding five million or to imprisonment for a term not exceeding three years or to both.

Bribery
of
foreign
public
official

21.-(1) Any person who intentionally promises, offers or gives to a foreign public official or an official of a public international organisation, directly or indirectly, an undue advantage, for that foreign public official himself or another person or entity, in order that the foreign public official acts or refrain from acting in the exercise of his official duties to obtain or retain business or other undue advantage in relation to a local or international economic undertaking or business transaction, commits an offence and shall be liable to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding seven years or to both.

(2) Any foreign public official or an official of a public international organisation who intentionally solicits or accepts, directly or indirectly an undue advantage, for himself or another person or entity in order that he acts or refrains from acting in the exercise of his official duties, commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding seven years or to both.

Use of
documents
intended
to
mislead
principal

22. A person who knowingly gives to any agent, or an agent knowingly uses with intent to deceive, or defraud his principal, any receipt, account or other document such as a voucher, a profoma invoice, an electronically generated data, minute sheet relating to his principal's affairs or business, and which contains any statement which is false or erroneous or defective in any material particular, and which to is knowledge is intended to mislead the principal, commits an offence and shall be liable on conviction to a fine not exceeding seven million shillings or to imprisonment for a term not exceeding five years or to both.

Persons
obtaining
advantage

23.-(1) A person who solicits, accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any advantage without lawful consideration or for a lawful consideration which he knows or has reason to believe to be inadequate-

(a) from any person whom he knows or has reason to believe to have been, or to be, or to be likely or about to be, concerned

in any matter or transaction with himself or having any connection with his official functions or of any official to whom he is subordinate; or

(b) from any person whom he knows or has reason to believe to be interested in or related to or acting for or on behalf of the person so concerned, or having such a connection, commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding seven years or to both.

(2) In addition to the penalty imposed under sub-section (1), the court shall order that the amount of money value of any advantage received by the public officer, or any part of it be confiscated to the Government.

24. Where any advantage has been received with the knowledge of the accused person, or by any person other than accused person, and the court is satisfied, having regard to the relationship of that other person to the accused person or any other circumstances, that such person has received the advantage for or on behalf of the accused person, or by reason of his relationship to the accused person or otherwise on account of or in connection with the official functions of the accused person, the advantage shall be deemed to have been received by the accused person.

Advantage
received
on behalf
of
accused

25. Any person being in a position of power or authority, who in the exercise of his authority, demands or imposes sexual favours or any other favour on any person as a condition for giving employment, a promotion, a right, a privilege or any preferential treatment, commits an offence and shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or to both.

Sexual or
any other
favours

26.-(1) Any officer of the Bureau authorised in writing by the Director-General may, by notice in writing addressed to any public official require such public official to give, within such time and in such manner as may be specified in the notice, a full and true account of all or any class of properties which such public official or his agent possess or which he or his agent had in possession at any time during which the

Public
officials
to give
accounts
of
properties

public official held any public office, and such officer of the Bureau may, by the same or subsequent notice, require such public official to give a true account of how he acquired such property.

(2) In any prosecution for an offence, any statement or account in writing given by the accused person pursuant to a notice given to him under subsection (1) shall be admissible in evidence.

(3) A public official who fails to comply with the requirement of a notice addressed to him pursuant to this section, or knowingly gives a false account in relation to any property, commits an offence and shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or to both.

(4) In a prosecution for an offence under subsection (3), evidence of the fact that a notice under subsection (1) was given by an officer of the Bureau shall be conclusive evidence that such officer of the Bureau was authorised as such.

(5) For the purpose of this section-

“agent” means the husband, wife or child of the public official, any debtor of the public official, or any other person acting for or on behalf of the public official, and includes any person in possession or ownership of property, the acquisition of which is or was met wholly or partly by the public official;

“public official” includes any person who held a public office at any time during the five years immediately preceding the date on which a notice under subsection (1) is given.

Possession
of
unexplained
property

27.-(1) A person commits an offence who, being or having been a public official-

- (a) maintains a standard of living above that which is commensurate with his present or past lawful income;
- (b) owns property disproportionate to his present or past lawful income,

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 property came under his ownership.

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

or relationship to the accused and other circumstances, there is reason to believe that any person is or was holding property in trust for or otherwise on behalf of the accused or has acquired such property as a gift from the accused, such property shall, in the absence of evidence to the contrary, be presumed to be in the control of the accused.

(3) Subject to this section, where a person is convicted of an offence under this section shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding seven years or to both.

