

## **CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT, 2000**

### **EXPLANATORY MEMORANDUM**

The act seeks to prohibit and prescribe punishment for corrupt practices and other related offences.

It establishes an Independent Corrupt Practices and Other Related Offences Commission vesting it with the responsibility for investigation and prosecution of offenders thereof.

Provision has also been made for the protection of anybody who gives information to the commission in respect of an offence committed or likely to be committed by any other person.

## **CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT, 2000**

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**THE CORRUPT PRACTICES AND OTHER RELATED OFFENCES ACT , 2000.**

**2000 ACT NO.5**

# AN ACT TO PROHIBIT AND PRESCRIBE PUNISHMENT FOR CORRUPT PRACTICES AND OTHER RELATED OFFENCES

## PRELIMINARY

**Commencement** . [13th June, 2000]

1. Short Title and commencement.
2. Interpretation

**Short Title** 1. This Act may be cited as Corrupt practices and other Related offences Act 2000 and shall come into force on the ..... day of ..... 2000.

**Interpretation** 2. In this Act, unless the context otherwise requires-

**“Agent”** means any person employed by or acting for another and includes an officer of a public body or an officer serving in or under any public body, or a corporate body or any political party or institution, a trustee, an administrator or executor of the estate of a deceased person, a sub-contractor, any person employed by or acting for such trustee, administrator, executor, or sub-contractor;

**“Associate”**, in relation to a person includes any person who is an employee, agent, nominee or representative, trustee, firm or incorporated company known to act subject to the directives or influence of such person:

**“Bank”** means a bank, a finance company, a commercial bank, a merchant bank, or a discount house, licensed under the Banks and Other Financial Institutions Decree, or any other financial institution established or licensed under any other written law;

**“Banker’s Book”** includes ledgers, day books, cash books, account books and all other books and documents or electronic devices used in the ordinary course of business of a bank;

**“Business”** means any activity carried on for the purpose gain or profit and includes all property derived from or used in or for the purpose carry-ing on such activity, and all the rights and liabilities arising from such activity;

**“Chairman”** means the Chairman of the commission appointed under section 3 (3) of this Act;

**“Commission”** means the Independent Corrupt Practices and other Related Offences Commission established under section 3 of this Act;

**“Constitution”** means the constitution of the Federal Republic of Nigeria 1999;

**“Corporate body”** means any legal entity artificial or otherwise recognized by the companies and Allied Matters Act or created under the authority of law in Nigeria;

**“Corruption”** includes bribery, fraud and other related offences;

**“Dealing”** includes-

- (a) Any purchase, sale, loan, charge, mortgage, lien, pledge, caveat, transfer, delivery, assignment, subrogation, transmission, gift, donation trust, settle deposit withdrawal, transfer between accounts, or extension of credit;
- (b) Any agency or grant of power of attorney, and
- (c) Any act which results in any right, interest, title or privilege, whether present or future or whether vested or contingent, in the whole of or in part any property being conferred on any person:

**“False pretence”** means any representation made by words, writing, or conduct, of a matter of fact, either past or present, which representation is false in fact, and which the person making it knows to be or does not believe to be true;

**“Financial Institution”** means anybody or institution which carries on any banking business or financial transactions whether lawfully or unlawfully as defined in the Bank and other financial institutions Decree;

**“Gratification”** means

- (a) Money, donation, gift, loan, fee, reward, valuable security, property of any description whether movable or immovable or any other similar advantage, given or promised to any person with intent to influence such a person in the performance or non- performance of his duties;
- (b) Any office, dignity, employment, contract of empowerment or service and any agreement to give employment or render services in any capacity;
- (c) Any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) Any valuable consideration of any kind, any discount, commission, rebate, bonus deduction or percentage;
- (e) Any forbearance to demand any money or money’s worth or valuable thing;
- (f) Any other service or favour of any description, such as protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and including the exercise or the proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any rights or any official power or duty; and
- (g) Any offer, undertaking or promises, whether conditional or unconditional, of any gratification within the meaning of any of the preceding paragraphs (a) to (f);

**“Judge of Superior Court of Record”** means a judge holding any of the offices defined by section 6 (5) of the constitution;

**“Local Government”** has the meaning assigned to it in the Constitution of the Federal Republic of Nigeria;

**“Member”** means any of the member of the Commission appointed in accordance with section 3 of this Act;

**“Money instrument”** includes coin or currency of Nigeria or of any country, travelers’ cheque, personal cheque, bank cheque order, investment security or negotiable instrument in bearer form or otherwise in such form that title hereto passes upon delivery or delivery endorsement;

**“An official”** means any director, functionary, offer, agent, servant, privy or employee serving in any capacity whatsoever in the public service or other public body, or in any private

organization, cooperate body, political party, institution or other employment, whether under a contract of services or contract for services or otherwise and whether in an executive capacity or not;

**“Person** “includes a natural person, a juristic person, or any body of persons corporate;

**“Political Party”** means anybody of person or association registered by the independent National Electoral Commission as a Political Party, under the political parties (Registration and Activities) Decree 1998 or any Act amending or replacing same and includes Associations granted provisional registration to contest any particular election;

**“President”** means The President of the Federal Republic of Nigeria;

**“Principal”** includes any employer, any beneficiary under a trust, any trust estate, any person beneficially interested in the estate of a deceased person, and in the case of any person serving in or under a public body, the public body;

**“Property”** means real or personal property of every description, including money, whether situated in Nigeria or elsewhere, whether tangible or intangible, and includes an interest in any such real personal property;

**“Public Officer** “means a person employed or engaged in any capacity in the public service of the Federation, State or Local Government, public corporations or private company wholly or jointly floated by any government or its agency including the subsidiary of any such company whether located within or outside Nigeria and includes judicial officers serving in Magistrate, Area or Customary courts or Tribunals;

**“Purchaser in good faith for valuable consideration”** means any transferee, assignee, charge, mortgagee, pledge, holder of a lien, or lease, was obtained by him for adequate consideration in money or money’s worth, without notice that the property was obtained in consequence of the commission of any offence under this Act; and

**“Relation”** includes father, other child, brother, sister, uncle, aunt and cousins where applicable and their spouses.

### **ESTABLISHMENT OF COMMISSION, APPOINTMENTS AND POWERS**

3. Establishment of the Independent Corrupt Practices and Other Related Offences Commission and appointment of chairman and members of the Commission.
4. Appointment of other Officers of the Commission.
5. Power and immunities of the officers of the Commission.
6. Duties of officers of the commission
7. Standing orders.

### **Independent Corrupt Practices and other Related Offences Commission**

#### **Establishment 3 of the Independent Corrupt practices etc.**

- (1) There is hereby established a Commission to be known as the Independent Corrupt Practices and Other Related Offences Commission (hereinafter in this Act referred to as “the commission”)

Commission composition, tenure and removal from Office.

- (2) The commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The commission shall consist of a chairman and twelve (12) other members, two of whom shall come from each of the six geo-political zones;
  - (a) A retired police officer not below the rank of commissioner of police;
  - (b) A legal practitioner with at least 10 years post- call experience;
  - (c) A retired judge of a superior court of record;
  - (d) A retired public servant not below the rank of a Director;
  - (e) A woman;
  - (f) A youth not being less than 21 or more than 30 years of age at the time of his or her appointment and
  - (g) A chartered accountant.
- (4) The chairman shall be a person who has held or is qualified to hold office as a judge of a superior court of record in Nigeria.
- (5) Remuneration for members of the Commission shall be determined by the National Revenue Mobilization, Allocation and Fiscal commission.
- (6) The Chairman and members of the Commission who shall be person of proven integrity shall be appointed by the President, upon confirmation by the senate and shall not begin to discharge the duties of their offices until they have declared their assets and liabilities as prescribed in the Commission of the Federal Republic of Nigeria.
- (7) The Chairman shall hold office for a period of five (5) years and may be reappointed for another five (5) years but shall not be eligible for reappointment thereafter; and the other members of the Commission shall hold office for a period of four (4) years and may be re-appointed for another term of four (4) years but shall not be eligible for re-appointment thereafter.
- (8) Notwithstanding the provisions of the section 3 (7) of this Act, the Chairman or any member of the Commission may at any time be removed from the office of the President acting on an address supported by two- thirds (2/3) majority of the Senate praying that he be removed for inability to discharge the functions of the office (whether arising from the infirmity of mind or body or any other cause) or for misconduct.
- (9) The Chairman or any member of the Commission may resign his appointment by notice in writing under his hand addressed to the President and Chairman or that notice of resignation by the president cease to be a member of the Commission.
- (10)The chairman and members of the Commission shall hold office on such terms and conditions as may be specified in their instruments of appointment, and in the exercise of their functions, they shall not be subject to any other authority except as provided by the Act.
- (11)The tenure of office and conditions of service of the staff of the Commission shall, subject to the provisions of this Act, be determined by the Commission.
- (12)The Commission shall have power to appoint, dismiss and exercise disciplinary control over its staff and for this purpose shall prescribe its own rules.

