

GOVERNMENT OF ZAMBIA

ACT

No. 14 of 1980

Date of Assent: 24th September, 1980

An Act to provide for the establishment of the Anti-Corruption Commission; to repeal the provisions of the Penal Code relating to corrupt practices; to make comprehensive provision for the prevention of corruption; and to provide for matters connected with or incidental to the foregoing.

[\* w.e.f. 17 Dec 1982]

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Corrupt Practices Act, 1980, and shall come into operation on such date as the President may, by statutory order, appoint.

Short title and commencement

2. (1) Save as otherwise provided, the provisions of this Act shall apply notwithstanding anything to the contrary contained in the Criminal Procedure Code or in any other written law.

Application

Cap. 160 2

(2) Subject to subsection (1), all offences under this Act shall be inquired into, tried and otherwise dealt with in accordance with the provisions of the Criminal Procedure Code.

Cap. 160

3. In this Act, unless the context otherwise requires—

Interpretation

“ agent ” means any person not employed by a public or private body who acts for or on behalf, or in the name, of a public body or a private body or any other person, and includes a trustee, an administrator and an executor;

\*This Act shall come into operation on such date as the President, may by statutory order, appoint.

“casual gift” means any conventional hospitality on a modest scale or unsolicited gift of modest value offered to a person in recognition or appreciation of his services, or as a gesture of goodwill towards him, and includes any inexpensive seasonal gift offered to staff or associates by public and private bodies or private individuals on festive or other special occasions, which is not in any way connected with the performance of a person’s official duty so as to constitute an offence under Part IV;

“Commission” means the Anti-Corruption Commission established under section *four*;

“Commissioner” means the person appointed under section *five* to be the Commissioner of the Commission;

“corruptly”, in relation to the soliciting, accepting or obtaining; or to the giving, promising or offering, of a gratification, means the doing of any of the aforementioned things by way of a bribe or other personal temptation or inducement;

“Deputy Commissioner” means the person appointed under section *seven* to be the Deputy Commissioner of the Commission;

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

“Government” includes any Ministry, Department, service or undertaking of the Government;

“gratification” means any corrupt payment, whether in cash or in kind, and includes any rebate, bonus, deduction or percentage, discount, commission, service, forbearance, assistance, protection or any other material gain, benefit, amenity, facility, concession or favour of any description, and any loan, fee, reward, advantage or gift, other than a casual gift;

“local authority” means a district council established or deemed to have been established under the Local Administration Act, 1980;

“parastatal body” means any company, association, statutory corporation, body or board or any institution of learning, in which the State has a financial interest;

“principal” includes an employer, a beneficiary under a trust, and a trust estate as though it were a person, and any person beneficially interested in the estate of a deceased person as though the estate were a person; and, in relation to a public officer, a public body;

“private body” means any person or organisation not being a public body; and includes a voluntary organisation, charitable institution, company, partnership and a club;

“public body” means the Party or the Government, and includes any Ministry or Department of the Government, a local authority, parastatal body, or any board, council, authority, commission or other body appointed by the Party or the Government, or established by or under any written law;

“public officer” means any person who is a member of, or holds office in, or is employed in the service of, a public body, whether such membership, office or employment is permanent or temporary, whole or part-time, paid or unpaid, and “public office” shall be construed accordingly;

“superior police officer” means any police officer of or above the rank of Assistant Superintendent.

PART II

ESTABLISHMENT OF COMMISSION

4. (1) There is hereby established a Commission to be known as the Anti-Corruption Commission which shall consist of the Commissioner, the Deputy Commissioner and such other officers of the Commission as may be appointed under section nine.

Establishment and composition of Commission

(2) The Commission shall be a Government Department under the control and supervision of the President, and the working expenses of the Commission shall be charged to the general revenues of the Republic.

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5. (1) The President may, on such terms and conditions as he thinks fit, appoint a Commissioner who shall be responsible for the administration of the Commission, subject to any specific or general directions of the President.

Appointment of Commissioner

(2) The Commissioner shall not be subject to the direction or control of any person other than the President.

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(3) The Commissioner shall not, while he holds the office of Commissioner, discharge the duties of any other office of emolument in the Republic.

6. (1) No person shall qualify for appointment as Commissioner unless he is qualified to be appointed a judge of the High Court.

Qualifications and tenure of office of Commissioner

(2) A person appointed Commissioner may be removed from office for inability to perform the functions of his office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour, and shall not be so removed except by or in accordance with a resolution passed by the National Assembly pursuant to subsection (3) calling for an investigation into the question of the removal of the Commissioner.

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(3) If the National Assembly, by resolution supported by the votes of not less than two-thirds of all the members of the National Assembly, resolves that the question of removing the Commissioner ought to be investigated, the Speaker of the National Assembly shall send a copy of such resolution to the Chief Justice who shall appoint a tribunal consisting of a chairman and two other persons to inquire into the matter.

(4) The chairman and one other member of the tribunal shall be persons who hold or have held high judicial office.

(5) The tribunal shall inquire into the matter and report on the facts thereof to the President.

(6) Where a tribunal appointed under subsection (3) advises the President that the Commissioner ought to be removed from office for inability as aforesaid or for misbehaviour, the President shall remove the Commissioner from office.

(7) If the question of removing the Commissioner from office has been referred to a tribunal under subsection (3) the President may suspend him from performing the functions of his office, and any such suspension may at any time be revoked by the President and shall in any case cease to have effect if the tribunal advises the President that the Commissioner ought to be removed from office.

(8) For the purposes of this section "misbehaviour" includes a breach of the Leadership Code.

7. The President may appoint a Deputy Commissioner on such terms and conditions as he thinks fit:

Provided that no person shall qualify for appointment as a Deputy Commissioner unless he is qualified to be appointed a Judge of the High Court.