(4) The court shall, in addition to the penalty imposed under subsection (3), order the confiscation of any pecuniary gain or property-

- (a) found to be in the ownership of the accused; and
- (b) of an amount or money value not exceeding the amount or value of pecuniary gain or property the acquisition of which was not explained to the satisfaction of the court.

(5) Any application for an order under subsection (4) shall be made by the Director-General within twenty eight days after the date of the conviction, except that such order shall not be made in respect of property held by a person other than the person convicted-

- (a) unless that other person has been given reasonable notice that such an order may be made and had an opportunity to show cause why it should not be made; or
- (b) if that other person satisfies the court in any proceedings to show cause that he had-
 - (i) acted in good faith as regards to the circumstances in which the property came to his possession; and
 - (ii) so acted in relation to the property that an order in the circumstances would be unjust.

(6) Nothing in subsection (5) shall be construed as limiting the court's discretion to decline to make an order under subsection (4) on grounds other than those specified in subsection (5).

(7) An order under subsection (4) may be made subject to such conditions as the court thinks fit regard being had to all circumstances of the case.

(8) A court may make orders under both paragraphs of subsection (4) in respect of the same offence but shall not make orders under both provisions in respect of the same pecuniary gain or property.

(9) An order under subsection (4) may make provisions for taking possession of property to which the order applies and for the disposal of such property by or on behalf of the Government.

Embezzlement and misappropriation

28.-(1) A person being a public official who dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public official or allows any other person to do so, commits an offence, and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding seven years or to both.

(2) If any person in the private sector dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control or allow any other person to do so, commits an offence and shall be liable to a fine not exceeding ten million shillings or to imprisonment for term not exceeding seven years or to both.

(3) In addition to a penalty imposed under subsections (1) and (2), the court shall order the confiscation of the misappropriated or converted property or an equivalent sum where that property cannot be traced.

(4) Where a court orders confiscation or payment of the amount or money value, or any part of it, of any advantage, or the confiscation of any property, under this Act-

- (a) the payment of any sum ordered to be paid or forfeited may be enforced in the same manner and subject to the same process as in the case of payment of a fine;
- (b) all moneys forfeited shall be paid into the Treasury and shall form part of the Government revenue;
- (c) where any property other than money is forfeited, it shall be disposed of in accordance with section 76 of the Interpretation of Laws Act; and
- (d) any such order shall, for the purpose of any appeal, be deemed to form part of the sentence of the court.

Cap. I

29. Any person being a public official or not who diverts, for the purposes unrelated to those for which they were intended, for his or her own benefit or that of a third party any property belonging to the Government or its agencies to an independent agent, or to an individual, which property that official has received by virtue of his position, commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years or to both.

Diversion

30. Any person who aids or abets another person in commission of an offence under this Act commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years or to both.

Aiding
and
abetting

31. Any person who intentionally abuses his position in the performance or failure to perform an act, in violation of law, in the discharge of his functions or use of position for the purpose of obtaining an undue advantage for himself or for another person or entity, commits an offence and shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or to both.

Abuse of
position

32. Any person who conspires with another person to commit an offence under this Act commits a like offence and shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or to both.

Con-
spiracy

33.-(1) Any person who promises, offers or gives to a public official or any other person directly or indirectly, an undue advantage in order that the public official or that other person to abuse his real or supposed influence with a view to obtaining from the administration or a public authority an undue advantage for the original instigator of the act or for any other person, commits an offence and shall be liable on conviction to a fine not exceeding three million shillings or to imprisonment for a term not exceeding two years or to both.

Trading
in
influence

(2) Any public official or any other person who directly or indirectly solicits or accepts an undue advantage for himself or for another person in order that such public official or the other person abuse his real or

supposed influence with a view to obtaining from an administration or a public authority an undue advantage, commits an offence and shall be liable on conviction to a fine not exceeding three million shillings or to imprisonment for a term not exceeding two years or to both.

Transfer
of
proceeds
of
corruption

34.-(1) Any person who-

- (a) converts, transfers or disposes of property knowing such property to be proceeds of corruption or related offences for the purpose of concealing or disguising the origin of the property or helping any person who is involved in the commission of the offence to evade the legal consequences of his action; or
- (b) acquires, possesses or uses property with the knowledge that such property is the proceeds of corruption or related offences,

commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding seven years or to both.

(2) Where the Attorney-General 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, the advantage or property money 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 Attorney General 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 written law in relation to the advantage or property commenced against any of such person until the determination of those proceedings.

(5) Any person who has been served with a notice under subsections (2) and (3) who, on 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 exceeding ten million shillings or to imprisonment for a term not exceeding seven years or to both.