- (13) The Commission shall have power to appoint designate and deploy such number and category of staff and officers which, in the opinion of the commission, shall be required to assist it in the discharge of all or any of its functions and shall have powers to pay persons so employed such remuneration (including allowances) as is in accordance with section 3 (12) of this Act.
- (14) The commission shall in the discharge of its functions under this Act, not be subject to the direction or control of any other person or authority.

Appointment of Officers of the Commission, Oath of office etc., Quorum for Meetings, production of identification card. 4.

- (1) An officer pursuant to this Act shall have such power as may be conferred upon him under this Act and shall be subject to the direction, control and supervision of the Chairman or any other officer of the Commission superior to him in rank, and shall exercise his powers and discharged his duties in compliance with such directives or instructions as may be given by the Chairman or such other officer as aforesaid.
- (2) The Chairman and any four (4) members of the commission shall constitute a Quorum.
- (3) Every member of the Commission shall before assuming the duties of this office, subscribe to oath prescribed in the Constitution of the Federal Republic of Nigeria for the public officers.
- (4) Service in the Commission shall be approved service for the purpose of the pensions Act.
- (5) Every officer of the Commission when discharging the duties of his office, shall, on demand, declare his office and produce to the person against whom he is acting or from whom he seeks any information, evidence of his identity issued by the Commission.
- (6) There shall be a Secretary to the Commission appointed by the president who, under the general direction of the Chairman, shall be responsible for keeping the records of the commission and the general administration and control of the staff of the commission.
- (7) There shall be appointed such number of Commissioners, Deputy Commissioners, Assistant Commissioners, Superintendents, Assistant Superintendent, senior investigators and investigators of the Commission as may be necessary for the purpose of carrying into effect the provisions of this Act.
- (8) An officer appointed under sub-section (6) shall have such powers as may be vested in him under this Act and shall be subject to the direction, control and supervision of the chairman or any other superior officer of the Commission and shall exercise his powers, and discharge his duties in compliance with such directives as may be given orally or in writing by the Chairman or any other superior officer of the Commission.

**Powers and Immunities of officers of the Commission Cap. 359 LFN. 5**

- (1) Subject to the provision of this Act, an officer of the Commission when investigating or prosecuting a case of corruption shall have all the powers and immunities of the police officer under the police Act and any other laws conferring power on the police, or empowering and protecting law enforcement agents.
- (2) If, in the course of any investigations or proceedings in court in respect of the commission of an offence under this Act by any person there is disclosed an offence under any other written law, not being an offence under this Act, irrespective of whether the offence was committed by the same person or any other person, the

officer of the Commission responsible for the investigation or proceedings, as the case may be, shall notify the director of public prosecutions or any other officer charged with responsibility for the prosecution of criminal cases, who may issue such directions as shall meet the justice of the case.

General Duties of the Commission to receive investigate complaint and prosecute offenders. Etc 6.it shall be the duty of the Commission-

- (a) Where reasonable grounds exist for suspecting that any person has conspire to commit or has attempted to commit or has committed an offence under this Act or any other law prohibiting Corruption, to receive and investigate any report of the conspiracy to commit, attempt to commit or the Commission of such offence and, in appropriate cases, to prosecute the offenders;
- (b) To examine the practices, system and procedures of public bodies and where, in the opinion of the Commission, such practices, systems or procedures aid or facilitate fraud or corruption, to direct and supervise a review of the,
- (c) To instruct, advise and assist any officer, agency or parastatals on ways by which fraud or corruption may be eliminated or minimized by such officer, agency or parastatal;
- (d) To advise heads of the public bodies of any changes in practices, systems or procedures compatible with the effective discharge of the duties of the public bodies as the commission thinks fit to reduce the likelihood or incidence of bribery, corruption and related offences;
- (e) To educate the public on and against bribery, Corruption and related offences; and
- (f) To enlist and foster public support in combating Corruption.

**Standing orders. 7**

- (1) The Chairman may issue administrative orders to be called “standing Orders”, which shall conform with the provisions of the general control, training, duties and responsibilities of officers of the Commission, and for such other matters as may be necessary or expedient for the good administration of the Commission and to ensure the efficient and effective functioning of the Commission.
- (2) The Commission may establish one or more branch offices in each state of the federation and the Federal capital territory, Abuja, to carry out its functions under this Acts.
- (3) There may be in each state of the federation and the federal capital territory, Abuja a Resident Anti- corruption Commissioner appointed by the Commission.



## **OFFENCES AND PENALTIES**

- (9) Offences of accepting gratification
- (10) Offence of giving or accepting gratification through agent.
- (11) Acceptor or giver of gratification to be guilty notwithstanding that purpose was not carried out or matter not in relation to principal's affairs or business
- (12) Counseling offences relating to corruption
- (13) Fraudulent acquisition of property
- (14) Fraudulent receipt of property
- (15) Penalty for offences committed through postal system
- (16) Deliberate frustration of investigation by the commission
- (17) Making false statements or returns
- (18) Gratification by and through agents and definition of agent
- (19) Bribery of public officer
- (20) Using office or position for gratification
- (21) Forfeiture of gratification and other penalties
- (22) Bribery in relation to auctions
- (23) Bribery for giving assistance, etc. in regard to contracts
- (24) Duty to report bribery transactions
- (25) Dealing with property acquire through gratification
- (26) Making false or misleading statements to the commission
- (27) Attempt, conspiracy punishable as offences

Gratification by an official.

### **8.-(1) any person who corruptly**

(a) Asks for, receives to receive or obtains any property or benefit of any kind for himself or for any other person; or

(b) Agrees or attempts to receive or obtain any property or benefit of any kind for himself or for any other person, on account of-

(i) Anything already done or omitted to be done, or for any favour or disfavor already shown to any person by himself in the discharge of his official duties or in relation to any matter connected with the functions, affairs or business of a government department, or corporate body or other organization or institution in which he is serving as an official; or

(ii) anything to be afterwards done or omitted to be done or favour or disfavor to be afterwards shown to any person, by himself in the discharge of his official duties or in relation to any such matter as aforesaid, is guilty of an offence of official Corruption and is liable to imprisonment for seven (7) years.

(2) if in any proceedings for an offence under this section it is proved that any property or benefit of any kind, or any promise thereof, was received by a public officer, or by some other person at the instance of a public officer from a person -

(a) holding or seeking to obtain a contract, license, permit, employment or anything whatsoever from a Government department, public body or other organization or institution in which that public officer is serving as such;

(b) concerned, or likely to be concerned, in any proceeding or business transacted, pending or likely to be transacted before or by that public officer or a Government department, public body or other organization or institution in which that public officer is serving as such; and

(c) acting on behalf of or related to such a person; the property, benefit or promise shall, unless the contrary is proved, be presumed to have been received corruptly on account of such a past or future act omission, favour or disfavour as is mentioned in sub-section (1) (a) or (b).

(3) In any proceedings for an offence to which sub-section (1) (b) is relevant, it shall not be a defence to show that the accused –

(a) did not subsequently do, make or show that act, omission, favour or disfavor in question; or

(b) never intend to do, make or show the act of commission favour or disfavour.

(4) Without prejudice to sub-section (3), where a Police officer or other public officer whose duties include the prosecution, detection or punishment of offenders is discharged with an offence under this section arising from –

(a) the arrest, detention or prosecution of any person for an alleged offence; or

(b) an omission to arrest, detain or prosecute any person for an alleged offence; or

(c) the investigation of an alleged offence,

It shall not be necessary to prove that the accused believe that the offence mentioned in paragraph (a), (b) or (c), or any other offence had been committed.

#### **Corrupt offer to Public Officers. 9.-**

Any person who corruptly-

(a) gives, confers or procures any property or benefit of any kind to, on or for a public officer or to, on or for any other person; or

(b) Promises or offers to give, confers, procures or attempts to procure any property or benefit of any kind to, on or for a public officer or any other person, on account of any such act, omission, favour or disfavor to be done or shown by the public officer is guilty of an offence of official corruption and shall on conviction be liable to imprisonment for seven (7) years.

(2) If in any proceedings for an offence under this section it is proved that any property or benefit of any kind, or any promise thereof, was given to a public officer or some other person at the instance of a public officer, by a person-

(a) holding or seeking to obtain a contract, license, permit, employment or anything whatsoever from a government department, public body or other organization or institution in which that public officer is serving as such; or

(b) concerned or likely to be concerned in any proceeding or business transacted, pending or likely to be transacted before or by that public officer or a Government department, public body or other organization or institution in which that public officer is serving as such, or

(c) acting on behalf of or relative to such a person, the property, benefit or promise shall, unless the contrary is proved, be deemed to have been given corruptly on account of such a past or future act, omission, favour or disfavor as is mentioned in section 9 (1) and (2).