8. (1) If the office of the Commissioner is vacant or the Commissioner is absent from duty or unable for any other reason to perform the functions of his office, the Deputy Commissioner shall, save where the President otherwise directs, act as Commissioner.

(2) If both the Commissioner and the Deputy Commissioner are absent from duty or unable for any other reason to perform the functions of their office, the President shall appoint another person to act as Commissioner.

9. (1) The Commissioner may appoint investigating officers and such other officers of the Commission as the President may deem necessary to assist the Commissioner in the performance of his functions under this Act.

(2) The Commissioner may, if he is satisfied that it is in the best interest of the Commission, terminate the appointment of any officer of the Commission without assigning any reason therefor, subject to any directions by the President.

Appoint-  
ment of  
Deputy  
Commis-  
sioner

Acting  
Commis-  
sioner

Appoint-  
ment of  
officers of  
Commission

(3) The terms and conditions of service of officers of the Commission shall be subject to the approval of the President, who may vary such terms and conditions as he thinks fit.

(4) Subject to the provisions of this Part, the Commissioner, the Deputy Commissioner and other officers of the Commission shall be employed subject to such Government regulations as apply generally to public officers.

### PART III

#### FUNCTIONS OF COMMISSION

10. (1) The functions of the Commission shall be to—

Functions of  
Commis-  
sion

- (a) take necessary measures for the prevention of corruption in public bodies and private bodies, including, in particular, measures for—
- (i) examining the practices and procedures of public bodies, and private bodies in order to facilitate the discovery of corrupt practices and secure the revision of methods of work or procedures which, in the opinion of the Commission, may be prone or conducive to corrupt practices;
  - (ii) advising public bodies and private bodies on ways and means of preventing corrupt practices, and on changes in methods of work or procedures of such public bodies and private bodies compatible with the effective performance of their duties, which the Commission considers necessary to reduce the likelihood of the occurrence of corrupt practices.
  - (iii) disseminating information on the evil and dangerous effects of corrupt practices on society;
  - (iv) enlisting and fostering public support against corrupt practices;
- (b) receive and investigate complaints of alleged or suspected corrupt practices, and, subject to the directions of the Director of Public Prosecutions, prosecute for offences under this Act;
- (c) investigate any conduct of any public officer which, in the opinion of the Commission, may be connected with or conducive to corrupt practices, and to report thereon to the President.

(2) 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 trivial, frivolous, vexatious or not made in good faith; or



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(b) the investigation would be unnecessary, improper or futile.

(3) In any case in which the Commission declines to conduct an investigation, or to proceed further with any investigation, the Commission shall inform the complainant in writing of its decision, but shall not be bound to assign reasons therefor.

Powers of  
Commis-  
sioner

11. (1) For the performance of the Commission's functions under this Act, the Commissioner may—

(a) authorise in writing any officer of the Commission to conduct an inquiry or investigation into alleged or suspected offences under this Act;

(b) require any public officer or other person to answer questions concerning the duties of any other public officer or other person, and order the production for inspection of any standing orders, directives or office instructions relating to the duties of such public officer or other person;

(c) require any person in charge of any Department, office or establishment of the Party or the Government, or the head, chairman, manager or chief executive officer of any public body, to produce or furnish within such time as may be specified by the Commissioner, any document or a certified true copy of any document which is in his possession or under his control and which the Commissioner considers necessary for the conduct of investigation into alleged or suspected offences under this Act.

(2) In the performance of his duties under this Act, the Commissioner, the Deputy Commissioner or other officer of the Commission shall have—

(a) access to all books, records, returns, reports and other documents relating to the work of any Government Department, public body or private body;

(b) access at any time to the premises of any Government Department, public body or private body, or to any vessel, boat, aircraft or other vehicle whatsoever, and may search such premises or such vessel, boat, aircraft or other vehicle if he has reason to suspect that any property corruptly acquired has been placed, deposited or concealed therein.

5. (3) In the exercise of his power of access and search under subsection (2) (b), the Commissioner, the Deputy Commissioner or other officer of the Commission may use such reasonable

force as is necessary in the circumstances, and may be accompanied or assisted by such other persons as he deems necessary to assist him to enter into or upon any premises, or upon any vessel, boat, aircraft or other vehicle, as the case may be.

(4) Notwithstanding anything contained in subsections (2) and (3), the Commissioner, the Deputy Commissioner or other officer of the Commission shall not have access—

- (a) to any books, records, returns, reports or other documents, or to enter upon any premises of any component of the Defence Force or the Zambia Security Intelligence Service; or
- (b) to any books, records, returns, reports or other documents, or to enter upon any premises other than those mentioned in paragraph (a), if in the opinion of the President such access or entry is likely to—
  - (i) prejudice the security, defence or international relations of the Republic; or
  - (ii) involve the disclosure of any matters or deliberations of a secret or confidential nature of the Central Committee or the Cabinet or any sub-committee of the Central Committee or the Cabinet.

(5) Any person who accompanies or assists the Commissioner, the Deputy Commissioner or other officer of the Commission to enter into or upon any premises, or upon any vessel, boat, aircraft or other vehicle, as the case may be, shall, during the period of such accompaniment or assistance, enjoy the same immunity as is conferred under section *twenty-three* upon the Commissioner, the Deputy Commissioner or other officer of the Commission.

12. (1) The Commissioner may, by order in writing, authorise any officer of the Commission to investigate any bank account, share account, purchase account, expense account or any other account, or any safe deposit box in any bank.

Special  
powers of  
investi-  
gation

(2) An order made under subsection (1) shall be sufficient authority for the disclosure or production by any person of all or any information, accounts, documents or articles as may be required by the officer of the Commission so authorised.

(3) Any person who fails to disclose such information or to produce such accounts, documents or articles to the officer of the Commission so authorised shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding five years or to a fine not exceeding five thousand kwacha, or to both such imprisonment and fine.

