

Supplement to the Sierra Leone Gazette Vol. CXXXI, No. 7
dated 3rd February, 2000

THE ANTI-CORRUPTION ACT, 2000

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Signed this 26th day of January, 2000

ALHAJI AHMAD TEJAN KABBAH
President

No. 1



2000

Short title.

The Anti-Corruption Act, 2000

Date of commencement.

Being an Act to provide for the prevention of corrupt practices and for related matters.
[3rd February, 2000]

Enacted by the President and Members of Parliament in this present Parliament assembled.

PART I — PRELIMINARY

Interpretation.

1. In this Act, unless the context otherwise requires:—

"advantage" includes—

- a. any gift, loan, fee, reward or commission, consisting of money or of any valuable security or other property or interest in property;
- b. any office, employment or contract;
- c. any payment, discharge or liquidation of any loan; and
- d. any other benefit or favour (except entertainment);

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

"Commissioner" means the Anti-Corruption Commissioner;

"Court" means the High Court;

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

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

"member" means the Anti-Corruption Commissioner or Deputy Commissioner;

"public body" includes—

- a. the Government;
- b. Parliament;
- c. the Freetown City Council and any other local authority;
- d. a company in which the Government is a major shareholder;
- e. a corporation established by an Act of Parliament or out of moneys provided by Parliament;
- f. any commission, committee or other body of persons, whether paid or unpaid, appointed by or on behalf of the Government or local authority or by a public corporation or company in which the Government is a major shareholder;
- g. any educational or similar institution financed wholly or partly from public funds; and
- h. any organisation, whether local or foreign, established to render any voluntary social service to the public or any section thereof or for other charitable purposes, which receives funds or other donation for the benefit of the people of Sierra Leone or a section thereof;

"public corporation" means a corporation established by an Act of Parliament or out of moneys provided by Parliament and includes a company which is wholly owned by the Government or in which the Government is a major shareholder;

"public officer" means a holder of a public office;

"public office" means an office in the service of the Government of Sierra Leone, and includes service in, the offices of President, Vice-President, Minister, Deputy Minister, Attorney-General and Minister of Justice, member of Parliament, Magistrate, Judge of the Superior Court of Judicature, and offices in the Armed Forces, the Police Force, a public corporation or on the board thereof; a local authority, any commission or committee established by or under the Constitution or by or under any law or by the Government.

PART II — ESTABLISHMENT OF COMMISSION

Establishment of
Commission.

2. (1) There is hereby established a body to be known as the Anti-Corruption Commission, hereinafter referred to as "the Commission".

(2) The Commission shall consist of the following members:—

- a. a Commissioner who shall be the head; and
- b. a Deputy Commissioner,

both of whom shall be appointed by the President with the approval of Parliament.

(3) The President shall appoint the Commissioner and Deputy Commissioner from among persons of conspicuous probity and with proven knowledge and ability in accounting or other profession or in the investigation of offences involving dishonesty.

(4) An appointment under subsection (3) shall be for a term of five years which may be renewed as and when necessary.

(5) A member of the Commission may resign his office by written notice to the President and may be removed from office but only for inability to perform the functions of his office, whether arising from infirmity of body or mind or for stated misconduct.

(6) The statement of misconduct referred to in subsection (5) shall be addressed to a tribunal appointed by the President, adapting for that purpose, the provisions of paragraphs (a) and (b) of subsection (5) of section 137 of the Constitution; and subsections (6) and (7) of that section shall apply, with the necessary modifications, to the removal of any member of the Commission.

(7) In the absence of the Commissioner, the Deputy Commissioner shall have power to perform all the functions of the Commissioner.

Remuneration of
members of
Commission.

3. (1) A member of the Commission shall be entitled to such salary, allowances, gratuity and pension as may be determined by Parliament and such entitlements shall not be varied to his disadvantage.

(2) A member shall also be entitled to such privileges and other terms and conditions of office as may be stated in his letter of appointment.

Functions of
Commissioner.

4. (1) The Commissioner, as head of the Commission is responsible for—

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

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

(2) Subject to section 54, the Commissioner shall account to the people of Sierra Leone for the conduct of the national campaign against corruption.

PART III — FUNCTIONS OF COMMISSION

Functions of
Commission.

5. (1) The object for which the Commission is established is to investigate instances of alleged or suspected corruption referred to it by any person or authority or which has come to its attention, whether by complaint or

otherwise and to take such steps as may be necessary for the eradication or suppression of corrupt practices.

