

Directorate of National Integrity Bill

DEFINITIONS

1) Definitions

In this Act, unless the context otherwise dictates, the following definitions will apply:

- (1) “Associate” shall mean a person, whether or not suspected of corruption, who the investigator reasonably believes may have had dealings with a person suspected of corruption;
- (2) “Bill of Rights” shall mean the Bill of Rights in Chapter 2 of the Constitution;
- (3) “Chairperson” shall mean the person elected by the Director present at a meeting to preside, with respect to that meeting only, over the meeting in the absence of the Director and Deputy Director;
- (4) “Chief Executive Officer” shall mean the person responsible for the management and administration of the Office;
- (5) “Constitution” shall mean the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);
- (6) “Corruption” shall mean Corruption as defined in Section 1 of the Prevention and Combating of Corrupt Activities Act, 2003 (Act 12 of 2004), as amended from time to time;
- (7) “Committee” shall mean a committee of the National Assembly;
- (8) “Director” shall mean the Director of National Integrity;
- (9) “Government” shall mean the Government of the Republic of South Africa;
- (10) “Financial Interest” shall mean any direct or indirect pecuniary interest of a person or a Person Connected to him or her in:
 - (a) all property, whether real or intangible, movable or immovable;
 - (b) income;
 - (c) gifts;
 - (d) financial or other contributions to any travel or holiday, received or made;
 - (e) shareholdings or other beneficial interests in Public or Private Bodies;
 - (f) partnerships;
 - (g) trusts;
 - (h) positions (whether remunerated or not) held in, or membership of Public or Private Bodies;
 - (i) occupations, trades, professions or vocations;
 - (j) debts;
 - (k) payments of money or transfers of property to persons or Person Connected to them by, or under arrangements made by, persons or Person Connected to them; and
 - (l) any other direct or indirect benefits, advantages or liabilities, whether pecuniary or not;
- (11) “Investigators” shall mean the Corruption Investigators appointed in terms of this act;
- (12) “Office” means the Directorate of National Integrity;
- (13) “National Assembly” shall mean the National Assembly of the Parliament of the Republic of South Africa;
- (14) “a Person Connected” shall have the same meaning as the definition of a

Connected Person in the Income Tax Act, 1962 (Act 58 of 1962), as amended from time to time;

(15) "Private Body" shall mean any person or organisation, not being a Public Body, and including but not limited to voluntary associations, charitable institutions, trade unions, companies, close corporations, partnerships, trusts or clubs, and shall include employees and office bearers of Private Bodies;

(16) "Public Body" shall mean the Government, any ministry or department of the Government, any local authority, parastatal board, council, authority, office or other body appointed by the Government, or established by or under any other law of the Republic of South Africa, and shall include state owned enterprises and employees and office bearers of Public Bodies;

(17) "Prescribed Officer" shall mean any person who exercises, or regularly participates to a material degree in the exercise of, general executive control over and management of the whole, or a significant portion, of the business and activities of either a Private or Public Body, irrespective of any particular title given by the Private or Public Body to an office held by the person in the Private or Public Body or the function performed by the person for the Private or Public Body, and irrespective of whether the person is employed permanently or temporary, whole or part-time, paid or unpaid.

(18) "Records" shall mean books, returns, bank accounts, share accounts, purchase accounts, expense accounts, management accounts, or any other accounts, books of account, financial statements, reports, legal or business documents and correspondence other than correspondence of a strictly personal nature, whether stored electronically or otherwise, or any safe deposit box wheresoever situated, and any other documents relating to the work of any individual, Public or Private Body;

(19) "Regulations" shall mean regulations made under this Act;

(20) "This Act" shall include any Regulations made in terms of this Act;

(21) The definitions relating to Corruption as set out in Section 1 of the Prevention and Combating of Corrupt Activities Act, 2003 (Act 12 of 2004), as amended from time to time, shall apply and the Interpretation Section of that Act shall be applicable in the interpretation of this Act.

ESTABLISHMENT OF THE DIRECTORATE OF NATIONAL INTEGRITY

2) Establishment

(1) The Office of the Director of National Integrity is established as a separate, but complimentary organ within the framework of the Public Protector supporting and strengthening constitutional democracy in terms of Chapter 9 of the Constitution, and pursuant to the provisions of S181 and 192bis, 193 and 194 thereof.