Resisting  
or  
obstructing  
the  
Commis-  
sioner, etc.

13. Any person who assaults, resists or obstructs the Commissioner, the Deputy Commissioner or other officer of the Commission in the execution of his duties, or who unlawfully hinders or delays him in effecting entry into or upon any premises, boat, aircraft or other vehicle shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding seven years or to a fine not exceeding seven thousand kwacha, or to both such imprisonment and fine.

False  
reports to  
Commission

14. Any person who knowingly—

- (a) makes or causes to be made to the Commission a false report of the commission of any offence under this Act; or
- (b) misleads the Commissioner, the Deputy Commissioner or other officer of the Commission by giving any false information, or by making any false statements or accusations;

shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding ten years, or to a fine not exceeding ten thousand kwacha, or to both such imprisonment and fine.

Powers of  
Commission's  
officers to  
arrest

15. The Commissioner, the Deputy Commissioner or any officer of the Commission authorised in that behalf by the Commissioner may arrest a person without warrant if he reasonably suspects that such person has committed or is about to commit an offence under this Act.

Identity  
card

16. The Commissioner may issue to an officer of the Commission an identity card which shall be *prima facie* evidence of the officer's appointment as such.

Imperso-  
nation and  
procurement  
of  
Commis-  
sion's  
officers

17. Any person who falsely pretends that—

- (a) he is an officer of the Commission or has any of the powers of such officer under this Act, or under any authorisation or warrant issued under this Act; or
- (b) he is able to procure an officer of the Commission to do or refrain from doing anything in connection with the duties of such officer;

shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding seven years, or to a fine not exceeding seven thousand kwacha, or to both such imprisonment and fine.

Standing  
orders

18. (1) The Commissioner may, subject to any specific or general directions of the President, make standing orders providing for—

- (a) the control, direction and administration of the Commission;

- (b) the discipline, training, classification and promotion of officers of the Commission ;
- (c) the duties of officers of the Commission ;
- (d) the financial regulations of the Commission ;
- (e) such other matters as may, in his opinion, be necessary or expedient for preventing the abuse or neglect of duty and for upholding the efficiency and integrity of the Commission.

(2) The Commissioner may, with the prior approval of the President, by standing order modify the application to officers of the Commission of Government regulations.

(3) No standing order made by the Commissioner shall be inconsistent with any provision of this Act.

19. (1) In each financial year, the Commissioner shall, on or before a date appointed by the President, forward to the President, for his approval, estimates of the expenditure of the Commission for the next financial year.

Estimates <sup>6</sup>

Repeal

(2) The estimates shall be in such form and contain such information as the President may require.

20. (1) The Commissioner shall maintain proper accounts of such expenditure by the Commission as the President may require.

Accounts

Repeal

(2) As soon as may be after the end of each financial year, the Commissioner shall cause a statement of accounts covering the operations of the Commission during the previous financial year to be prepared.

21. (1) The Auditor-General shall, at any time, have access to all accounts maintained under section *twenty*, and may require such information and explanation thereon, as he thinks fit.

Audit

Repeal

(2) The Auditor-General shall audit the statement of accounts prepared under section *twenty* and report thereon to the President.

22. (1) The Commissioner shall, on or before the 31st December of each year, or by such later date as the President may specify, submit to the President a report on the activities of the Commission during the previous year.

Annual report

(2) The President shall cause the report mentioned in subsection (1) to be laid before the National Assembly as soon as may be after receiving such report.

Immunity  
of Commis-  
sioner,  
Deputy  
Commis-  
sioner and  
Commis-  
sion's  
officers

23. No action or other proceeding shall lie against the Commissioner, the Deputy Commissioner or other officer of the Commission in respect of any act or thing done or omitted to be done in good faith in the exercise of his duties under this Act.

Restriction  
on  
disposal of  
property,  
etc.

24. (1) The Commissioner may, by written notice to a person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed under this Act, or against whom a prosecution for such offence has been instituted, direct that such person shall not dispose of or otherwise deal with any property specified in such notice without the consent of the Commissioner.

(2) A notice issued under subsection (1) may be served by delivering it personally to the person to whom it is addressed or may, where the Commissioner is satisfied that such person cannot be found, or is not in the Republic, be served on or brought to the knowledge of, such person in such other manner as the Commissioner may direct.

(3) A notice issued under subsection (1) shall have effect from the time of service and shall continue in force for a period of twelve months or until cancelled by the Commissioner, whichever is earlier.

(4) Any person who, having been served with, or having knowledge of a notice issued under subsection (1), disposes of or otherwise deals with any property specified in the notice other than in accordance with the consent of the Commissioner, shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding ten years or to a fine not exceeding ten thousand kwacha, or to both such imprisonment and fine.

(5) Any person aggrieved by a directive contained in a notice issued under subsection (1) may, at any time, apply to the High Court for an order to reverse or vary such directive.

(6) An application under subsection (5) shall give to the Commissioner such notice of the day appointed for the hearing of the application as a judge of the High Court may order.

(7) On the hearing of an application under subsection (5) the High Court may—

(a) confirm the directive;

- (b) reverse the directive and consent to the disposal of or other dealing with any property specified in the notice, subject to such terms and conditions as it thinks fit; or
- (c) vary the directive as it thinks just.

## PART IV

## OFFENCES

25. (1) Any public officer who by himself, or by or in conjunction with any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for himself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any thing in relation to any matter or transaction, actual or proposed, with which any public body is or may be concerned, shall be guilty of an offence.

Corrupt practices by or with public officers

(2) Any person who by himself, or by or in conjunction with any other person, corruptly gives, promises or offers any gratification to any public officer, whether for the benefit of that public officer or of any other public officer, as an inducement or reward for doing or forbearing to do, any thing in relation to any matter or transaction, actual or proposed, with which any public body is or may be concerned, shall be guilty of an offence.