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

- a. to examine the practices and procedures of Government Ministries, departments and other public bodies, in order to secure a revision of those practices and procedures which, in the opinion of the Commissioner, may lead to corrupt practices, and to advise the heads of such Ministries, departments and other public bodies thereon;
- b. to instruct, advise and assist any person or authority on ways in which corrupt practices may be reduced or eliminated;
- c. to educate the public against the evils of corruption; and
- d. to enlist and foster public support in combating corruption.

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

- a. the complaint is frivolous or vexatious; or
- b. the investigation would be unnecessary or futile.

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

Protection of
complainants and
penalty for false report.

6. (1) The Commission shall provide every protection for the sources of its information but any person who wilfully—

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

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

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

PART IV — CORRUPT PRACTICES

Corrupt acquisition of
wealth.

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

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

Soliciting or accepting
advantage.

8. (1) Any public officer who solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his—

- a. performing or abstaining from performing or having performed or abstained from performing any act in his capacity as a public officer;

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

is guilty of an offence.

(2) Any public officer, who solicits or without the general or special permission of the President, accepts any advantage, is guilty of an offence and shall, upon summary conviction be sentenced to a fine not exceeding one million leones or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(3) The general permission of the President is deemed to have been granted for the acceptance of gifts of a customary nature by Paramount Chiefs.

(4) For the purposes of subsection (3), a gift is not of a customary nature unless given in circumstances recognised as appropriate by custom.

Using influence for contracts.

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

- a. the promotion, execution, or procuring of any contract or subcontract with a public body for the provision of any service, the doing of anything or the supplying of any article, material or substance; or
- b. the payment of the price, consideration or other moneys stipulated or otherwise provided for in any contract or subcontract referred to in paragraph (a)

is guilty of an offence.

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

- a. the promotion, execution or procuring for; or
- b. 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 subsection (1), is guilty of an offence.

Corrupting public officer.

10. Any person who, while having dealings of any kind with any public body, gives any advantage to a public officer or any other person to influence any public officer in guilty of an offence.

Soliciting or accepting advantage for public officers, etc.

11. (1) Any person who solicits or accepts any advantage for or on behalf of any public officer is guilty of an offence.

(2) Any person who offers any advantage to any public officer which that public officer is not authorised to receive by law, is guilty of an offence, and shall, on summary conviction, be sentenced to a fine not exceeding one million leones or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Misappropriation of public funds or property.

12. (1) Any person who misappropriates public revenue, public funds or property is guilty of an offence.

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

Misappropriation of

13. Any person who, being a member or an officer or otherwise in the management of any organization which is a

donor funds or property.

public body, dishonestly appropriates anything, whether property or otherwise, which has been donated to such body in the name, or for the benefit of the people of Sierra Leone or a section thereof is guilty of an offence.

Impeding foreign investment.

14. Any public officer who knowingly—

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

in order that a non-citizen investor or potential investor is coerced, compelled or induced to abandon his investment or, as the case may be, is prevented from proceeding with his initial investment, to the advantage of any other person is guilty of the offence of corruption in respect of foreign investment and shall be liable, on conviction, to a fine not exceeding thirty million leones or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.

Corrupt transactions with agents.

15. (1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his—

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

is guilty of an offence.

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

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

is guilty of an offence.

(3) Any person who knowingly gives to any agent, or an agent who knowingly uses, with intent to deceive his principal, any receipt, account, or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his knowledge is intended to mislead the principal, is guilty of an offence.

(4) a person convicted of an offence under this section shall be liable on conviction to a fine not exceeding thirty million leones or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.

(5) In this section—

"agent" includes a public officer and any person employed by or acting for another;
"principal" includes an employer.

PART V — POWERS OF INVESTIGATION

Powers of Commission and servants to request information.

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

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

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

(2) A person under investigation or any witness summoned to appear in any hearing before the Commission, may, with the leave of the Commissioner, be assisted by counsel of his own choice at such hearing.

(3) Pursuant to subsection (1), the Commissioner may authorise in writing an investigating officer to exercise the following powers upon production by him of such authorisation—

- a. to inspect and investigate any share account, subscription account, investment account, expense account or other account of any description and any company books relating to any person named in the authorisation;
- b. to require from any person the production of any accounts, books, documents or other article of or relating to, any person named in such authorisation which may be required for the purpose of the investigation and the disclosure of all or any information relating thereto, and to take copies of such accounts and books or any relevant entry therein.