**Corrupt demand by persons.**

10. Any person who –

(a) asks for, receives or obtains property or benefits of any kind for himself or any other person; or agrees or attempts to receive or obtain any property or benefit of any kind for himself or any other person;

On account of-

(i) anything already done or omitted to be done or any favour or disfavor already shown to any person, by a public officer in the discharge of his official duties or in relation to any matter connected with the functions, affairs or business of a Government department, public body or other organization or institution in which the public officer is serving as such; or

(ii) Anything to be afterwards done or omitted, or any favour or disfavor to be afterwards shown to any person, by a public officer in the discharge of his official duties or in relation to any such matter as aforesaid, is guilty of an offence of official corruption and shall on conviction be liable to imprisonment for seven (7) years.

**Counseling offences relating to corruption.**

11. In any proceedings for an offence under this Act, it shall not be necessary to prove that;

(a) any public officer counseled the commission of the offence; or

(b) In the course of committing the offence the accused mentioned any particular public officer; or

(c) (in a case to which sections 8, 9 and 10 are relevant) the accused believed that any public officer would do, make or show the act, omission, favour or disfavor in question; or

(d) The accused intended to give the property or benefit in question, or any part thereof, to a public officer.

**Fraudulent acquisition of property.**

12. Any person who, being employed in the public service, knowingly acquires or holds, directly or indirectly, otherwise than as a member of a registered joint stock company consisting of more than twenty (20) persons, a private interest in any contract, agreement or investment emanating from or connected with the department or office in which he is employed or which is made on account of the public service, is guilty of an offence, and shall on conviction be liable to imprisonment for seven (7) years.

**Fraudulent receipt of property.**

(13) any person who receive anything which has been obtained by means of act constituting a felony or misdemeanor, or by means of any act done at a place outside Nigeria, which if it had been done in Nigeria would have constituted a felony or misdemeanor and which is an offence under the laws in force in the place where it was done, knowing the same to have been so obtained, is guilty of a felony.

**Penalty for offences committed through postal system.**

(14)if the offence by means of which the thing was obtained is felony, the offender shall on conviction be liable to imprisonment for three (3) years, except the things so obtained was postal matter, or any chattel, money or valuable security contained therein, in which case the offender shall on conviction be liable to imprisonment for seven (7) years.

**Deliberate frustration of investigation of investigation by the Commission.**

- (15)Any person who, with intent to defraud or conceal a crime or frustrate the Commission in its investigation of any suspected crime of Corruption under this Act or under any other law:
- (a) destroys, alters, mutilates, or falsifies any book, documents, valuable security, account, computer system, diskette, computer print out or other electronic device which belongs to or is in the possession of his employer, or has been received by him on the account of his employment, or any entry in any such book, document accounts or electronic device, or is privy to any such act; or
  - (b) Makes, or is privy to making any false entry in any such book, document, account or electronic record; or
  - (c) Omits, or is privy to omitting, any material particular from any such book, document, account or electronic record; is guilty of a felony, and shall on conviction be liable to seven (7) years imprisonment.

Making false statement or return.

- (16)Any person who, being an officer charged with the receipt, custody, use or management of any part of the public revenue or property, knowingly furnishes any false statement or return in respect of any money or property received by him or entrusted to his care, or of any balance of money or property in his possession or under his control, is guilty of an offence, and shall on conviction be liable to seven (7) years imprisonment.

**Gratification by and through agents, and definition of agents.**

17.-(1) any person who corruptly-

- (a) accepts, obtains or agrees to accept or obtain or attempts to obtain from any person for himself or for any person, any gift or consideration as an inducement or reward for doing, forbearing to do, or for having done, forborne to do, any act or thing;

- (c) gives or agrees to give or offer any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having done, or forborne to do, any act or thing in relation to his principal's affairs or business;
- (d) knowingly gives to any agent, or being an agent 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 his principal or any other person, is guilty of an offence and shall on conviction be liable to five (5) years imprisonment.

(2) For the purpose of this section, the expression "consideration" includes valuable consideration of any kind; the expression "agent" includes any person employed by or acting for another; and the expression "principal" includes an employer.

Bribery of public officer

(18) Any person who offers to any public officer, or being a public officer solicits, counsels or accepts any gratification as an inducement or reward for-

- (a) Voting or abstaining from voting at any meeting of the public body in favour or against any measure, resolution or question submitted to the public body;
- (b) Performing or abstaining from performing or aiding in procuring, expediting, delaying, hindering or preventing the performance of any official act;
- (c) Aiding in procuring or preventing the passing of any vote or the granting of any contract, award, recognition or advantage in favour of any person; or
- (c) showing or forbearing to show any favour or disfavor in his capacity as such officer, shall, notwithstanding that the officer did not have the power, right or opportunity so to do, or the inducement or reward was not in relation to the affairs of the public body, be guilty of an offence and shall on conviction be liable to five (5) years imprisonment with hard labour.

**Offence of using office or position for gratification.**

(19) Any public officer who uses his office or position to gratify or confer any corrupt or unfair advantage upon himself or any relation or associate of the public officer or any other public officer shall be guilty of an offence and shall on conviction be liable to imprisonment for five (5) years without option of fine.

**Penalty for Offences under sections 8-19.**

(20) Without prejudice to any sentence of imprisonment imposed under this Act, a public officer or other person found guilty of soliciting, offering or receiving gratification shall forfeit the gratification and pay a fine of not less than five times the sum of the value of the

gratification which is the subject-matter of the offence where such gratification is capable of being valued or is of a pecuniary nature, or ten thousand naira, whichever is higher.

**Bribery in relation to auctions.**

(21)-(1) any person who, without lawful authority or reasonable excuse, offers any advantage to any other person as an inducement to or reward for or otherwise on account of that other person's refraining or having refrained from bidding at any auction conducted by or on behalf of any public body, shall be guilty of an offence.

(2) Any person 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 refraining or having refrained from bidding at any auction conducted by or on behalf of any public body, shall be guilty of an offence.

(3) Any person guilty of an offence under this section shall on conviction of the indictment be liable to a fine of the current price of the property and imprisonment for three (3) years.

**Bribery for giving assistance, etc., in regard to contracts.**

22.-(1) Any person who, without lawful authority or reasonable excuse, offers an advantage to a public servant as an inducement to or reward for or otherwise on account of such public servant's giving assistance or using influence in, or having given assistance or used in-

(a) The promotion, execution, or procuring of –

(i) Any contract with a public body for the performance of any work, the providing of any service, the doing of anything or the supplying of any article, material or substance; or

(ii) any sub-contract to perform any work, provide any article, materials or substance required to be performed provided, done or supplied under any contract with a public 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 public servant 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 giving assistance or using influence in, having assistance or used influence in-

(a) The promotion, execution or procuring, or

(b) The payment of the price, consideration, or

(c) Other moneys stipulated or otherwise provided for in any contract, or sub-contract as is referred to in sub-section (1) SHALL BE GUILTY OF AN OFFENCE.

(3) Any public officer who, in the course of his official duties, inflates the price of any goods or service above the prevailing market price or professional standards shall be guilty of an

offence under this Act and liable on conviction to imprisonment for a term of seven (7) years and a fine of one million naira.

(4) Any public officer who, in the discharge of his official duties, awards or signs any contract without budget provision, approval and cash backing shall be guilty of an offence under this Act and on conviction be liable to three (3) years imprisonment and a fine of one hundred thousand naira.

(5) Any public officer who transfers or spends any sum allocated for a particular project or service, on another project, or service, shall be guilty of an offence under this Act and on conviction be liable to one (1) year imprisonment or a fine of fifty thousand naira.

(6) Any person or public officer who commits an offence under section 22 (1) and (2) shall be liable on conviction to a term of imprisonment for seven (7) years or one million naira fine.

**Duty to report bribery transactions.**

(23)-(1) Any public officer to whom any gratification is given, promised, or offered, in contravention of any provision of this Act, shall report such gift, promised or offer together with the name, if known, of the person who gave, promised or offered such gratification to him to the nearest officer of the commission or police officer.

(2) Any person from whom gratification has been solicited or obtained, or from whom an attempt has been made to obtain such gratification, in contravention of any provision of this Act, shall, at the earliest opportunity thereafter, report such soliciting or obtaining, or attempt to obtain the gratification together with the name, if known, or a true and full description of the person who solicited, or obtained, or attempted to obtain the gratification from him, to the nearest officer of the commission or police officer.