26. (1) Any public officer who, being concerned with any matter or transaction falling within, or connected with, his jurisdiction, powers, duties or functions, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain for himself or for any other person any gratification in relation to such matter or transaction, shall be guilty of an offence.

Corrupt use of official powers and procuring corrupt use of official powers

(2) Any person who, being concerned with any matter or transaction falling within the scope of authority, or connected with the jurisdiction, powers, duties or functions of any public officer, by himself, or by or in conjunction with any other person, corruptly gives, promises or offers any gratification, whether directly or indirectly, to such public officer either for himself or for any other person shall be guilty of an offence.

27. (1) Any person who by himself, or by or in conjunction with any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for himself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any thing in relation to any matter or transaction, actual or proposed, with which any private body is or may be concerned, shall be guilty of an offence.

Corrupt transactions by or with private bodies

(2) Any person who by himself, or by or in conjunction with any other person, corruptly gives, promises or offers any gratification to any person, whether for the benefit of that person or of any other person, as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any thing in relation to any matter or transaction, actual or proposed, with which any private body is or may be concerned, shall be guilty of an offence.

Corrupt  
trans-  
actions by  
or with  
agents

28. (1) Any agent who corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for himself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any thing in relation to his principal's affairs or business, or for showing or having shown favour or disfavour to any person in relation to his principal's affairs or business, shall be guilty of an offence.

(2) Any person who corruptly gives, promises or offers any gratification to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any thing in relation to his principal's affairs or business, or for showing or having shown favour or disfavour to any person in relation to his principal's affairs or business, shall be guilty of an offence.

(3) Any person who gives to an agent, or any agent who, with intent to deceive his principal, uses any receipt, account or other document in respect of which the principal is interested or which relates 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 his knowledge or belief is intended to mislead the principal, shall be guilty of an offence.

(4) For the purposes of subsections (1) and (2), the permission of a principal to the soliciting, accepting or obtaining of any gratification by his agent shall constitute a valid defence.

Corruption  
of members  
of public  
bodies in  
regard to  
meetings,  
etc.

29. (1) Any person who being a member of any public body by himself, or by or in conjunction with any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for himself or for any other person, any gratification as an inducement or reward for—

- (a) his voting or abstaining from voting at any meeting of such public body in favour of or against any measure, matter, resolution or question submitted to such public body; or
- (b) his performing, or abstaining from performing, or for his aid in procuring, expediting, delaying, hindering or preventing the performance of, any official act by such public body; or

- (c) his aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person;

shall be guilty of an offence.

(2) Any person who, by himself or by or in conjunction with any other person, corruptly gives, promises or offers any gratification to a member of any public body in any such circumstances as are referred to in subsection (1) shall be guilty of an offence.

30. (1) Any public officer who directly or indirectly by himself, or by or in conjunction with any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for himself or for any other person, any gratification as an inducement or reward for or otherwise on account of his giving assistance or using influence in, or having given assistance or used influence in—

Gratification for giving assistance, etc., in regard to contracts

(a) the promotion, execution, or procurement of—

- (i) any contract with a public body or private body for the performance of any work, the provision of any service, the doing of any thing or the supplying of any article, material or substance; or
- (ii) any sub-contract to perform any work, provide any service, do any thing or supply any article, material or substance required to be performed, provided, done or supplied under any contract with a public body or private body; or

(b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in any such contract or sub-contract as aforesaid;

shall be guilty of an offence.

(2) Any person who corruptly gives, promises or offers any gratification to any public officer as an inducement or reward for or otherwise on account of such public officer giving assistance or using influence in, or having given assistance or used influence in—

(a) the promotion, execution or procurement of; or

(b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in;

any such contract or sub-contract as is referred to in subsection (1) shall be guilty of an offence.

31. (1) Any person who directly or indirectly by himself, or by or in conjunction with any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain from any person for himself or for any other person,

Gratification for procuring withdrawal of tenders

any gratification as an inducement or reward for or otherwise on account of the withdrawal of a tender, or the refraining from the making of a tender, for any contract with a public body or private body for the performance of any work, the provision of any service, the doing of any thing or the supplying of any article, material or substance, shall be guilty of an offence.

(2) Any person who corruptly gives, promises or offers any gratification to any other person as an inducement or reward for or otherwise on account of the withdrawal of a tender, or the refraining from the making of a tender, for such a contract as is referred to in subsection (1), shall be guilty of an offence.

Gratification in regard to bidding at auction sales

32. (1) Any person who directly or indirectly by himself, or by or in conjunction with any other person, corruptly solicits, accepts or obtains, or agrees to accept or attempts to receive or obtain, from any person for himself or for any other person, any gratification as an inducement or reward for or otherwise on account of his refraining or having refrained from bidding at any sale by auction conducted by or on behalf of any public body or private body, shall be guilty of an offence.

(2) Any person who corruptly gives, promises or offers any gratification to any other person as an inducement or reward for or otherwise on account of that other person's refraining or having refrained from bidding at any auction as is referred to in subsection (1) shall be guilty of an offence.

Possession of unexplained property

33. (1) The Commissioner, the Deputy Commissioner or any officer of the Commission authorised in writing by the Commissioner may investigate any public officer where there are reasonable grounds to believe that such public officer—

- (a) maintains a standard of living above that which is commensurate with his present or past official emoluments;
- (b) is in control or possession of pecuniary resources or property disproportionate to his present or past official emoluments; or
- (c) is in receipt of the benefit of any services which he may reasonably be suspected of having received corruptly or in circumstances which amount to an offence under this Act.