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

(5) Any requirement made under subsection (3) shall be in writing.

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

(7) Any person who—

- a. fails or neglects, without reasonable excuse, the proof of which shall be upon him, to comply with any requirement under this section; or
- b. obstructs any investigating officer in the execution of the authorisation given under this section,

is guilty of an offence and shall be liable on conviction to a fine not exceeding two million leones or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

Information relating to
property.

17. (1) The Commission may, by writing under the hand of the Commissioner, request any person who—

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

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

- i. any property, moveable or immoveable, as may be specified by the Commission being property belonging to or possessed by or which at any time belonged to or was possessed by such person, his agents or trustees;
- ii. all expenditure incurred by such person in respect of himself, his spouse or spouses, parents, or children with regard to living expenses and other private expenditure during any period specified by the Commission;
- iii. all liabilities incurred by such person, his agents or trustees during the period specified by the

Commission and specifying in respect of each such liability whether it was incurred jointly (and if so, with whom) or severally.

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

- a. of all income earned during a specified period; and
- b. the tax paid on such income.

(3) Any person specified in paragraph (a) or (b) or (c) of subsection (1) may be requested to furnish to the investigating officer a statutory declaration or statement in writing—

- a. of all moneys or other movable property or properties kept in his home; and
- b. of all moneys or other moveable property or properties sent out of Sierra Leone by him or on his behalf during the period specified by the Commission.

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

Summoning witnesses.

18. (1) The Commission may, by notice in writing under the hand of the Commissioner, summon any person whom the Commission believes to be acquainted with any facts relevant to the affairs of any person who is under investigation to appear before it and to arrange orally on oath or affirmation any question relevant thereto; and to produce the original or copy of any document in his possession or under his control which may be relevant to such investigation.

(2) For the purposes of subsection (1), the Commissioner shall administer any oath or affirmation.

Heads of Department and bank managers to produce statements, etc.

19. (1) The Commission may, by notice in writing under the hand of the Commissioner, request the head of any government Ministry, department, office or establishment, or the person in charge of any statutory or public body to produce to the Commission, notwithstanding any law to the contrary, any document or copy thereof, certified by the person in charge of any such document, which is in his possession or under his control

(2) The Commission may also apply *ex parte* to the High Court for an order to be served on any officer of a bank to produce any banker's books, safe-deposit boxes, copies of any bank accounts or any documents relating to any person who is under investigation or of his spouse, parent or child or any other person who has or has had dealings (business or otherwise) with such person at the bank as shall be named in the order.

Service of notices under Act.

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

Penalty for false answers.

21. Any person who fails to make a statement or wilfully makes any false statement in answer to a notice under subsection (1) of section 17 is guilty of an offense and shall be liable on conviction to a fine not exceeding one million leones or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

Restriction on disposal of property, etc.

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

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

(3) A notice under subsection (1) shall have effect from the time of service upon the person to whom it is addressed

and shall continue in force for a period of six months unless cancelled by the Commission.

(4) Nothing in subsection (3) shall prevent the Commission from making a further order in respect of the same property.

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

Penalty for breach of restriction order.

23. (1) Any person on whom a notice has been served in accordance with subsection (1) of section 22 shall be guilty of an offence if he disposes of or otherwise deals with any such property without the written consent of the Commission.

(2) Any person convicted of an offence under this section shall be sentenced to a fine not exceeding thirty million leones or a term of imprisonment not exceeding five years or to both such fine and imprisonment.

Restraining order against third parties.

24. (1) Where the Commission has reason to believe that a third party is holding any property, including moneys in any bank account, for or on behalf of or to the order of a person who is under investigation, it may apply *ex parte* to the High Court for a restraining order to be made against such person.

(2) A restraining order shall be served on the third party to whom it is directed and on the person being investigated and the Court may, in making a restraining order—

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

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

(3) A restraining order made under this section shall continue in force for twelve months from the making thereof but on application by or on behalf of the Commission, the Court may cancel or extend the order for a further period of six months.

Penalty for breach of restraining order.

25. (1) a third party on whom a restraining order has been served under section 24, is guilty of an offence, if during the continuance in force of the order, he knowingly disposes of or deals with any property specified in the restraining order otherwise than in accordance with the directions of the Court.