(3) Any person who fails, without reasonable excuse, to comply with sub-sections (1) and (2) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand naira or to imprisonment for a term not exceeding two years or to both fine and imprisonment.

**Dealing with, using, holding, receiving or concealing gratification.**

(24) Any person who, whether within or outside Nigeria, whether directly or indirectly, whether on behalf of himself or on behalf of any other person, enters into, or causes to be entered into, any dealing in relation to any property, or otherwise uses or causes to be used, or holds, receives or conceals any property or any part thereof which was the subject-matter of an offence under sections 10,11,13,14,15,16,17,18,19 and 20, shall be guilty of the offence and shall on conviction be liable to imprisonment for a term not exceeding five (5) years.

**Making of statement which is false or intended to mislead, etc.**

(25)-(1) Any person who makes or cause any other person to make to an officer of the commission or to any other public officer, in the course of the exercise by such Public officer

of the duties of his office, any statement which to the knowledge of the person making the statement, or causing the statement to be made-

- (a) is false, or intended to mislead or is in true in any material particular; or
- (b) is not consistent with any other statement previously made by such person to any other person having authority or power under any law to receive, or require to be made such other statement notwithstanding that the person making the statement is not under any legal or other obligation to tell the truth, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand naira or to imprisonment for a term not exceeding two (2) years or to both such fine and imprisonment.

(2) Where any person who has made a statement to an officer of the commission or to the Attorney-general in the course of such officer or Attorney- General exercising any power conferred by this Act, subsequently thereto makes any other statement to any person having authority or power under any law to receive or require to be made such other statement, regardless of whether or not the person making the statement is under a legal or other obligations to tell the truth, he shall , if such other statement previously made to an officer of the Commission or such other Public Officer, be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand naira or to imprisonment for a term not exceeding two years or to both.

(3) for the avoidance of any doubt, it is declared that for the purpose of sub-sections (1) and (2), any statement made in the course of any legal proceedings before the court, whether civil or criminal, or any statement made by any person in the course of any disciplinary proceedings, whether such legal proceedings or disciplinary proceedings are against the person making the statement or against any other person, shall be deemed to be a statement made to a person having authority or power under the law to receive the statement so made.

**Attempts, preparations, abetments and criminal conspiracies punishable as offence, delegation of Attorney- General's power to prosecute.**

(26)- (1) any person who-

- (a) Attempt to commit any offence under this Act;
- (b) Does any act preparatory to or in furtherance of the commission of any offence under this Act; or
- (c) Abets or is engaged in a criminal conspiracy to commit any offence under this Act;
- (d) Commits any offence and shall, on conviction, be liable to the punishment provided for such offence.



(2) Prosecution for an offence under this Act shall be initiated by the Attorney- General of the Federation, or any person or authority to whom he shall delegate his authority, in any superior court of record so delegated by the Chief judge of a state or the chief judge of the Federal Capital Territory, Abuja under section 61 (3) of this Act; and every prosecution for an offence under this Act or any other law prohibiting bribery, corruption, fraud or any other related offence shall be deemed to be initiated by the attorney- General of the Federation.

(3) A prosecution for an offence shall be concluded and judgment delivered within ninety (90) working days of its commencement save that the jurisdiction of the court to continue to hear and determine the case shall not be affected where good grounds exist for a delay.

#### **INVESTIGATION, SEARCH, SEIZURE, AND ARREST**

27. Power to investigate report and enquire into information

28. Power to examine persons

29. Power to summon persons for examination

30. Forms and endorsement of summons

31. Services of summons

32. substituted services.

33. Acknowledgment of service.

34. Punishment for evasion of service.

35. Failure to appear after receipt of summons

36. Authority to issue warrant and to search premises

37. Seizure of property.

38. Custody of seized property

39. Disclosure of other privileged information.

40. Legal obligation to give information.

41. Obstruction of inspection and search.

42. Bail of offenders and release of property.

#### **Power to investigate reports and enquire into information.**

27.-(1) Every report relating to the commission of an offence under this Act may be made orally or in writing to an officer of the Commission, and if made orally shall be reduced into writing and read over to the person making the report; and every such report shall be signed or thumb- printed by the person making the report if an illiterate the officer obtaining the report together with a statement to the effect that it was read over and interpreted to the maker.

(2) Every report, whether in writing or reduced into writing, shall be entered in book kept at the office of the commission and there shall be appended to such entry the date and hour at which such report was made.

(3) where an officer of the commission has reasons to suspect the commission of an offence under this Act following a report made under sub-section (1) or information otherwise received by him, he shall cause an investigator to be made for such purpose and may exercise all the powers of investigation provided for under this Act or any other law.

(4) A report made under sub-section (1) of this section shall not be disclosed by any person to any person other than officers of the Commission or the Attorney-General until the accused person has been arrested or charged to court for an offence under this Act or any other written law arising from such report.

(5) Any document, certified by any officer of the Commission under sub-section (2) in respect of a report under sub-section (1) shall be admissible as evidence of the contents of the original and of the time, place and manner in which the report was recorded.

**Power to examine persons.**

28.-(1) an officer of the Commission investigating an offence under this Act may-

(a) Order any person to attend before him for the purpose of being examined in relation to any matter which may, in his opinion, assist in the investigation of the offence;

(b) order any person to produce before him any book, document or any certified copy thereof, or any other article which may in his opinion, assist in the investigation of the offence; or

(c) By written notice require any person to furnish a statement in writing made under oath or affirmation setting out there in all such information required under the notice, being information which, in such officer's opinion, would be of assistance in the investigation of the offence.

(2) Sub-section (1)(b) shall not apply to banker's books save in accordance with the provisions of the evidence Act.

**Cap.2 LFN.**

(3)A person to whom an order under sub-section (1)(a) has been given shall-

(a) Attend in accordance with the terms of the order to be examined, and shall continue to attend from day to day where so directed until the examination is completed; and

(b) During such examination disclose all information which is within his knowledge.

(4) A person to whom an order has been given under sub-section (1) (b) shall not conceal, destroy, remove from Nigeria, or mutilate, expend or dispose of any book, document, or article specified in the order or relevant to the investigation, or alter or deface any entry in such book or document, or cause such act to be done, or assist or conspire to do such act.

(5) A person to whom a written notice has been given under sub-section (1) (c) shall, in his statement, furnish and disclose truthfully all information required under the notice which is within his knowledge, or which is available to him.

(6) A person to whom an order or a notice is given under sub-section (1) shall comply with such order or notice and with sub-sections (3), (4) and (5).

(7) Where any person discloses any information or produces any book, document or article pursuant to sub-sections (1),(3) and (5), neither the first –mentioned person, nor any other person on whose behalf or direction or as whose agent or employee the first-mentioned person may be acting, shall, on account of such disclosure or production, except a prosecution for an offence relating to the violation of section (1), or for any offence under or by virtue of any written law, or to any proceeding or claim by any person under or by virtue of any law or under or by virtue of any contract, agreement or arrangement, or otherwise.

(8) An officer of the commission Examining a person under section 27 of this Act, shall record under section 7 of this Act, shall record in writing any statement made by the person and the statement so recorded shall be read over to the maker who on being satisfied that it is a true record of his statement shall sign same before a superior officer if the Commission; and where such person refuses to sign the record, the officer shall endorse thereon under his hand the fact of such refusal and the reasons therefore, if any, stated by the person examined; and any person who shall write for a person who is an illiterate shall also write on such document his own name and address as the writer of the document.

(9) The record of an examination under section, a written statement on oath or affirmation made pursuant to or any book, document or article produced under section, or otherwise in the course of an examination under section 27, or under a written statement on oath or affirmation made pursuant to sections and shall, notwithstanding any written law or rule of law to the contrary, be admissible in evidence in any proceedings in any court-

(a) For an offence under this Act; or

(b) For the forfeiture of any property pursuant to section 6 or notwithstanding that such proceeding are against the person who was examined, or who produced the book, document or article, or who made the written statement on oath or affirmation, o against any other person.

(10) Any person who contravenes this section shall be guilty of an offence punishable with a term of imprisonment not exceeding (3) three months.

#### **Summons Against suspects.**

29. Subject to the provisions of sections 29 to 34 of this Act the Commission may issue a summons directed to a person complained against or any other person to attend before the commission for the purpose of being examined in relation to the complaint or in relation to any other matter which may aid or facilitate the investigation of the complaint; or in relation to any other matter which may aid or facilitate the investigation of the complaint; and the summons so issued shall state the substance of the complaint, and the time and place at which the inquiry is to be held.

**Forms and service of summons.**

30. Every summons issued by the commission under this Act, shall be in duplicate and signed by the Chairman or such other officer as the Chairman may authorize to issue summons.