(2) Any public officer who, after due investigation carried out under the provisions of subsection (1) is found to—

- (a) maintain a standard of living above that which is commensurate with his present or past official emoluments;

- (b) be in control or possession of pecuniary resources or property disproportionate to his present or past official emoluments; or
- (c) be in receipt of the benefit of any services which he may reasonably be suspected of having received corruptly or in circumstances which amount to an offence under this Act;

shall be charged with having, or having had under his control or in his possession pecuniary resources or property reasonably suspected of having been corruptly acquired or, as the case may be, with having received the benefit of services reasonably suspected of having been corruptly received; and shall, unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control or into his possession or, as the case may be, how he came to enjoy the benefit of such services, be guilty of an offence.

(3) Where a court is satisfied in proceedings for an offence under subsection (2) that, having regard to the closeness of his relationship to the accused and to other relevant circumstances, there is reason to believe that any person was holding pecuniary resources or property in trust for or otherwise on behalf of the accused, or acquired such pecuniary resources or property as a gift, or loan without adequate consideration, from the accused, such pecuniary resources or property shall, until the contrary is proved, be deemed to have been under the control or in the possession of the accused.

(4) In this section—

- (i) “official emoluments” includes a pension, gratuity or other terminal benefits;
- (ii) “public officer” includes any person who has held a public office on or after the 24th October, 1964.

34. (1) If, in any proceedings for an offence under any section of this Part, it is proved that the accused accepted any gratification, believing or suspecting or having reasonable grounds to believe or suspect that the gratification was given as an inducement or reward for or otherwise on account of his doing or forbearing to do, or having done or forborne to do, any act referred to in that section, it shall be no defence that—

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

Certain  
matters  
not to  
constitute  
defence

(2) If, in any proceedings for an offence under any section of this Part, it is proved that the accused offered any gratification to any other person as an inducement or reward for or otherwise on account of that other person's doing or forbearing to do, or having done or forborne to do, any act referred to in that section, believing or suspecting or having reasonable grounds to believe or suspect that such other person had the power, right or opportunity so to do or forbear, it shall be no defence that such other person had no such power, right or opportunity.

Penalty

35. Any person who is guilty of an offence under this Part shall, upon conviction, be liable to imprisonment for a term of not less than five years and not more than twelve years:

Provided that a person who is guilty of an offence under section *twenty-seven* or *twenty-eight* shall, upon conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five thousand kwacha, or to both such imprisonment and fine—

- (i) where the principal in relation to whose affairs or business the offence was committed is not a public body;
- (ii) where the person to whom the gratification was given, promised or offered is not a public officer or an agent of a public body.

Attempts, conspiracies, etc.

36. Any person who attempts to commit, or who aids, abets or counsels, or conspires with, any person to commit an offence under this Part, shall be guilty of committing that offence and shall be punished accordingly.

Public officer's powers of report, etc.

37. (1) A public officer to whom any gratification is corruptly given, promised or offered shall make a full report of the circumstances of the case to a police officer or officer of the Commission within twenty-four hours of the occurrence of the event; and if he fails to do so without reasonable cause he shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand kwacha, or to both such imprisonment and fine.

(2) Any police officer or officer of the Commission may arrest without warrant any person in respect of whom a report is made under subsection (1).

(3) Any police officer or officer of the Commission may search any person arrested for an offence under this Part and take possession of all articles found upon him which the

police officer or officer of the Commission believes upon reasonable grounds to constitute evidence of the commission of an offence by him under this Part:

Provided that no female person shall be searched except by a female police officer or female officer of the Commission or by any female authorised in that behalf by a police officer or officer of the Commission.

## PART V

### ADDITIONAL PENALTIES AND RECOVERY OF CORRUPT GRATIFICATION

38. Where any person is convicted of any offence under Part IV, the court shall in addition to the sentence that it may pass under section *thirty-five*, order the convicted person to pay to the rightful owner the amount or value, as determined by the court, of any gratification actually received by him; and such order shall be deemed to form part of the sentence:

Penalty additional to other punishment

Provided that where, after reasonable inquiry, the rightful owner cannot be ascertained or traced, or where the rightful owner is himself implicated in the giving of the gratification, the court shall order that the amount or value thereof shall be paid into the general revenues of the Republic.

39. Any fine imposed under the provisions of Part IV and the amount or value of any gratification ordered to be paid under section *thirty-eight* may be recovered in accordance with the provisions of sections *three hundred and eight* and *three hundred and nine* of the Criminal Procedure Code by distress and sale of the movable and immovable property of the person sentenced.

Recovery of gratification by distress, etc  
Cap. 160

40. (1) Where any gratification has been given by any person to or for or on account of an agent in contravention of any provision of this Act, the principal may recover, as a civil debt, the amount or value of such gratification from the agent, and the acquittal of the agent or such person in respect of an offence under Part IV shall not operate as a bar to any proceedings for such recovery.

Principal may recover gratification corruptly received by agent

(2) Nothing in subsection (1) shall be deemed to prejudice or affect any right which any principal may have under any written law or rule of law to recover from his agent any money or property.

41. Any person convicted of an offence under Part IV shall, by reason of such conviction, be disqualified for a period of five years from the date of such conviction from being elected or appointed to, or from holding or continuing to hold any office or position in any public body.

Effect of conviction of an offence under Part IV

Certificate  
of Govern-  
ment  
Valuation  
Officer or  
other  
specialist  
valuer

42. In any proceedings under this Act, a certificate by a Government Valuation Officer or other specialist valuer with respect to the value of any gratification or of any movable or immovable property shall be sufficient proof of such value, unless the contrary is proved.

## PART VI

### POWERS OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Consent  
of the  
Director  
of Public  
Prosecutions

43. (1) No prosecution for an offence under Part IV shall be instituted except by or with the written consent of the Director of Public Prosecutions.