(2) Any person who is guilty of an offence under subsection (1) shall, on conviction thereof, be sentenced to a fine not exceeding one million leones or the value of the property disposed of whichever is greater, or to a term of imprisonment not exceeding three years.

Revocation of restraining order.

26. The Commission or a third party on whom a restraining order has been served may at any time apply *ex parte* to the Court for the revocation of the restraining order.

Suspect to surrender travel document.

27. (1) Where the Commission has reason to believe that any person who is under investigation under this Act is about to leave Sierra Leone, the Commission may apply to a Magistrate for an order requiring such person to surrender any travel document or documents in his possession.

(2) A Magistrate may, after hearing the application, order such person by written notice to surrender his travel documents forthwith to the Commissioner and to find two persons who are owners of property in Sierra Leone, the value of which is not less than fifty million leones each, to stand surety for him.

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

(4) Where it appears that the investigation may not be completed before the expiry of the period of three months, the Commission may apply again to the Magistrate for renewal of the order for such longer period as may be reasonably required.

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

Powers of arrest.

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

Bail and the procedure after arrest.

29. (1) A person arrested under section 28—

Act No. 32 of 1965.

- a. may be taken forthwith to a police station and dealt with in accordance with the Criminal Procedure Act, 1965; or
- b. may be taken to the offices of the Commission.

(2) A person arrested and taken to the offices of the Commission may be—

- a. detained there if the Commissioner considers it necessary for the purpose of further inquiries; or
- b. released from custody—
 - i. on depositing such reasonable sum of money as the Commissioner may require; or
 - ii. on his entering into recognizance, with such sureties, if any, as the Commissioner may require; or
 - iii. on complying with subparagraphs (1) and (ii) together as the Commissioner may require.

(3) A person who has deposited money and been released from custody under subsection (2), shall—

- a. attend at the offices of the Commission at such time or times as the Commissioner may specify, or
- b. appear before a Magistrate at such time and place as the Commissioner may specify.

(4) A recognizance entered into under this section shall be conditioned upon—

- a. the attendance of the person at the offices of the Commission at such time or times as the Commissioner may specify; or
- b. the appearance of the person before a Magistrate at such time and place as may be specified therein.

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

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

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

(8) The President may, by statutory instrument, make such provision as he considers necessary for the treatment of persons detained at the offices of the Commission.

(9) In this section, the reference to "Commissioner" in subsections (2), (3), (4), (5) and (7) includes the Deputy

Commissioner and, where appropriate, any investigating officer designated by the Commissioner in that behalf.

Power to finger-print
and photograph arrested
person.

30. (1) An investigating officer may, if so directed by the Commissioner, take or cause to be taken under the supervision of another officer, photographs, finger-prints and the weight and height measurements of any person arrested under section 28.

(2) The identifying particulars of a person taken under subsection (1) may be retained by the Commissioner, except that if—

- a. a decision is taken not to charge the person with any offence; or
- b. the person is charged but discharged by a Court before conviction or acquitted at his trial or on appeal,

the identifying particulars, together with any negatives or copies thereof, shall as soon as reasonably practicable, be destroyed or, if the person concerned so prefers, delivered to him.

(3) Notwithstanding subsection (2), the Commissioner may retain the identifying particulars of a person who has been previously convicted of an offence under this Act or an offence involving dishonesty.

(4) In this section, "identifying particulars" in relation to a person, means photographs, finger-prints and the weight and height measurement, of that person.

Arrest of persons
granted bail by
Commissioner.

31. (1) An investigating officer authorized in that behalf by the Commissioner may arrest without warrant any person who has been released on bail under section 29—

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

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

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

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

Search and seizure.

32. (1) An investigating officer authorized in that behalf by the Commissioner may search any person, if he reasonably suspects that such person is guilty of an offence under this Act.

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

Search of premises.

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

Provided that, in the case of a residential property, he may be information on oath to a Magistrate, obtain a warrant for the purpose of the entry and search of that property.

Unlawful disclosure of
investigation.

34. (1) Any person who knowing or being likely to know that an investigation for an offence under this Act is taking

place, without lawful authority or reasonable excuse, discloses to—

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

is guilty of an offence.

