

**ANTI-CORRUPTION (AMENDMENT) BILL, 2021**

(Bill No. 11 of 2021)

**OBJECTS AND REASONS**

The Anti-Corruption Act, 2016 (*the said Act*) was enacted to establish the Anti-Corruption Commission, provide for its functions and powers and to create a means by which it can investigate, detect and prevent corrupt practices. The composition of the Anti-Corruption Commission consists of a Chairperson, Vice-Chairperson and five Commissioners appointed by the President who are responsible for the supervision and performance of the functions of the Commission. A Chief Executive Officer appointed by the President is responsible for the implementation of the decisions of the Commission, subject to the supervision of the Commission.

2. The President, in his address to the Nation on the 1<sup>st</sup> February, 2021, made announcement of restructuring of statutory and other parastatal bodies.

3. In order to give effect to the announcement made by the President, it is proposed to abolish the positions of the Chairperson, Vice-Chairperson and Commissioners of the Anti-Corruption Commission and make the Chief Executive Officer responsible for the control, direction and administration of the Commission and also to re-designate the Chief Executive Officer to the Commissioner. In view of the proposed changes, it is proposed to provide that the Commissioner shall be appointed by the President on the recommendation of the Constitutional Appointments Authority and define the grounds of, and procedure for, the removal of the Commissioner. The Commission shall also prepare and submit to the Minister, in each financial year, an annual financial statement for the next financial year.

4. It is also proposed to establish an Advisory Council, consisting of four members, which shall be responsible to oversee the administrative functioning of the Commission and advise the Commission on the request of the Commissioner on any matter under the Act, but shall not interfere with the functioning or operation of the Commission in respect of any enquiry or conduct of investigation under the Act or any matter relating thereto.

5. On the commencement of the proposed legislation, the existing Chairperson, Vice-Chairperson and Commissioners of the Commission shall cease to hold their office as such and shall not be entitled to claim any compensation for the premature termination of term of their office and the existing Chief Executive Officer shall be deemed to be the Commissioner and shall hold office as such for the remainder of her term.

6. In view of the above, it is proposed to amend sections 2, 5, 15, 17, 52, 52A, 53, 55, 56, 57, 58, 59, 60, 61, 63, 69, 72, 83 of the said Act; repeal sections 6 to 13 of the Act for substituting new sections therefor, repeal section 19 to 22 and insert a new section 80A to the said Act.

7. The Bill seeks to achieve the above objectives.

**Dated this 23rd day of March, 2021.**

**FRANK D.R. ALLY  
ATTORNEY-GENERAL**

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**ANTI-CORRUPTION (AMENDMENT) BILL, 2021**

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**ARRANGEMENT OF SECTIONS**

**Sections**

1. Short title
2. Amendment of section 2 of Act 2 of 2016
3. Amendment of section 5
4. Substitution of sections 6 to 13
5. Amendment of section 15
6. Amendment of section 17
7. Repeal of sections 19 to 22
8. Amendment of section 52
9. Amendment of section 52A
10. Amendment of section 53
11. Amendment of section 55
12. Amendment of section 56
13. Amendment of section 57
14. Amendment of section 58
15. Amendment of section 59
16. Amendment of section 60
17. Amendment of section 61
18. Amendment of section 63
19. Amendment of section 69
20. Amendment of section 72
21. Amendment of section 83
22. Amendment of section 83
23. Transitional provisions



**ANTI-CORRUPTION (AMENDMENT) BILL, 2021**

*(Bill No. 11 of 2021)*



**A BILL**

**FOR**

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

**ENACTED** by the President and the National Assembly.

**Short title**

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

**Amendment of section 2 of Act 2 of 2016**

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

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

**Amendment of section 5**

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

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

**Substitution of sections 6 to 13**

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

**“Appointment of Commissioner**

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

candidates proposed by the Constitutional Appointments Authority.

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

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

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

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

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

### **Resignation and removal of Commissioner**

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

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

- (a) has been found guilty of any misconduct, default or breach of trust in the discharge of any duties;
- (b) is an undischarged insolvent or bankrupt;
- (c) is convicted of an offence and sentenced to a term of imprisonment of three months or more;  
or

(d) is mentally or physically incapable of carrying out the functions under this Act.

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

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

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

### **Temporary appointment of Commissioner**

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

### **Powers and functions of Commissioner**

9.(1) The Commissioner —

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



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

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

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

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

### **Advisory Council**

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

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

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

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

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

### **Functions of Advisory Council**

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

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

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

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

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

(5) The Advisory Council may regulate its own procedure and meet when it deems necessary but the chairperson shall

convene a meeting at the earliest possible, when requested by the Commissioner.

### **Disclosure of interest by members of Advisory Council**

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

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

### **Amendment of section 15**

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

### **Amendment of section 17**

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

### **Repeal of sections 19 to 22**

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

### **Amendment of section 52**

8. Section 52 of the principal Act is amended —

(a) by repealing the words “Chief Executive Officer” wherever

they appear, and substituting therefor the words “Commission”.

- (b) in subsection (6), by repealing the words “the Commission shall carry out”, and substituting therefor the words “to carry out”;
- (c) in subsection (7), by repealing the words “Commission”, and substituting therefor the words “Commissioner”.

#### **Amendment of section 52A**

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

#### **Amendment of section 53**

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

#### **Amendment of section 55**

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

#### **Amendment of section 56**

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

#### **Amendment of section 57**

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

**Amendment of section 58**

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

**Amendment of section 59**

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

**Amendment of section 60**

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

**Amendment of section 61**

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

**Amendment of section 63**

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

**Amendment of section 69**

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

**Amendment of section 72**

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

**Amendment of section 83**

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

**Insertion of new section 80A**

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

**“Submission of annual financial statement**

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

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

**Transitional provisions**

**23.** On the commencement of this Act —

- (a) the Chairperson, Vice Chairperson and Commissioners of the Commission appointed under section 6 of the Anti-Corruption Act, 2016, shall cease to be the Chairperson, Vice Chairperson or Commissioners as such and shall vacate the office; and such Chairperson, Vice Chairperson and Commissioners of the Commission shall not be entitled to claim any compensation for the premature termination of term of their office or of any contract of service;
- (b) the Chief Executive Officer appointed under section 19 of the Anti-Corruption Act, 2016 shall be deemed to be the

Commissioner appointed on the same terms and conditions of employment and shall continue until the expiry of his or her term of appointment and the provisions of the Anti-Corruption Act, 2016, as amended by this Act shall apply as if he or she was appointed under the Anti-Corruption Act, 2016 as amended by this Act.