(2) Notwithstanding the provisions of subsection (1), a person may be charged with an offence under Part IV and may be arrested therefor or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail notwithstanding that the written consent of the Director of Public Prosecutions to the institution of a prosecution for the offence with which he is charged has not been obtained, but no such person shall be remanded in custody or on bail for a period longer than seven days on such charge unless in the meantime the written consent of the Director of Public Prosecutions aforesaid has been obtained.

(3) When a person is brought before a court before the written consent of the Director of Public Prosecutions to the institution of a prosecution against him is obtained, the charge shall be explained to the person accused but he shall not be called upon to plead.

Power of  
Director of  
Public  
Prosecutions  
to obtain  
information

44. (1) If, in the course of any investigation into or proceeding relating to any offence under Part IV, the Director of Public Prosecutions is satisfied that it would assist or expedite such investigation or proceeding, he may, by notice, require—

- (a) any suspected person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by him, and specifying the date on which every such property was acquired and the consideration paid therefor, and explaining whether the same was acquired by way of purchase, gift, bequest, inheritance or otherwise;
- (b) any suspected person to furnish a sworn statement in writing of any moneys or other property sent out of Zambia by him during such period as may be specified in such notice;
- (c) any other person with whom the Director of Public Prosecutions believes that the suspected person had any financial transactions or other business dealing, relating to an offence under Part IV to furnish a

sworn statement in writing enumerating all movable or immovable property belonging to or possessed by such other person at the material time:

Provided that the Director of Public Prosecutions shall not require any such other person to furnish such sworn statement unless he has reasonable grounds to believe that such information can assist in the investigation or proceedings;

- (d) the Commissioner of Taxes to furnish all information in his possession relating to the affairs of any suspected person and to produce or furnish any document or a certified true copy of any document relating to such suspected person, which is in the possession or under the control of the Commissioner of Taxes;
- (e) the manager of any bank to furnish any information or the originals, or certified true copies, of the accounts or the statements of account at the bank of any suspected person.

(2) Every person on whom a notice is served by the Director of Public Prosecutions under subsection (1) shall, notwithstanding any oath of secrecy, comply with the requirements of the notice within such time as may be specified therein, and any person who wilfully neglects or fails to so comply shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding five years, or to a fine not exceeding five thousand kwacha, or to both such imprisonment and fine.

45. If any person, against whom investigations or proceedings for an offence under Part IV are pending, is preparing or about to leave Zambia, whether temporarily or permanently, the Director of Public Prosecutions or any officer authorised by him in that behalf, may apply to any court for an order requiring such person to furnish bail in any sum, or, if he has already been admitted to bail, in such greater sum and on such additional conditions, as the case may be, with or without sureties; and in any such application the court may make such order as it deems fit.

Bail where suspect or accused person is about to leave Zambia

## PART VII

### EVIDENCE AND PRESUMPTIONS

46. (1) Where, in any proceedings under this Act, it is proved that any gratification has been received by any person with the knowledge and acquiescence or consent of the accused person, and the court is satisfied, having regard to his relationship to the accused person or to any other circumstances, that such person has received the gratification for or on behalf of the accused person, or otherwise on account of or in connection

Presumptions of corrupt intention

with the office or duties of the accused person, the gratification shall be presumed to have been received by the accused person.

(2) Where, in any proceedings for an offence under Part IV, it is proved that any person solicited, accepted or obtained or agreed to accept or attempted to receive or obtain any payment in any of the circumstances set out in the relevant section under which he is charged, then such payment shall be presumed to have been solicited, accepted or obtained or agreed to be accepted, received or obtained, corruptly.

(3) For the purposes of subsection (2) "payment" means any corrupt payment, whether in cash or in kind.

(4) In any proceedings for the determination of any matter under subsection (1) or (2), the burden of proof to the contrary shall lie on the accused person.

Corroborative evidence of pecuniary resources or property

47. (1) In any proceedings in respect of an offence under Part IV, the fact that an accused person is in possession, for which he cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income, or that he had at or about the time of the alleged offence, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken into consideration by the court as corroborating the testimony of any witness in such proceedings that the accused person accepted or obtained or agreed to accept or attempted to obtain the gratification and as showing that such gratification was accepted or obtained or agreed to be accepted or attempted to be obtained corruptly as an inducement or reward.

(2) For the purposes of subsection (1), an accused person shall be deemed to be in possession of pecuniary resources or property, or to have obtained an accretion thereto, notwithstanding that such pecuniary resources or property is held, or such accretion thereto is obtained, by any other person as to whom there is reason to believe, having regard to his relationship to the accused person or to any other circumstances, that he is holding such pecuniary resources or property or has obtained such accretion thereto in trust for, or for or on behalf of, the accused person, or as a gift from him unless the contrary is proved.

Evidence of accomplice

48. (1) Notwithstanding any rule of law or written law to the contrary no witness for the prosecution in any proceedings in respect of an offence under Part IV shall be presumed to be unworthy of credit by reason only that he himself committed an offence under that Part (whether or not he has been prosecuted for or convicted of such offence) in the same matter or transaction in respect of which the accused person is being tried.

(2) In any proceedings against any person for an offence under Part IV, the spouse of that person shall be a competent witness for the prosecution.

49. For the purposes of any proceedings in respect of an offence under Part IV, the court may at any stage of the proceedings direct that any specified fact may be proved at the trial by affidavit with or without the attendance of the deponent for cross-examination.

Affidavit  
evidence

50. (1) In any proceedings for an offence under Part IV, it shall be no defence that any gratification solicited, accepted or obtained or agreed to be accepted, given, offered or promised, is customary in any profession, business, trade, vocation or calling.

Evidence  
of custom  
inadmissible

(2) Notwithstanding the provisions of subsection (1), no entertainment or casual gift offered or accepted under such conditions as may be prescribed in regulations made under this Act shall constitute an offence under Part IV.