(2) The Office shall have all powers necessary or expedient for the performance of its functions, shall serve impartially, exercise its powers and perform its functions in good faith and without fear, favour or prejudice.

(3) The Office shall not, in the performance of its duties be subject to the direction or control of any person or authority outside of the Office and shall be accountable only to Parliament.

(4) No organ of state and no member or employee of an organ of state, nor any other person shall improperly interfere with, hinder or obstruct the Director in the exercise,

carrying out, or performance of his or her powers, duties and functions.

(5) The Office shall ensure access to its services in all parts of the Republic of South Africa by, inter alia, establishing a presence at the seat of a High Court in each province and, in those provinces which may not have a High Court, at a major city or town in such provinces.

3) Composition of the Directorate of National Integrity

(1) The Office of the Director of National Integrity shall consist of the following:

(a) A Director and Deputy Director who will be retired High Court Judges, retired Judges of the Supreme Court of Appeal or retired Constitutional Court Judges;

(b) A Chief Executive Officer and Deputy Chief Executive officer who will be fit and proper persons and appointed in terms of section 7 and section 8 of this act;

(c) Investigators who will be fit and proper persons and appointed in terms of section 16 of this act; and

(d) Administrative staff as may be required, including, but not limited to Educational-, Research- and Coordinative staff.

DIRECTOR AND DEPUTY DIRECTOR OF NATIONAL INTEGRITY

4) Appointment

(1) The Director and/or Deputy Director shall be appointed by the President of the Republic of South Africa and be a South African citizen who is a fit and proper person to hold such office, and who—

(a) is a retired High Court Judge; or

(b) retired Judge of the Supreme Court of Appeal; or

(c) retired Constitutional Court Judge.

5) Remuneration, vacancies in office and other terms and conditions of employment of Director and Deputy Director of National Integrity

(1) Before assuming office, the Director and Deputy Director shall take and subscribe to the Oath of Office as set out in the First Schedule.

(2) The Director and Deputy Director shall be appointed for a non-renewable period of seven years.

(3) The Deputy Director shall have such powers as the Director may delegate to him or her.

(4) The remuneration and other terms and conditions of employment of the Director and Deputy Director shall from time to time be determined by the National Assembly upon the advice of the committee: Provided that such remuneration—

(a) shall not be less than that of a judge of a High Court; and

(b) shall not be reduced, nor shall the terms and conditions of employment be adversely altered, during his or her term of office.

(5) The National Assembly or, if Parliament is not in session, the committee may allow a Director and/or Deputy Director to vacate his or her office—

(a) on account of continued ill-health; or

(b) at his or her request: Provided that such request shall be addressed to the National Assembly or the committee, as the case may be, at least three calendar months prior to

the date on which he or she wishes to vacate such office, unless the National Assembly or the committee, as the case may be, allows a shorter period in a specific case.

(6) If the committee allows a Director and/or Deputy Director to vacate his or her office in terms of subsection (5), the chairperson of the committee shall communicate that fact by message to the National Assembly: Provided that any decision taken by the committee in terms of this subsection must be ratified by the National Assembly.

(7) The Director and Deputy Director may, at any time, approach the committee with regard to any matter pertaining to the Directorate of National Integrity.

(8) Whenever the Director is, for any reason, unable to perform the functions of his or her office, or while the appointment of a person to the office of Director is pending; the Deputy Director shall perform such functions.

(9) If a vacancy occurs in the office of the Director and/or Deputy Director the President shall, subject to this section, as soon as possible, appoint another person to that office.

6) Removal from Office of the Director and/or the Deputy Director

(1) The President may suspend the Director and/or the Deputy Director from Office at any time after any complaint relating to the grounds referred to in subsection (4) against him or her has been received by the National Assembly, if the President deems the complaint against the Director and/or Deputy Director to be of such a serious nature as to make it inappropriate for him or her to perform his or her functions while the complaint is being investigated.

(2) The President may suspend the Director and/or Deputy Director in terms of section (4) on such terms and conditions as the President may determine, including the suspension of the payment of his or her remuneration or the suspension of any other term or condition of his or her employment.

(3) The President shall remove the Director and/or Deputy Director from office upon adoption by the National Assembly of the resolution calling for his or her removal.