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

- a. the person under investigation has been requested to furnish a statement in writing under paragraph (a) of subsection (1) of section 17;
- b. a property restriction notice has been served under subsection (1) of section 22 on the person under investigation;
- c. the person under investigation has been ordered to surrender his travel documents under subsection (2) of section 27 or committed to prison under subsection (5) of section 27; or
- d. the person under investigation has been arrested under section 28.

Impersonation of officer of Commission.

35. Any person who impersonates an officer of the Commission is guilty of an offence and shall, on conviction, be sentenced to a fine not exceeding one million leones or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

PART VI — PROSECUTION OF OFFENCES

Reference of reports to Attorney- General and Minister of Justice.

36. (1) Where the Commissioner is of the opinion that the findings of the Commission on any investigation warrant consideration by the Attorney-General and Minister of Justice as to whether any criminal proceedings may be instituted thereon, he shall send the report of the investigation to him except that every adverse finding under section 7, shall be referred to the Attorney-General and Minister of Justice.

(2) The Attorney-General and Minister of Justice may request from the Commission any information regarding any matter which he is prosecuting or which he intends to prosecute under this Act.

(3) An adverse finding under section 7, in relation to a public officer, means a finding by the Commission that he is in control or possession of any resources or property or in receipt of the benefit of any advantage which he may reasonably be suspected of having acquired or received corruptly as the case may be, or in circumstances which amount to an offence under this Act.

(4) In any criminal proceedings based on an adverse finding, unless the accused person is able to rebut that finding to the satisfaction of the Court, the Court shall convict him accordingly.

Prosecution under reports of Commission.

37. If after examining a report referred to him by the Commissioner under section 36, the Attorney-General and Minister of Justice decides that there are sufficient grounds to prosecute the public officer concerned, he shall do so in the High Court or Magistrates' Court.

Procedure.

Act No. 32 of 1965.

38. (1) An indictment relating to an offence based on a report of the Commission referred to in section 36, or summary of such report duly signed by the Commissioner, shall be preferred without any previous committal for trial, and it shall in all respects be deemed to have been preferred pursuant to a consent in writing by a judge granted under subsection (1) of section 136 of the Criminal Procedure Act, 1965 and shall be proceeded with accordingly.

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

disclosed in or based on the report or those findings.

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

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

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

Bail from accused persons.

39. (1) The judge of the Court trying any person under this Act may, on application by the Attorney-General and Minister of Justice or any officer representing him, issue a warrant to arrest such person and to cause him to be brought before him as soon as practicable to be dealt with under this section.

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

(3) Where a person offered bail under this section refuses to enter into the recognizance required or defaults in finding any surety or sureties as may be required, the judge shall, by warrant, commit him to prison until—

- a. he finds such surety or sureties, as the case may be; or
- b. the expiry of thirty days from the date of his committal to prison; or
- c. the judge orders and directs the Director of Prisons to discharge such person from prison, whichever occurs first.

Penalties for offences under section 7.

40. (1) Any person who is guilty of an offence under subsection (1) of section 7 shall, on conviction, be sentenced to a term of imprisonment not exceeding seven years.

(2) In addition to the punishment prescribed by subsection (1), the Court shall, for an offence under subsection (1) of section 7, order that twice the amount or value of the resources or property acquired or the advantage received by the person convicted by paid by him to the Accountant-General.

(3) Where, after making the orders prescribed in subsection (2), there is still some amount outstanding, the Court shall make a further order that any person holding any moneys on behalf of such person or gratuities, awards, pensions, or similar entitlement due to such person, shall pay such moneys or entitlements to the Accountant-General.

(4) Where, after applying subsections (2) and (3) there is still some outstanding amount to be paid by the person convicted, that amount shall be regarded as a debt due to the Government and the Attorney-General and Minister of Justice may at any time bring an action in the High Court or in the Magistrates' Court, as the case may be, to recover the amount concerned.

General penalty for corrupt practice.

41. Any person who is guilty of an offence under subsection (1) of section 8, section 9, section 10, subsection (1) of section 11, section 12 or section 13 shall, on conviction, be sentenced to a fine of not less than thirty million leones or to a term of imprisonment of not less than ten years or to both such fine and imprisonment; and in addition, the Court shall order the forfeiture of the advantage corruptly acquired.

Protection of informers.