## PART VIII

### SUPPLEMENTARY PROVISIONS

51. Where any public officer has corruptly solicited, accepted, obtained, or agreed or attempted to receive or obtain any gratification, it shall not be a defence in any trial in respect of an offence under Part IV—

Absence  
of power,  
authority or  
opportunity,  
no defence

- (a) that the appointment, nomination or election of such person or any other person as a public officer was invalid or void; or
- (b) that such public officer or any other public servant did not have the power, authority or opportunity of doing or of forbearing from doing the act, favour or disfavour to which the gratification related; or
- (c) that he did not actually do any act, favour or disfavour to induce the gratification, or never had the intention of doing so.

52. (1) Whenever two or more persons are charged with an offence under Part IV, the court may require one or more of them to give evidence as a witness or witnesses for the prosecution at the separate trials of such persons.

Evidence of  
co-accused

(2) Any person required to give evidence under subsection (1) who refuses to affirm or be sworn or to answer any lawful question put to him by the court shall be dealt with in the same manner as witnesses in a criminal trial so refusing may be dealt with.

(3) Every person so required to give evidence who, in the opinion of the court, has made a true and full disclosure of all things as to which he is lawfully examined, shall be entitled to receive a certificate of indemnity under the hand of the judge stating that he has made a true and full disclosure of all things

as to which he was examined, and such certificate shall be a bar to all legal proceedings against him in respect of all such things as aforesaid.

Evidence by  
accused in  
defence

53. (1) An accused person charged with an offence under Part IV shall not, in his defence, be allowed to make an unsworn statement, but may give evidence on oath or affirmation from the witness box.

(2) An accused person giving evidence in his defence in accordance with the provisions of subsection (1) may be asked any question in cross-examination notwithstanding that the answer would tend to incriminate him as to the offence charged.

Protection  
of informers

54. (1) In any trial in respect of an offence under Part IV, a witness shall not be obliged to disclose the name or address of any informer, or state any matter which might lead to his discovery.

(2) Where any book, document or paper which is in evidence or liable to inspection in any civil or criminal proceeding under this Act contains any entry or passage in which any informer is named or described or which might lead to his discovery, the court before which the proceeding is held shall cause any such entry or passage to be concealed from view or to be obliterated in such a manner as, in the opinion of the court, may not disclose the identity of the informer.

(3) Where, after full inquiry into the case, the court before which any person is tried for an offence under Part IV, is of the opinion that any informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or where in any other proceeding under this Act the court before which such proceeding is held is of the opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, the court may require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning the informer.

Tender of  
pardon

55. (1) The Director of Public Prosecutions may at any time, with a view to obtaining at a trial the evidence of any person directly or indirectly concerned with or privy to an offence under Part IV, tender, or by writing under his hand, authorise any court named by him to tender, a pardon to such person on condition that he makes a full and true disclosure of all the facts or circumstances within his knowledge relating to the offence and to every other person involved in the commission thereof, whether as principal or in any other capacity, together with the delivery up of any document or thing constituting evidence or corroboration of the commission of the offence by the person to be charged or the accused person, as the case may be.

(2) The court shall record in the manner prescribed by the Criminal Procedure Code the evidence on oath of every person accepting a pardon under subsection (1) and shall transmit the record of such evidence to the Attorney-General.

Cap. 160

(3) Every person accepting a tender of pardon under this section shall be examined as a witness at the trial.

(4) Where a person who has accepted a tender of pardon under this section has, either by wilfully concealing anything material to the case, or by giving false evidence, not complied with the condition on which the tender of pardon was made, he may be prosecuted for the offence in respect of which the pardon was tendered or for any other offence of which he appears to have been guilty in connection with the same matter.

(5) A person to whom a tender of pardon has been made under subsection (1), who in the opinion of the court, has made a true and full disclosure of all things as to which he is lawfully examined, shall be entitled to receive a certificate of indemnity under the hand of the Director of Public Prosecutions stating that he has made a true and full disclosure of all things as to which he was examined, and such certificate shall be a bar to all legal proceedings against him in respect of all such things as aforesaid.

56. Where any commission established by or under the Constitution, or appointed under the Inquiries Act, in the course, or upon conclusion, of any proceedings before it, is of the opinion that the conduct of any person appears to constitute an offence under this Act and ought to be inquired into for the purposes of this Act, the commission concerned shall, subject to any prohibition, restriction or restraint imposed upon it by or under the Constitution or any other written law, communicate its opinion to the Director of Public Prosecutions, together with the particulars of the person concerned and such other facts of the case as the commission may deem necessary.

Corrupt  
practice  
coming to  
the notice of  
a commis-  
sion.  
Cap. 1  
Cap. 181

Cap. 1

57. (1) Where, at the conclusion of the trial of a person charged with an offence under Part IV, the court is of the opinion that any person has wilfully, and with intent to harm or injure the accused person in any manner made a false, frivolous or groundless complaint or allegation against him, the court shall certify that opinion in writing and shall transmit it together with a certified copy of the record of the proceedings to the Director of Public Prosecutions.

False,  
frivolous or  
groundless  
complaints  
or allega-  
tions

(2) Any person who, in the opinion of the court certified under subsection (1) has made a false, frivolous or groundless complaint or allegation to the effect that any person has committed or attempted to commit, or aided, abetted or counselled the commission of, or conspired with any other person to commit, any offence under Part IV, shall be guilty

of an offence and shall be liable upon conviction to imprisonment for a term not exceeding ten years or to a fine not exceeding ten thousand kwacha, or to both such imprisonment and fine.

Alternative convictions and amending particulars

58. (1) If, on the trial of any offence under Part IV, it is not proved that the accused is guilty of the offence charged but it is proved that the accused is guilty of some other offence under Part IV, the accused may, notwithstanding the absence of the written consent of the Director of Public Prosecutions in respect of such other offence, be convicted of such other offence, and be liable to be dealt with accordingly.