**Cap. 407 LFN.**

31. Every summons under this Act, shall be served by an officer of the Commission in the manner prescribed in the sheriffs and Civil Process Act and any other laws relating to the service of process and the person effecting the service shall have and exercise all the powers conferred by the law and any other law relating to service of process and the person effecting the service shall have and exercise all the powers conferred by the law and any other law relating to the service of process.

**Substituted service.**

32. Where the person summoned by the Commission is in the service of Government, the Commission may deliver the summons in duplicate to the head of the department in which such person is employed for the purpose of its being served on that person and such officer shall there upon cause the summons to be served on that person.

**Acknowledgement service.**

33. where a summons has been served upon to whom it is addressed or is delivered to any other person, the person to whom it is addressed or delivered as the case may be, shall sign a receipt therefore on the duplicate; and where service is not effected by handing the summons to an individual but by some other method approved by this Act, the person effecting service shall endorse on the duplicate particulars of the method by which the service was effected.

**Detention of person refusing to acknowledge service.**

34. A person required to sign a receipt on the back of the duplicate summons to the effect that he has received the summons who refuses to do so may be arrested by the person serving the summons and shall be guilty of an offence and upon conviction be liable to one-month imprisonment or five thousand naira option of fine.

**Failure to appear after receipt of summons.**

35. Where the Commission is satisfied that a summons directed to a person complained against or any person has been served and that person does not appear at the time and place appointed in the summons.

**Forceful entry of premises.**

36.(1) Whenever it appears to the Chairman upon information, and after such inquiry as he shall think necessary, that there is reasonable cause to suspect that in any place there is an

evidence of the commission of any offence under this Act, he may by written order direct an officer of the Commission to obtain a court order to-

(a) Enter any premises and search for, seize and take possession of any book, document or other article evidencing the commission of such offence;

(b) Inspect, make copies of, or take extracts from any book, record or document;

(c) search any person who is in or on such premises, and for the purpose of such search detain such person and remove him to such place as may be necessary to facilitate such search, and seize and detain any article found on such person;

(d) Break open, examine, and search any article, container or receptacle; or

(e) Stop, search and seize any vehicle or conveyance.

2) Whenever it is necessary to do so, an officer of the commission exercising any power under sub-section (1) shall obtain a warrant from a judge or magistrate to-

(a) Break open any outer or inner door or window of any premises and enter thereto, or otherwise forcibly enter the premises and every part thereof;

(b) Remove by force any obstruction to such entry search, seizure or removal as he is empowered to effect; or

(c) Detain any person found in or on any premises or in any conveyance search under sub-section (1), or until such premises or conveyance has been searched.

(3) No person shall be searched under this section or under section 35 except by a person who is of the same gender as the person to be searched.

#### **Seizure of movable or immovable property.**

37.-(1) if in the course of an investigation into an offence under this Act, any officer of the Commission has reasonable grounds to suspect that any movable or immovable property is the subject matter of an offence of evidence relating to the offence, he shall seize such property.

(2) A list of all movable or immovable property seized pursuant to sub-section (1) and of the places in which they are respectively found shall be prepared by the officer of the Commission effecting the seizure and signed by him.

(3) A copy of the list referred to in sub-section (2) shall be served on the owner of such property or on the person from whom the property was seized as soon as possible.

(4) Where any movable immovable property liable to seizure under sub-section (2) is in the possession, custody or control of a bank, sub-section (1),(2)and(3) shall not apply thereto and the seizure shall be effected in the manner provided for, in sections 35 and 42.

### **Custody of seized property.etc.**

38.-(1) Where any movable property is seized under this Act, the seizure shall be effected by removing the movable property from the custody or control of the person from whom it is seized and placing it under the custody of such person or authority and at such place as an officer of the Commission may determine.

(2) Where it is not practicable, or otherwise not desirable, to effect removal of any property under sub-section (1), the officer referred to in that sub-section may leave it at premises in which it is seized under the custody of such persons as he may detail for the purpose.

(3) Notwithstanding sub-section (1), when any movable property, including any movable property referred to in sub-section (6), has been seized under this Act, an officer of the Commission other than the officer who effected the seizure, may at his discretion-

(a) temporarily return the movable property to the owner thereof, or to the person from whose possession, custody or control it was seized, or to such person as may be entitled thereto, subject to such terms and conditions as may be imposed, and subject, in any case, to sufficient security being furnished to ensure that the movable property shall be surrendered on demand being made by the officer who authorized the release or any other officer of the Commission and that such terms and conditions, if any shall be complied with; or

(b) return the movable property to the owner thereof, or to the person from whose possession, custody or control it was seized, or to such person as may be entitled thereto, with liberty for the person to whom the movable property is so returned to dispose of the property, such return being subject to security being furnished in an amount not less than an amount which represents the open market value of such property on the date on which it is returned.

(4) Where any person to whom movable property is temporarily returned under sub-section

(3) (a) fails to surrender such property on demand or to comply with any term or condition imposed under that sub-section.

(a) The security furnished in respect of such property shall be forfeited; and

(b) That person shall be guilty of an offence and shall on conviction be liable to a fine of not less than two times the amount of the security furnished by him, and to imprisonment for a term not exceeding two years.

(5) Where an order of forfeiture is made by the court in respect of property returned under sub-section (3) (b), such forfeiture shall be effected by forfeiting the security furnished by the person to whom the property was returned in lieu of the property.

(6) When any movable property seized under the Act consists of money, share, securities, stocks, debentures or any chose-in-action, in the possession or under the custody or control of any person other than the person against whom the prosecution is intended to be taken,

the seizure shall be effected by an officer of the commission serving an order on such person-

(a) Prohibiting him from using, transferring, or dealing with such property; or

(b) Requiring him to surrender the property to an officer of the Commission in the manner and within the time specified in the order.

(7) Where any movable property seized is liable to decay or deterioration, or is property which cannot be maintained without difficulty, or which it is not practicable to maintain, and which cannot be dealt with under sub-section (3), an officer of the Commission may sell or cause such property to be sold at the prevailing market value and shall hold the proceeds of the sale, after deducting there from the costs and expenses of the maintenance and of the sale of the property, to abide by the result of any proceedings under this Act. Advocates and solicitors may be required to disclose information.

(39) notwithstanding the provisions of the any other written law, a judge of the high court may, on application made to him in relation to an investigation into any offence under this Act or any other law prohibiting Corruption, order a legal practitioner to disclose information available to him in respect of any transactions or dealing relating to any property which is liable to seizure under this Act provided that no court shall require an advocate or solicitors to disclose any privileged information or communication which came to his knowledge for the purpose of prosecuting any pending proceeding.

#### **Legal obligation to give information.**

40. Subject to such limitation as is provided under this Act, every person required by an officer of the commission to give any information on any subject which it is the duty of such officer to inquire into under this Act and which it is in that person's statutory power to give, shall be legally bound to give information; failing which he shall be guilty of an offence and shall on conviction, liable to imprisonment for six (6) month or fine of ten thousand naira.

#### **Obstruction of inspection and search.**

41. Any person who-

(a) refuses any officer of the Commission access to any premises, or fails to submit to search by a person authorized to search him under this Act;

(b) assaults, or obstructs any officer of the Commission or any person authorized by the Commission in the execution of this duty under this Act;

(c) Fails to comply with any lawful demand, notice, order or requirements of an officer of the Commission in the execution of his duty under this Act;

(d) fails to produce to or conceals or attempts to conceal from, an officer of the Commission any book, document, or article in relation to which such officer has reasonable grounds for suspecting or believing that an offence under this Acts or any other law prohibiting corruption has been or is being committed, or which is liable to seizure under this Act;

(e) Rescues or endeavors to rescue or causes to be rescued any person who has been duly arrested or anything which has been duly seized; or

(f) Destroys anything to prevent the seizure thereof, or the securing of the thing, shall be guilty of an offence punishable with imprisonment for one (1) year without option of fine.

**Offence under Act to be seizable offences and bail, etc.**

42. - (1) every offence under this Act shall be bail able offence for the purpose of the criminal procedure Act or code.

(2) Every person arrested under sub-section (1) may be released from custody on his executing a bond with sureties, as an officer of the Commission may require.

(3) Any person who has been released from custody under sub-section (2) may be rearrested without warrant by an officer of the Commission:

(a) if such officer has reasonable grounds for believing that any condition on or subject to which such person was released or otherwise admitted to bail has been; or

(b) on being notified in writing by the surety or sureties of such person that such person has broken or is likely to break any condition on or subject to which such person was released and that the surety wishes to be relieved of his obligation as surety.

(4) Any person arrested under sub-section (3) who is not released on bail shall, without unreasonable delay, and in any case within twenty-four hours (excluding the time for any necessary journey) be produced before the court and if it appears to the Court that any condition on or subject to which such person was released or otherwise admitted to bail has been or is likely to be broken, the court may-

(a) Remand such person in custody; or

(b) Admit such person to bail on the same conditions or on such other conditions as it thinks fit.