42. (1) Except as provided in subsection (2)—

- a. no information for an offence under this Act shall be admitted in evidence in any civil or criminal proceedings; and
- b. no witness in any civil or criminal proceeding shall be obliged—
 - i. to disclose the name or address of any informer who has given information to the Commission with respect to an offence under this Act or of any person who has assisted the Commission in any way with respect to an offence; or
 - ii. to answer any question if the answer thereto would lead, or would tend to lead, to discovery of the name or address of such informer or person, if, in either case, such informer or person is not himself a witness in such proceeding.

(2) If, in any proceeding before a Court for an offence under this Act, the Court, after full inquiry into the case, is satisfied that a person who gave information to the Commission wilfully made a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding a Court is of the opinion that justice cannot be fully done between the parties thereto without disclosure of the name of a person who gave information to the Commission, the Court may permit inquiry and require full disclosure concerning such person.

Impossibility of achieving purpose not defence

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

- a. he did not actually have the power, right or opportunity to do so or abstain;
- b. he accepted the advantage without intending so to do or abstain; or
- c. he did not in fact so do or abstain

(2) If in any proceedings for an offence under this Act, it is proved that the accused offered any advantage to any other person as an inducement to or reward for or otherwise on account of that other person's doing or abstaining from doing, or having done or abstained from doing, any act as is referred to in this Act, believing or suspecting or having reason to believe or suspect that such other person had the power, right or opportunity so to do or abstain from doing, it shall be no defence that such other person had no such power, right or opportunity.

Person giving or receiving bribe not regarded as accomplice

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

Presumption of corruption

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

Evidence of pecuniary resources or property

46. The fact that an accused cannot satisfactorily account for any pecuniary resources or property of which he is in possession disproportionate to his official income may be taken by the Court—

- a. as corroborating the testimony of any witness giving evidence in such proceedings that the accused accepted or solicited any advantage; and
- b. as showing that such advantage was accepted or solicited as an inducement or reward.

Alternative conviction

47. If, on the trial of any person for any offence under this Act, the prosecution is unable to prove that the accused is guilty of the offence charged, but it proves that the accused is guilty of some other offence under this Act, the accused may be convicted of that other offence and shall be dealt with accordingly.

Attorney- General's consent

48. (1) Except where the prosecution is instituted by himself, no prosecution shall be instituted under this Act without

the written consent of the Attorney-General and Minister of Justice.

(2) The Attorney-General and Minister of Justice shall be deemed to have given his written consent to any prosecution resulting in a conviction for an alternative offence under section 47.

Part VII — ADMINISTRATIVE PROVISIONS

Committee of
Commission

49. (1) The President shall appoint, with the approval of Parliament, an Advisory Committee on Corruption consisting of seven members, one of whom should be Chairman, but such other committees as may be required to assist the Commission in the performance of its functions under this Act, shall be appointed by the Commission itself from time to time.

(2) The Advisory Committee on Corruption shall in addition to any other function, advise the Commission on appointments and discipline, including termination, of staff of the Commission.

(3) A Committee appointed under subsection (1) shall have such members and such functions as the Commission shall determined in standing orders made under section 4, so, however, that each committee shall have a majority of members who are neither members nor staff of the Commission.

(4) A member of any committee shall be paid such remuneration or allowance as the Commissioner shall, after consultation with the Minister responsible for finance, determine.

Staff of Commission

50. (1) The Commission may employ such staff, including investigating officers, as the Commission may consider necessary for the efficient performance of its functions and shall, subject to subsection (2) of section 49, have disciplinary powers in respect of such staff.

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

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

Expenses of
Commission charged on
Consolidated Fund

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

Estimates, accounts and
audit of funds

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

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

(3) The books of account of the Commission shall be audited by the Auditor-General or an auditor appointed by him, within three months after the end of each financial year of the Commission which shall be the same as the financial year of the Government.

Independence of
Commission

53. Except as otherwise provided in this Act, the Commission shall not, in the performance of its functions, be subject to the direction or control of any person authority.

Annual reports of
Commission

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

(2) A report under subsection (1) shall include, among other matters—

- a. the number and brief account of investigations carried out in the year concerned;
- b. the number of reports of the Commission referred to the Attorney-General and Minister of Justice under section 36 in the year concerned; and

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c. the report of the audit conducted by the Auditor-General under subsection (3) of section 52.

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

Regulation

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

Repeal of Cap. 33

56. The Prevention of Corruption Act is repealed.

PASSED IN PARLIAMENT this *18th* day of *January*, in the year of our Lord two thousand.

J.A. CARPENTER,
Clerk of Parliament.