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

- (a) the sum of money or other property specified in the notice was delivered to an officer of the Bureau, or to some other person 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; or
- (c) the notice was subsequently withdrawn by the Attorney-General by notification in writing.

35. Where, in proceedings under this Act, it is proved that an advantage was offered, promised or given, or solicited, accepted or obtained or agreed to be accepted or obtained by a public official by or from a person, or agent of a person holding or seeking to obtain a contract from a public office, the advantage shall be deemed to have been offered, promised or given, solicited, accepted or obtained or agreed to be accepted or obtained as an inducement or reward as referred to in section 18 unless the contrary is proved.

Presump-
tion of
corruption

36. Any person who falsely pretends that he is-

- (a) an officer or has any of the powers of the officer under this Act or any other laws relating to prevention and combating of corruption under any authorization or warrant under either of those laws; or
- (b) able to procure an office to do or refrain from doing anything in connection with the duty of such officer,

commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding one year or to both.

False
pretence
to be an
officer

Offence
of
disclosure
of
identity

37.-(1) Any person who knowing or suspecting that an investigation in respect of an offence alleged or suspected to have been committed under this Act or any other law relating to corruption is taking place, without lawful authority or reasonable excuse, discloses to the-

- (a) person who is the subject of investigation the fact that he is so subject or any detailed of such investigation; or
 - (b) public, section of the public or any particular person the identify of the subject person or the fact that the subject person is so subject or any details of such investigation,
- commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings or to imprisonment for one year or to both.

(2) Subsection (1) shall not apply to the disclosure of investigation where-

- (a) a warrant has been issued for the arrest of the subject person;
- (b) the subject person has been arrested whether with or without warrant;
- (c) the subject person has been required to furnish a statement in writing by a notice served on him under this Act; and
- (d) the subject person has been summoned and or his statement recorded.

(3) Without prejudice to the generality of the expression "reasonable excuse" referred to in subsection (1), a person referred to shall have a reasonable excuse as regards to disclosure of any of the descriptions mentioned in that subsection (1) if, but only to the extent that, the disclosure reveals-

- (a) unlawful activity, abuse of power, serious neglect of duty, or other serious misconduct by the Director-General, a Director or any officer of the Bureau; or
- (b) Director or any officer of the Bureau; or
- (c) a serious threat to public order or to the security of the United Republic or to the health or safety of members of the public.

Freezing
of assets

38.-(1) Where a person is charged or is about to be charged in any court with a corruption offence or any other related offences, the court may order, on an application by the Director of Public Prosecutions,

subject to such conditions as to the duration of the order or otherwise as the court deems fit-

- (a) the attachment 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 accused; and
- (b) the prohibition of the accused or any other person named in the order from transferring, pledging or otherwise disposing of any money or other property so attached.

(2) The court may, in respect of any order under subsection (1), specify moneys or salaries, wages, pensions, or other benefits that shall be paid to or received by the accused indicating the source, manner and circumstances of payment or receipt.

(3) In making an order under subsection (1), the court may authorise-

- (a) the payment of debts incurred in good faith and due to creditors of the accused before the request for the order was made by the Director of Public Prosecutions; or
- (b) the sale, transfer or disposal of any property by the accused where the court is satisfied that such sale, transfer or disposal is necessary in order to safeguard the property rights of any other person claiming interest in the property.

(4) An order made pursuant to this section shall take effect forthwith and the Director of Public Prosecutions shall-

- (a) cause notice of the order to be published in the next issue of the *Government Gazette* and in at least two daily newspapers widely circulated in Tanzania; and
- (b) give notice of the order to-
 - (i) all notaries;
 - (ii) banks, financial institutions and cash dealers; and
 - (iii) any other person who may hold or be vested with property belonging to or held on behalf of the accused.

(5) An order under this section shall, subject to any condition to the contrary imposed under subsection (1), remain in force until-

- (a) the Director of Public Prosecutions decides not to proceed with a prosecution; or
- (b) the final determination of the charge.

(6) Where an order under this section ceases to have effect or is revoked, the Director of Public Prosecutions shall cause notice to be published in the Government *Gazette* and in at least two daily newspapers widely circulating in Tanzania.

(7) Any payment, transfer, pledge or other disposition of property made in contravention of an order made under this section shall be null and void.

Duty to
give
informa-
tion

39.-(1) Every person who is or becomes aware of the commission of or the intention by another person to commit an offence under this Act shall be required to give information to the Bureau.

(2) Procedures for giving and handling of information under this section shall be as may be prescribed by the regulations.