(5) Where a person who is arrested for an offence under this Act is serving a sentence of imprisonment or is in detention under any law relating to preventive detention, or is otherwise in lawful custody, he shall, upon an order in writing by an officer of the Commission be produced before such officer or before any other officer of the Commission for the purpose of investigation and for such purpose he may be kept in lawful custody for a period not exceeding fourteen days.

(6) A person who is detained in lawful custody under sub-section (5) or otherwise under any other written law may, at any time, be made available to an officer of the Commission for the purpose of investigation, or may be taken to any other place for the purpose of searching the place, or seizing any property, or identifying any person or for any other purpose related to the investigation.



(7) The period during which a person is under lawful custody under sub-section (6) shall count towards the period of this imprisonment, detention or other custody.

#### PROVISIONS RELATING TO CHAIRMAN OF THE COMMISSION

43. Investigation of share Account, etc.

44. Chairman's power to obtain information.

45. Seizure of movable property in bank.

46. Prohibition of dealing with property outside Nigeria.

47. Forfeiture of property upon prosecution for an offence.

48. Forfeiture of property where there is no prosecution for an offence.

49. Dealing with property after seizure to be null and void.

50. Surrender of travel documents.

51. Chairman's powers to amend or revoke any order or notice.

52. Independent counsel to investigate the President, Vice- president, etc.  
Investigation of share Accounts, etc.

43.-(1) Notwithstanding the provisions of any other written law or any rule of law, the chairman of the commission, shall upon a court order direct in writing, for the purpose of any investigation into an offence under this Act or any other law prohibiting Corruption, and upon a court order authorize any officer of the Commission to exercise, in relation to any bank or financial institution specified in the authorization, all the powers of investigation set out in sub-section (2)

(2) An officer of the Commission authorized under sub-section (1) may, in relation to the bank or financial institution in respect of which he is so authorized-

(a) inspect and take copies of any banker's book, bank accounts or any documents belonging to or in the possession, custody or control of the bank or financial institution including computer data, disks, diskettes, printouts and any other electronic medium information or data is stored;

(b) inspect and take copies of any share accounts, purchase account, expenses accounts or any other accounts of any person kept in the bank;

(c) inspect the contents of any safe deposit box in the bank; or

(d) Request for any other information related to any documents, accounts or articles referred to in paragraphs (a), (b) and (c).

(3) Notwithstanding anything in sub-section (2), an officer of the commission authorized under sub-section (1) may take possession of any books, documents, accounts, titles, securities or cash to which he has access under that sub-section where in his opinion-

(a) The inspection, the copying or the taking of extracts from them, cannot reasonably be undertaken without taking possession of them;

(b) They may be interfered with or destroyed unless he takes possession of them; or

(c) They may be needed as evidence in any prosecution for an offence under this act or any other written law.

(4) Any person who willfully fails or refuses to disclose any information or produce any account, document or article referred to in sub-section (2) to any officer of the Commission authorized under sub-section (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand naira or to imprisonment for a term not exceeding two years or to both.

(5) Any person who discloses any information or produces any account or document or article to an authorized officer of the Commission whether by himself or through any agent shall not, on account of such disclosure or production, be liable to any prosecution, except for an offence under section 41(1) of this Act, or for any offence under or by virtue of any law, or to any proceeding or claim by any person under or by virtue of any law, contract, agreement or arrangement, otherwise.

**Chairman's powers to obtain information.**

44.-(1) Notwithstanding any written law or rule of law to the contrary, the Chairman of the Commission, if he has reasonable grounds to believe, arising from investigation carried out by an officer of the Commission, that any offence under this Act has been committed, may by written notice-

(a) Require any person suspected of having committed such offence to furnish a statement in writing, on oath or affirmation and

(i) identify every property, whether movable or immovable, whether within or outside Nigeria, belonging to him or in his possession, or in which he has any interest, whether legal or equitable and specifying the date on which each of the properties so identified was acquired and the manner in which it was acquired, whether by way of any dealing, bequest, device, inheritance, or any other manner;

(ii) Identify every property sent out of Nigeria by him during such period as may be specified in the notice;

(iii) set out the estimated value and location of each of the properties identified under sub paragraphs (i) and (ii), and if any of such properties cannot be located, the reason therefore;

(iv) state in respect of each of the properties identified under sub-paragraphs (i) and (ii) whether the property is held by him or by any other person on his behalf or whether it has diminished in value since its acquisition by him or and whether it has been co-mingled with other property which cannot be separated or divided without difficulty;

(v) set out all other information relating to his properties, business, travel or other activities as may be specified in the notice; and

(vi) Set out all his sources of income including earnings and gift or other assets for such period; and

(b) Require any relative or associate of the person referred to in sub-section (1) (a), or any other person whom the Chairman of the commission has reasonable grounds to believe is able to assist in the investigation to furnish a statement in writing on oath or affirmation and:

(i) identify every property either movable or immovable, whether within or outside Nigeria, belonging to him or in his possession, or in which such person has any interest, whether legal or equitable, and specifying the date on which each of the properties identified was acquire and the manner in which it was acquired, whether by way of any dealing, bequest, device, inheritance, or any other manner;

(ii) Identify every property sent out of Nigeria by him during such periods as may be specified in the notice;

(iii) set out the estimated value and location of each of the properties identified under sub-paragraphs (i) and (ii) and if any such properties cannot be located, the reason therefore;

(iv) state in respect of each of the properties identified under sub-paragraphs (i) and (ii) whether the property is held by him or by any other person on his behalf or whether<sup>4</sup> it has been transferred, sold or kept with any person or whether it has diminished in value since its acquisition by him or whether it has been co-mingled with other property which cannot be separated or divided without difficulty;

(v) set out all other information relating to each of the properties identified under sub-paragraphs (i) and (ii), and the business, travel or other activities of such person; and

(vi) Set out all the sources of income, earnings, gifts or other assets for such period; and

(e) Require any officer of any bank or financial institution, or any person who is in any manner or to any extent responsible for the management and control of the affairs of any bank or any financial institution to furnish copies of any or all accounts documents and records relating to any person to whom a notice may be issued under paragraphs (a) or (b).

(2) Where the chairman of the commission has reasonable grounds to believe that any public officer who has been served with the written notice referred to in sub-section (1) owns, possesses, controls or holds any interest in any property which is excessive, having regard to his present or past emoluments and all other relevant circumstances, the Chairman may by

written direction require him to furnish a statement on oath or affirmation explaining how he was able to own, possess, control or hold such excess and if he fails to explain satisfactorily such excess, he shall be presumed to have used his office to corruptly enrich or gratify himself and charged accordingly.

(3) Every person to whom a notice or direction is sent by the Chairman under this section shall state the truth and disclose all information which is within his knowledge, or which is available to him, or which is capable of being obtained by him.

(4) where any person discloses any information or produces any accounts, documents or records, in response to a notice under sub-section (1), such person, his agent or employee, or any other person acting on his behalf or under his direction, shall not, by reason only of such disclosure or production, be liable to prosecution for any offence or civil claim under or by virtue of any law, contract, agreement or arrangement, or otherwise.

PROVIDED THAT sub-section (4) shall not bar, prevent or prohibit the institution of any prosecution for any offence provided by this section or for giving false evidence in relation to any statement on oath or affirmation furnished to the chairman of the commission pursuant to this section; or as provided for in section 27 (1) of this Act.

#### **Seizure of Movable property in bank.**

45.-(1) where the chairman of the commission is satisfied on information given to him by an officer of the Commission that any movable property, including any monetary instrument or any accretion thereto which is the subject-matter of any investigation under this Act or evidence in relation to the Commission of such offence is in the possession, custody or control of a bank or financial institution, he may, notwithstanding any other written law or rule of law to the contrary by order direct the bank or financial institution not to part with, deal in, or otherwise dispose of such property or any part thereof until the order is revoked or varied.

(2) No bank, agent or employee of a bank shall on account of such compliance, be liable to any prosecution or to any civil proceedings or claim by any person under or by virtue of any law, contract, agreement, or arrangement, or otherwise.

(3) Any person who fails to comply with an order of the Chairman of the Commission under sub-section (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two times the amount which was paid out in contravention of the Chairman's order or fifty thousand naira, whichever is the higher, and to imprisonment for a term not exceeding two (2) years.