(4) The Director and/or Deputy Director may be removed from office by the President for:

(a) the inability to perform functions of the office arising out of physical or mental incapacity;

(b) gross misconduct or misbehavior;

(c) incompetence;

(d) bringing the Office into disrepute; or

(e) violating the Constitution or any other law of the Republic of South Africa.

(5) Where the question of removal of the Director and/or Deputy Director arises, the President shall inform him or her in writing of the reasons for the intended removal and shall give him or her the opportunity to respond thereto in writing.

CHIEF EXECUTIVE OFFICER, DEPUTY CHIEF EXECUTIVE OFFICER, OTHER STAFF AND INVESTIGATORS

7) Appointment of a Chief Executive Officer

(1) The Office shall through an open, transparent and competitive recruitment process and with due regard to the results of completed aptitude tests performed by a qualified person appointed by the Director appoint a suitably qualified person as Chief Executive

Officer to the Office.

(2) A person shall qualify to be considered for appointment as Chief Executive Officer if that person:

- (a) is a citizen of the Republic of South Africa;
- (b) holds a degree from a university recognised in the Republic of South Africa;
- (c) has at least ten years proven experience at a management level;
- (d) has knowledge and experience in any or a combination of the following fields:
 - (i) Ethics and governance;
 - (ii) Law;
 - (iii) Public administration;
 - (iv) Economics;
 - (v) Accounting, Audit and Financial matters;
 - (vi) Fraud investigation; or
 - (vii) Public relations and media; and/or
- (e) is, or has been, a member in good standing of a recognised professional body;
- (f) has had a distinguished career in his or her field; and
- (g) is of outstanding honesty and integrity.

(3) Subject to this section, the Chief Executive Officer shall serve on such terms and conditions as the Director in consultation with the Public Protector may determine.

(4) Before assuming office, the Chief Executive officer shall take and subscribe to the Oath of Office as set out in the First Schedule.

(5) The Chief Executive Officer shall be appointed for a non-renewable period of seven years provided that the Office may permit a Chief Executive Officer who has completed said period to continue in office for such period, not exceeding five years, as may be necessary to enable him or her to do anything in relation to the completion of proceedings that were commenced before the completion of said period.

(6) The Chief Executive Officer shall not, while he or she holds the office of Chief Executive Officer, discharge the duties of any other office of emolument.

(7) The Office shall cause the vacancy in the office of the Chief Executive Officer to be advertised at least three months before expiry of the incumbent's term.

8) Appointment of a Deputy Chief Executive Officer

(1) Subject to this section, the Director in consultation with the Public Protector may appoint a Deputy Chief Executive Officer on such terms and conditions as he/she thinks fit.

(2) A person shall qualify to be considered for appointment as Deputy Chief Executive Officer if that person:

- (a) is a citizen of the Republic of South Africa;
- (b) holds a degree from a university recognised in the Republic of South Africa;
- (c) has at least ten years proven experience at a management level;
- (d) has knowledge and experience in any or a combination of the following fields:
 - (i) Ethics and governance;
 - (ii) Law;
 - (iii) Public administration;
 - (iv) Economics;
 - (v) Accounting, Audit and Financial matters;

- (vi) Fraud investigation; or
- (vii) Public relations and media;
- (e) is, or has been, a member in good standing of a recognised professional body;
- (f) has had a distinguished career in his or her field; and
- (g) is of outstanding honesty and integrity.

(3) If the Office of the Chief Executive Officer is vacant or the Chief Executive Officer is absent from duty or unable for any reason to perform the functions of his or her office, the Deputy Chief Executive Officer shall, save where the Office otherwise directs, act as Chief Executive Officer.

(4) If both the Chief Executive Officer and Deputy Chief Executive Officer are absent from duty or unable for any reason to perform the functions of their office, the Director shall appoint another person as Acting Chief Executive Officer.

(5) Before assuming office, the Deputy Chief Executive Officer shall take and subscribe to the Oath of Office as set out in the First Schedule.

(6) The Deputy Chief Executive Officer shall be appointed for a non-renewable period of seven years provided that the Office may permit a Deputy Chief Executive Officer who has completed said period to continue in office for such period, not exceeding five years, as may be necessary to enable him or her to do anything in relation to the completion of proceedings that were commenced before the completion of said period.