PART IV

FORFEITURE OF PROCEEDS OF CORRUPTION

Forfei-
ture of
proceeds
of
corrup-
tion

40.-(1) The Bureau may, in collaboration with the office of the Director of Public Prosecutions recover proceeds of corruption through confiscation to the Government.

(2) Where a person is convicted of an offence of corruption under this Act, the Director of Public Prosecutions may, apply to the convicting court or to any other appropriate court not later than six months after conviction of the person for forfeiture order against any property that was obtained through corruption.

(3) For the purpose of this part, "proceeds of corruption" means any property that is derived or obtained by a person from the commission of corruption offences.

Notice of
applica-
tion

41.-(1) Where the Director of Public Prosecutions makes an application for a forfeiture order against property in respect of a person's conviction of corruption offence-

(a) the Director of Public Prosecutions shall give written notice of the application to the person or to any other person he has reason to believe may have an interest in the property;

- (b) the person, and any other person who claims an interest in the property, may appear and adduce at the hearing of the application; and
- (c) the court may, at any time before the final determination of the application, direct the Director of Public Prosecutions to give notice of the application to a specified person or class of persons in a manner and within such time as the court considers appropriate.

(2) Where the Director of Public Prosecutions makes an application for an order for pecuniary he shall give the person together whom the application is made a read notice about such application and that person shall have the right to appear and adduce evidence at the hearing of the application -

42.-(1) Where the Director of Public Prosecutions applies to a court for a forfeiture order under section 43 against property in respect of a person's conviction of an offence and the court is satisfied that the property was obtained through corruption offence, the court may if it considers it appropriate, order that the property or such of the property as it may specify in the order, be forfeited to the United Republic.

Forfeiture
Orders

(2) In granting an application forfeiture order, the court may give any directions necessary or convenient for giving effect to the order, including, without limiting the generality of the foregoing, directions to an officer of the court to do anything necessary and reasonable to obtain possession of any document necessary for the transfer of any property subject to registration in the Registry of Titles.

43.-(1) Subject to subsection (2), where a court makes a forfeiture order against property, the property shall vest in the United Republic.

Effects
of
forfeiture
order

(2) Where a forfeiture order is made against property subject to registration in the Registry of Titles any rights in the property shall lie with the United Republic until the registration is effected.

(3) The Treasury Registrar shall be registered as owner of any property subject to a forfeiture order and the Minister shall do or authorize to be done anything necessary or convenient to obtain the registration of

the Treasury Registrar as owner, including the execution of an instrument required to be executed by a person transferring an interest in property of that nature.

Principal
may
recover
secret
gifts

44.-(1) Where any advantage has, in contravention of this Act, been given by any person to an agent, the principal may recover as a civil debt the amount or the money value from the agent and no conviction or acquittal of the agent or of that person in respect of an offence under this Act shall operate as a bar to civil proceedings for the recovery of such amount or money value.

(2) Nothing in this section shall be deemed to prejudice or affect any right which any principal may have under any law in force to recover from any person any money or property.

PART V

INSTITUTIONAL COOPERATION

Coopera-
tion with
agencies
and other
authori-
ties

45. The Bureau shall establish and maintain a system of collaboration, consultation and cooperation with law enforcement agencies and other national authorities within the United Republic engaged in investigation and prosecution and may, for that purpose-

- (a) grant immunity from prosecution to a person who provides cooperation in investigation or prosecution of an offence under this Act;
- (b) inform the authorities, on their own initiatives, where there are reasonable grounds to believe that any of the offences under this Act has been committed; and
- (c) upon request, provide to the authorities all necessary information.

Coopera-
tion with
private
sector

46. The Bureau shall establish and maintain, a system of-

- (a) cooperation with the private sector, and in particular, financial institutions on matters relating to the commission of offences under this Act; and
- (b) encouraging the private sector to report to the Bureau the commission of an offence under this Act.

PART VI
FINANCIAL PROVISIONS

47.-(1) The funds and resources of the Bureau shall consist of the sums of money as may be appropriated by Parliament, and shall be applied for purposes for which the Bureau is established.

Funds of
the
Bureau

(2) The Director-General shall keep proper audited accounts and other records relating to the funds and resources of the Bureau.

48.-(1) The Director-General shall within three months before the end of each financial year, prepare and submit to the Minister for approval, estimates of income and expenditure of the Bureau for the next ensuing financial year.

Estimates

(2) Upon approval of estimates, the Director-General shall forward the estimates to the Minister for approval.

(3) The report on estimates on income and expenditure shall contain a report of performance of functions of the Bureau for the year ending.