(4) The subject-matter of an offence under this Act or evidence of the commission of such offence shall be liable to seizure and the seizure shall be affected-

(a) by the issuance of a notice of seizure signed by the chairman of the Commission or any other person authorized by him setting out there in the particulars of the immovable property which is to be seized in so far as such particulars are within his knowledge, and prohibiting all dealings in such immovable property; and

(b) By publishing a copy of such notice in two newspapers circulating in Nigeria which shall be in the English Language; and

(c) By serving a copy of such Notice on the officer of the Ministry of Lands of the Area in which the immovable property is situate.

(5) The officer responsible for land matter referred to sub-section (4)(c) shall immediately upon being served with a Notice of Seizure under sub-section (1) endorse the terms of the notice of seizure on the document of title in respect of the immovable property in the Register at his office.

#### **Prohibition of Dealing with property Outside Nigeria.**

46. Where the Chairman of the Commission is satisfied that any property is the subject-matter of an offence under this Act, or was used in the commission of the offence, and such property is held or deposited outside Nigeria, he may make an application by way of an affidavit to a judge of the High Court for an order prohibiting the person by whom the property is held or with whom it is deposited from dealing with the property.

#### **Forfeiture of Property upon prosecution for an offence.**

47.-(1) in any prosecution for an offence under this Act, the court shall make an order for the Forfeiture of any property which is proved to be the subject matter of the offence or to have been used in the commission of the offence where-

(a) the offence is proved against the accused; or

(b) the offence is not proved against the accused but the court is satisfied:

(i) That the accused is not the true and lawful owner of such property; and

(ii) That no other person is entitled to the property as a purchaser in good faith for valuable consideration.

(2) Where the offence is proved against the accused or the property referred to in sub-section (1) has been disposed of, or cannot be traced, the court shall order the accused to pay as a penalty a sum which is equivalent to the amount of the gratification or is, in the opinion of the court, the value of the gratification received by the accused, and any such penalty shall be recoverable as a fine.

#### **Other grounds for forfeiture of property.**

48.-(1) Where in respect of any property seized under this Act, there is no prosecution or conviction for an offence under this Act, the chairman of the commission may, before the expiration of twelve months from the date of the seizure, apply to a judge of the High Court for an order of forfeiture of that property if he is satisfied that such property had been obtained as a result of or in connection with an offence under section 8 to 19.

(2) The judge to whom an application is made under sub-section (1) shall direct to be published a notice in the Gazette and in at least two newspapers circulating in Nigeria, which shall be in English language, calling upon any person who claims to have an interest in the property to attend before that court on a date specified in the notice, to show cause why the property should not be forfeited to the Government.

(3) Where the judge to whom an application is made under sub-section (1) is satisfied-

(a) That the property is the subject-matter of or used in the commission of an offence under this Act: and

(b) There is no purchaser in good faith for valuable consideration of the property, he shall make an order for the forfeiture of the property.

(4) Any property in respect of which no application is made under sub-section (1) shall, after the expiration of twelve months from the date of its seizure, be released to the person from whom it was seized.

**Dealing with property after seizure to be null and void.**

49. Where any property has been seized under this Act, and so long as such seizure remains in force, any dealing effected by any person or between any persons in respect of such property, except any dealing effected under this Act, or by virtue of this Act by an officer of a public body in his capacity as such officer, or otherwise by or on behalf of the Government of Nigeria, or the Government of a state, or a local Government or other statutory authority, shall be null and void, and shall not be registered or otherwise given effect to by any person or authority.

**Surrender of travel documents, Cap. 343 LFN.**

50.-(1) notwithstanding any written law to the contrary, the Chairman of the Commission may upon a court order where he has reasonable grounds to believe that any person who is the subject of investigation in respect of any offence under this Act is likely to leave Nigeria, by written notice require such person to surrender his passport or exit permit or any other travel documents in his possession.

(2) A notice under sub-section (1) shall be served personally on the person to whom it addressed.

**Chairman's power to amend or revoke any order or notice under this Act.**

51.-(1) The Chairman of the Commission may at any time amend or revoke any order or notice which has been made or given by him in exercise of any power conferred on him under this Act.

PROVIDED THAT the revocation of any such notice or order shall not debar the Chairman of the Commission from issuing any fresh orders or notices, against any person or thing affected by the earlier order or notice.

(2)The revocation or amendment of an order or notice under sub-section (1) may contain consequential, ancillary or incidental matters relevant to such revocation or amendment.

**Independent counsel to investigate President, etc.**

52.-(1) When an allegation of corruption or anything purporting to contravene any provision of this Act is made against the President or the Vice-President of Nigeria or against any State Government or Deputy Governor, the Chief justice of the Federation shall, if satisfied that sufficient cause has been shown upon an application on notice supported by an affidavit setting out the Facts on which the allegation is based, authorize an independent counsel (who shall be a legal practitioner of not less than fifteen years standing) to investigate the allegation and make a report of his findings to the National Assembly in the case of the president or Vice- president and to the relevant state House of Assembly in the case of the state Government or the Deputy Governor.

(2) The Commission shall be enjoined to fully cooperate with such independent counsel and provide all facilities necessary for such independent counsel to carry out his functions.

**EVIDENCE**

53. Presumption in certain offences.

54. Public evidence of corroboration.

55. Evidence of accomplice and agent provocateur.

56. Admissibility of statements by accused persons.

57. Admissibility of statements and documents of persons who are dead or cannot be traced, etc.

58. Presumption in favour of certificate issued by principal or employer.

59. Admissibility of translation of documents.

60. Evidence of custom or convention inadmissible.

**Presumption in certain offences, etc.**

53.-(1) where in any proceedings against any person for an offence under section 8 to 19 it is proved that any gratification has been accepted or agreed to be accepted, obtained or attempted to be obtained, solicited, given or agreed to be solicited or given, promised or offered, by or to the accused, the gratification shall be presumed to have been corruptly accepted to be obtained solicited, given, promised or offered as an inducement or a reward for or on account of the matters set out in the particulars of the offence, until the contrary is proved.

(2)Where in any proceedings against any person for an offence under this Act, or any other law prohibiting corruption it is proved that such person has accepted or agreed to accept, obtained or attempted to obtain any gratification, such person shall be presumed to have

done so as motive or reward for the matters set out in the particulars of the offence, until the contrary is proved.

(3) where in any proceedings against any person for an offence under this Act, or any other law prohibiting corruption it is proved that such person has accepted or attempted to obtain any valuable thing without considering or for a consideration which he knows to be inadequate, such person shall be presumed to have done so with such knowledge as to the circumstances set out in the particulars of the offence, until the contrary is proved.

Cap. 84 LFN

(4) Where in any proceedings against any person for an offence under the custom and excise Act, it is proved that any officer of customs or other person duly employed for the prevention of smuggling has accepted, agreed to accept or attempted to obtain any bribe, gratuity, recompense, or reward, such officer or person shall be presumed to have done so for such neglect or non-performance of his duty as set out in the particulars of the offence, until the contrary is proved.

**Public evidence of corroboration.**

54. In any proceedings against any person for an offence under sections 8 to 19 of this Act, it may be proved that at or about the time of the alleged offence, or at any time thereafter the accused, or any relative or associate of his-

(a) held any property for which he, or his relative or associate, as the case may be, is unable to give a satisfactory account as to how he came into its ownership, possession, custody or control; or

(b) had entered into any dealing for the acquisition of any property and he is unable to satisfactorily account for the consideration for which it was or is agreed to be acquired, and the evidence in relation thereto shall be presumed to corroborate any evidence relating to the commission of the offence

**Evidence of accomplice and agent provocateur.**

55. notwithstanding any written law or rule of law to the contrary, in any proceedings against any person for an offence under this Act-

(a) No witness shall be regarded as an accomplice by reason only of such witness having:

(i) accepted, received, obtained, solicited, agreed to accept or receive, or attempted to obtain any gratification from any person;

(ii) Given, promised, offered or agreed to give any gratification; or

(iii) been in any manner concerned in the commission of such offence, or having knowledge of the commission of the offence, if before the completion of the act or acts constituting the offence, knowledge of the witness participation has been reported to the commission by the witness;



(b) no agent provocateur, whether he is an officer of the commission or not, shall be presumed to be unworthy of credit by reason only of his having attempted to commit, or abet or having abetted or engaged in a criminal conspiracy to commit such offence, if the main purpose of such attempt, abetment or engagement was to secure evidence against such person; and

(c) Any statement, whether oral or written, made to an agent provocateur by such person shall be admissible as evidence at his trial.

**Admissibility of statements by accused persons.**

56.-(1) In any trial or inquiry by a court into any offence under this Act, any statement, whether the statement amounts to a confession or not whether oral or written, made at any time, whether before or after the person is charged and whether before or after the person is charged and whether or not in the course of an investigation, and whether wholly or partly in answer to question, by the accused person to or in the hearing of any officer of the commission, whether or not interpreted to him by any officers of the commission or any other person concerned or not in the arrest of that person, shall, notwithstanding any written law or rule of law to the contrary, be admissible in evidence at the trial; PROVIDED THAT the officer who procured such statement shall make himself available at the trial for the purpose of cross-examination.