(2) If, on the trial of any person for any offence under Part IV, there is any material variance between the particulars of the offence charged and the evidence adduced in support thereof, such variance shall not, of itself, entitle the accused to an acquittal of the offence charged if, in the opinion of the court, there is *prima facie* evidence of the commission of that offence; and in such a case the court may, notwithstanding the absence of the written consent of the Director of Public Prosecutions in respect of the particulars supported by the evidence adduced, make the necessary amendment to the particulars, and shall thereupon read and explain the same to the accused and the parties shall thereupon be allowed to recall and examine on matters relevant to such amendment any witness who may have been examined and, subject to the provisions of subsection (3), to call any further witness.

(3) If an amendment is made under the provisions of subsection (2) after the prosecution's case is closed, no further witness may be called by the prosecution other than a witness on such matters only as it would, apart from the provisions of this subsection, be permissible to call and put in evidence in rebuttal.

Post-resignation employment

59. (1) No public officer of or above the rank of Assistant Secretary or of a comparable rank in any parastatal body shall, without the written consent of the President, accept within two years of his resignation or retirement from the public service any employment in any business—

- (a) which has contractual relationship with the Party or the Government;
- (b) which is in receipt from the Party or the Government of subsidies, loans, guarantees, subventions, grants or any other form of financial assistance;
- (c) with which Ministries or Departments of the Government are in a special financial relationship; or
- (d) established by the Government under any written law.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable

upon conviction to imprisonment for a term not exceeding two years or to a fine not exceeding two thousand kwacha, or to both such imprisonment and fine.

(3) The provisions of subsection (1) shall not apply to any public officer who has accepted employment in any business mentioned in the subsection after his resignation or retirement from the public service prior to the commencement of this Act.

(4) Nothing in this section shall prohibit the inter-departmental transfer of public officers or their secondment from a public body to a parastatal body in the public interest, or the resignation of public officers from the service of one public body to the service of another public body.

60. (1) Save as is provided in this section, nothing in this Act shall require the disclosure by a legal practitioner of any privileged information, communication, book, document or other article.

Legal  
practitioners  
and  
privileged  
information

(2) Subject to subsection (3), a legal practitioner may be required by notice under the provisions of paragraph (c) of subsection (1) of section *forty-four*—

- (a) to state whether, at any time during such period as is specified in the notice, he has acted on behalf of any person named or otherwise identified in the notice in connection with—
- (i) the transfer by such person of any moneys out of Zambia; or
  - (ii) the investment by such person within or outside Zambia of any moneys; and
- (b) if so, to furnish information in his possession with respect thereto, being information relating to—
- (i) the date of the transfer or investment;
  - (ii) the amount of the transfer or investment;
  - (iii) in the case of a transfer, the name and address of the bank and the name and number, if any, of the account to which the money was transferred;
  - (iv) in the case of investment, the nature of the investment;

notwithstanding that the effect of compliance with such requirement would be to disclose any privileged information or communication.

(3) Nothing in subsection (2) shall require a legal practitioner to comply with any such requirement as is specified therein to the extent to which such compliance would disclose any privileged information or communication which

came to his knowledge for the purpose of any proceedings, begun or contemplated, before a court or to enable him to give legal advice to his client.

(4) The protection conferred by this section on a legal practitioner shall extend to a clerk or servant of, or employed by, a legal practitioner.

## Defences

61. In any proceeding for an offence under this Act it shall be a valid defence that the gratification offered or accepted is an entertainment or a casual gift, but the burden of proof thereof shall lie on the accused person.

## Liability of citizens of Zambia for offences committed outside Zambia

62. (1) The provisions of this Act shall have effect, in relation to citizens of Zambia, outside as well as within Zambia; and where an offence under this Act is committed by a citizen of Zambia in any place outside Zambia, he may be dealt with in respect of such offence as if it had been committed within Zambia.

(2) Any proceedings against any person under this section which would be a bar to subsequent proceedings against such person for the same offence, if such offence had been committed in Zambia, shall be a bar to further proceedings against him, under any written law for the time being in force relating to the extradition of persons, in respect of the same offence outside Zambia.

## Regulations

63. (1) The Commissioner may, subject to any specific or general directions of the President, by statutory instrument, make regulations generally for the effective carrying out of the provisions of this Act.

(2) Without prejudice to the generality of the foregoing provision, the Commissioner may make regulations for—

- (a) the prevention of corruption generally;
- (b) the disclosure by public officers of interest in contracts or proposed contracts;
- (c) governing internal review procedures of Government Ministries and Departments;
- (d) giving protection to informers and complainants;
- (e) the disposal of recovered gratification and gifts.

## PART IX

## REPEAL

Repeal and savings.  
Cap. 146

64. (1) Sections *ninety-four, ninety-five, ninety-six, three hundred and eighty-four, three hundred and eighty-five, three hundred and eighty-six, three hundred and eighty-seven and three hundred and eighty-eight* of the Penal Code are hereby repealed.

(2) Notwithstanding the repeal of the said sections of the Penal Code, any offence relating to corrupt practices committed by any person under any of the repealed sections of the Penal Code or under any relevant provision of any other written law shall be deemed to be an offence committed under this Act, and shall be investigated or prosecuted, as the case may be, under this Act.

65. The Prevention of Corruption Act, 1916, of the United Kingdom applied to Zambia by virtue of the British Acts Extension Act, shall cease to have any force or effect in Zambia; and the Schedule to the said Act is hereby amended accordingly.

Cessation  
of  
application  
of  
Prevention  
of  
Corruption  
Act, 1916  
Cap. 5





[No. 15 of 1980

THE LOCAL ADMINISTRATION ACT, 1980

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