(4) Upon receipt of the report, the Minister shall lay the report before the National Assembly during the Sessions immediately following the date of submission of the report.

PART VII
GENERAL PROVISIONS

49. In proceedings for an offence under this Act where the subject matter involves buildings, the method for evaluation of buildings shall be based-

Valuation
of
property

- (a) where it is established that such property or building was built-
 - (i) on the market value of building materials at the time of construction; or
 - (ii) an actual construction value;
- (b) where the building was purchased-
 - (i) on the actual price of purchase;
 - (ii) on the valuation market value of such property or building.

General
immunity
for
members

50. No act or thing done or omitted to be done by an officer of the Bureau shall, if the act or omission was done or omitted bona fide in the exercise of his functions under this Act, render the officer personally liable for the act or omission.

Protec-
tion of
inform-
ers

51.—(1) No information relating to commission of an offence under this Act shall be admitted in evidence in any civil or criminal proceedings and no witness in any civil or criminal proceedings shall be obliged to -

- (a) disclose the name or address of any informer who has given information to the Bureau with respect to an offence under this Act or the name or address of any person who has assisted the Bureau in any way in relation to such an offence; or
- (b) answer any question if the answer to such question would lead, or would tend to lead, to discovery of the name or address of such informer or person.

(2) If any book, document or paper which is the subject of evidence or liable for inspection in any civil or criminal proceedings contain an entry in which that informer or person is named or described, or which might lead to the discovery of that informer or person by public, the court shall cause all such passages to be concealed from view by public or to be obliterated so far as may be necessary to protect the informer or such other person from discovery by public.

(3) Any informer who shall suffer reprisal or retaliation or victimization or injury or any harm from a person accused of corruption, perpetrators of offences of corruption and their accessories shall be afforded reasonable protection, compensation and assistance by the Government upon ascertainment by the Bureau the magnitude of victimization injury or harm.

Protec-
tion of
wit-
nesses,
experts
and
victims

52.—(1) Notwithstanding any written law, rule of law or practice to the contrary no witness shall, in any proceedings for an offence under this Act be regarded as an accomplice by reason only of receiving or making 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 receiving or making any payment or delivery of any advantage by or on behalf of the person accused to or from him.

(2) Where a person-

- (a) discloses to an officer that a person, public official, body corporate or public body is or has been involved in an act of corruption; 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 not incur civil or criminal liability as a result of such disclosure.

(3) Any person who victimises a person who has made a disclosure under subsection (2) commits an offence and shall upon conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term of not exceeding one year or to both.

(4) In this Part, "victimisation" means an act-

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

53. No conviction for an offence against this Act shall be invalid by reason only of a defect in the appointment, nomination or election of a person to any office.

Defect in
the
appoint-
ment,
nomin-
ation or
election

54. Mutual legal assistance in relation to offence of corruption and other related offences shall be made in accordance with the provisions of the Mutual Assistance in Criminal Matters Act.

Mutual
legal
assistance

Cap.254

55. Extradition matters in relation to offences of corruption and other related offences shall be dealt with in accordance with the provisions of the Extradition Act.

Extradi-
tion

Cap.368

56. Without preceding provisions of this Part, a foreign state or Government may disclose such information which might assist the Bureau in initiating or carrying out investigation, prosecution, judicial proceedings and information on proceeds of offence.

Disclo-
sure of
informa-
tion
without
prior
request

Sanction
of
Director
of Public
Prosecu-
tions

57.-(1) Except for offences under section 15, prosecution for an offence under this Act shall be instituted with written consent of the Director of Public Prosecutions.

(2) The Director of Public Prosecutions shall, within sixty days, give or withhold consent for prosecution.

Trial
courts

58. Unless the Director of Public Prosecutions directs otherwise an offence under this Act may be tried in the District Court, Court of Resident Magistrate or, as the case may be, the High Court.

Regula-
tions

59.-(1) The Minister may make regulations for the better carrying into effect the purposes and provisions of this Act.

(2) Without prejudice to the generality of the subsection (1), the Minister may by regulations prescribing-

- (a) a code of conduct for officers of the Bureau;
- (b) procedures and processes for management of complaints under this Act;
- (c) procedures for provision of information to the Bureau on the commission of corruption offences; and
- (d) such other matters as may be necessary or expedient for preventing the abuse or neglect of duty and for upholding the efficiency and integrity of the Bureau.

Repeal
Cap.329

60. The Prevention of Corruption Act is hereby repealed.

Passed in the National Assembly on the 16th April, 2007

DAMIAN S. L. FOKA,
Clerk of the National Assembly