(2) No statement made under sub-section (1) shall be admissible or used as provided for in that sub-section if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against the person, proceeding from a person in authority and sufficient in the opinion of the court to give that person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(3) Where any person is arrested or is informed that he may be prosecuted for any offence under this Act, he shall be served with a notice in writing, which shall be explained to him, to the following effect-

“You have been arrested on the allegation concerning..... and whatever you say or write may be used in any court of law hereafter.”

**Admissibility of statements and documents of persons who are dead or cannot be traced, etc.**

57. Notwithstanding any written law to the contrary, in any proceedings against any person for an offence under this Act-

(a) any statement made by any person to an officer of the commission or any other person in the course of an investigation under this Act, or any law prohibiting fraud, bribery or corruption; and

(b) any document, or copy of any document or photographic or electronic evidence or thing seized from any person or however obtained by an officer of the commission or any other

person in exercise of his powers under or by virtue of this Act or any other relevant law; shall be admissible in evidence in any proceedings under this Act before any court, where the person who gave the thing, made the statement, document, or the copy of such document is dead, or cannot be traced or found, or has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which appears to the court unreasonable.

(c) Without prejudice to the foregoing provisions or the provision of any other rule of law or evidence all photographic or electronic evidence, however obtained, shall be admissible in evidence.

**Presumption in favour of admissibility of certificate issued by principal or employer, etc.**

58.-(1) A certificate issued by a principal or an officer on behalf of his principal shall be admissible in evidence in any proceedings against any person for any offence under this Act as prima facie etc. proof that the person named in such certificate-

(a) Held the position, office or capacity specified in such certificate and for such period so specified; and

(b) Received the emoluments specified in such certificate.

(2) A certificate issued under sub-section (1) shall be prima facie proof that it was issued by the person purporting to issue it as principal or on behalf of the principal without proof of the signature of the person who issued such certificate and without proof of the authority of such person to issue it in the absence of any reasonable proof to the contrary.

**Admissibility of translation of Documents.**

59. (1) Where any document which is to be used in any proceedings against any person for an offence under this Act is in a language other than the English Language, a translation of such document into English Language is to be admissible where the translation is accompanied by a certificate of the person who translated the document setting out that it is a true and faithful translation and the translation had been done by such person at the instance of the chairman or an officer of the Commission.

(2) Sub-section (1) shall apply to a document which is translated, regardless whether the document was made within or outside Nigeria, or whether the translation was done within or outside Nigeria, or whether possession of such document was obtained by the prosecution within or outside Nigeria.

**Evidence of custom inadmissible as a defence.**

60. In any proceedings under this Act, evidence shall not be admissible to show that any such gratification mentioned in this Act is customary in any profession, trade, vocation or calling or on a social occasion.

**PROSECUTION AND TRIAL OF OFFENCES**

61. Prosecution of offences.

62. Joinder of offences.

63. Certificate of indemnity in favour of full disclosure.

64. Protection of informers and information.

**Prosecution of offences.**

61.- (1) Every prosecution for an offence under this Act or any other law prohibiting bribery, corruption and other related offence shall be deemed to be done with the consent of the Attorney- General.

(2) Without prejudice to any other laws prohibiting bribery, corruption fraud or any other related offences by public officers or other persons, a public officer or any other person may be prosecuted by the appropriate authority for an offence of bribery, corruption, fraud or any other related offences committed by such public officer or other person contrary to any laws in force before or after the coming into effect of this Act and nothing in this Acts shall be construed to derogate from or undermine the right or authority of any persons or authority to prosecute offenders under any other laws.

(3) The Chief judge of a state or the Federal Capital Territory, Abuja shall, by order under his hand designate a court or judge or such number of courts or judges as he shall deem appropriate to hear and determine all cases of bribery, corruption, fraud or other related offences arising under this Act, or any other laws prohibiting fraud, bribery or corruption; a court or judge so designated shall not, while being so designated, hear or determine any other cases provided that all cases of fraud, bribery, or corruption pending in any court before the coming into effect of this Act shall continue to be heard and determined by that court.

**Joinder of Offences.**

62. Notwithstanding the provisions of any other Act or law where a person is accused if more than one offence under this Act, he may be charged with and tried at one trial for any number of such offences committed within the space of any length of time.

**Certificate of Indemnity.**

63.-(1) Every person required to give evidence under this Act who, in the opinion of the court, makes a true and full disclosure of all things to which he is lawfully examined, shall be entitled to receive a certificate of indemnity under the seal of the court stating that he has made a true and full disclosure of all things on which he was examined, and such certificate shall be a bar to any legal proceedings against him in respect of any such things.

(2) An application by the Chairman under sub-section (1) may be presented to the court by the officer conducting the prosecution

## **Protection of informers and information.**

64.-(1) Subject to sub-section (2) where any complaint made by any officer of the commission states that the complaint is made in consequence of information received by the officer making the complaint, the information referred to in the complaint and the identity of the person from whom information is received shall be secret between the officer who gave the information, and everything contained in such information, identity of the person who gave the information and all other circumstances relating to the information, including the place where it was given, shall not be disclosed or be ordered or required to be disclosed in public but only to the trial judge and the defence lawyer in attendance in any civil, criminal or other proceedings in any court or tribunal.

(2) If any book, paper or other document, or any visual or sound recording, or other matter or material which is given in evidence or liable to inspection in any civil, criminal or other proceedings in any court, or other authority as are referred to sub-section (1) contains any entry or other matters in which any person who gave the information is named or described or shown, or which might lead to his discovery, the court before which the proceedings are held shall cause all such parts thereof or passages therein to be concealed from view or to be obliterated or otherwise removed so far as is necessary to protect such person from discovery.

(3) Any person who gives the information referred to in sub-section (1) knowing the information to be false shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding ten years, and shall also be liable to a fine not exceeding one hundred thousand naira;  
PROVIDED THAT sub-section (1) and (2) shall not apply to any investigation or prosecution for any offence arising from any breach of the provisions of this sub-section.

GENERAL

65. Protection of officers of the Commission, etc.

66. Liability for offence committed outside Nigeria.

67. General application to any other offence.

68. General penalty for other offence.

69. Notice of any prosecution under the Act to be served on the Commission.

70. Powers of the Chairman to make rules.

71. Right of appeal.

Protection of officers of the Commission, etc.

65. No legal proceedings, civil or criminal, shall be instituted against any officer of the Commission or any other person assisting such officer for any act which is done in good faith or for any omission. Good faith by such officer or other person.

### **Liability for offences outside Nigeria.**

66.-(1) The provision of this Act shall, in relation citizens and persons granted permanent residence in Nigeria, have effect outside as well as within Nigeria, and when an offence under this Act is committed in any place outside Nigeria by any citizen or persons granted permanent residence in Nigeria, he may be dealt with in respect of such offence as if it was committed at any place within Nigeria.

(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 was committed in Nigeria shall be a bar to further proceedings against him under any written law relating to the extradition of persons, in respect of the same offence, outside Nigeria.

(3) The Commission shall have the power to engage the service of INTERPOL or such local or international institution, body or persons possessing special knowledge or skill on the tracing of properties or detection of cross border crimes.  
Application of provisions of this Act to any prescribed offence.

67. Notwithstanding any other written law to the contrary, the provision of this Act shall apply to a prescribed offence regardless of whether the prosecution or any other proceedings in respect of such offence are initiated or taken by an officer of the commission, or a police officer or customs officer or any other having power to investigate, prosecute or take any proceedings in respect of such offence.

General penalty for other offences.

68. Any person convicted for an offence under this Act for which no penalty is specifically provided shall be liable to a fine not exceeding ten thousand naira or to imprisonment for a term not exceeding two years or both.

Powers of Police officers under this Act. Cap.359 LFN.

69. Nothing contained in this Act shall derogate from the powers of a Police officer to investigate any offence under this Act, or to prosecute any person in respect of any such offence provided that the police shall bring to the attention of the Commission every case of bribery, corruption or fraud being investigated or prosecuted by them after the coming into force of this Act.

### **Commission's Powers to make rules.**

70. The chairman of the Commission may make rules for giving effect to the provisions of this Act and without prejudice to the generality of this provisions may make rules-

(a) providing for the form of any notice, order, declaration or any other matter under this Act; and

(b) For the service or delivery of any notice, order, direction, instruction, or other things to be done under this Act.

Right of Appeal.

71. A person convicted for an offence under this Act or any other law prohibiting bribery or corruption shall have and exercise any or all such rights of appeal as conferred by the Constitution of the Federal Republic of Nigeria in such case.