(7) The Deputy Chief Executive Officer shall not, while he or she holds the office of Deputy Chief Executive Officer, discharge the duties of any other office of emolument.

(8) The Office shall cause the vacancy in the office of the Deputy Chief Executive Officer to be advertised at least three months before expiry of the incumbent's term.

9) Removal from Office of the Chief Executive Officer and/or Deputy Chief Executive Officer

(1) The Chief Executive Officer or Deputy Chief Executive Officer may be removed from office by the Director for:

- (a) the inability to perform functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehavior;
- (c) incompetence;
- (d) bringing the Office into disrepute; or
- (e) violating the Constitution or any other law of the Republic of South Africa.

(2) The Chief Executive Officer or Deputy Chief Executive Officer may resign by giving written notice to the Office at least three calendar months prior to the date on which he or she wishes to vacate such office, unless the Director, as the case may be, allows a shorter period in a specific case.

(3) Where the question of removal of the Chief Executive Officer or Deputy Chief Executive Officer arises, the Director in consultation with the Public Protector shall inform him or her in writing of the reasons for the intended removal and shall give him or her the opportunity to respond thereto in writing.

10) Duties of the Chief Executive Officer and Deputy Chief Executive Officer

(1) The Chief Executive Officer shall, in the performance of the functions and duties of

office, be responsible to the Director.

(2) The Chief Executive Officer shall attend the meetings of the Office and may address such meetings, but shall not have a vote.

(3) The Chief Executive Officer shall be responsible for:

(a) Carrying out the decisions of the Office;

(b) The day to day administration and management of the affairs of the Office;

(c) Supervision of other staff of the Office;

(d) Facilitating collaboration and cooperation between the Office and the office of the Public Protector; and

(e) The performance of such other duties as may be assigned by the Director.

(4) The Chief Executive Officer shall, subject to any specific or general direction of the Director, make standing orders providing for:

(a) The management and administration of the Office;

(b) The discipline, training, classification and promotion of the staff of the Office;

(c) The duties of the staff of the Office;

(d) Cooperation and collaboration with the office of the Public Protector; and

(e) such other matters as he or she may consider necessary or expedient for preventing the abuse of power or neglect of duty by the staff of the Office.

(5) The Deputy Chief Executive Officer shall assist the Chief Executive Officer in the fulfillment of his or her duties.

11) Powers of the Chief Executive Officer

(1) For the performance of the Office's functions under this Act, the Chief Executive Officer may:

(a) authorise in writing any officer of the Office to conduct an inquiry or investigation into alleged or suspected offences under this Act or any other anti-corruption legislation; and

(b) require any individual, or any person in charge of any department, office or establishment of the Government, or the head, chairperson, a manager, Prescribed Officer, or chief executive officer of any Public or Private body, to produce or furnish within such time as may be specified by the Chief Executive Officer, any Records which is in his or her possession or under his or her control and which the Chief Executive Officer considers necessary to conduct an investigation into alleged or suspected offences under this Act.

(2) after the inquiry or investigation into alleged or suspected offences under this Act or any other anti-corruption legislation is conducted as provided for in subsection (a) and it is established that the suspected offences falls within the mandate of the Public Protector as established by The Public Protector Act, said investigation or enquiry will be referred to the office of the Public Protector as soon as possible.

(3) In the performance of his or her duties under this Act, the Chief Executive Officer, or the Deputy Chief Executive Officer may apply to a judge or a magistrate for a warrant and the judge or the magistrate shall immediately make a decision and give an order.

(4) A search and seizure warrant issued under subsection (3) shall confer on the Chief Executive Officer or the Deputy Chief Executive Officer the powers of:

(a) access to all Records;

(b) access at any time to the premises of any individual, Public or Private body, or to any vessel, boat, aircraft or other vehicle whatsoever, and the Chief Executive Officer or

Deputy Chief Executive Officer may search such premises, vessel, boat, aircraft, or other vehicle if he or she has reason to suspect that any Financial Interests corruptly acquired has been placed, deposited or concealed therein.

(5) In the exercise of his or her power to access and search under subsection (4), the Chief Executive Officer or Deputy Chief Executive Officer may use such reasonable force as is necessary and justifiable in the circumstances, and may be accompanied or assisted by such other persons as he or she considers necessary to assist him or her to enter into or upon any premises, or upon any vessel, boat, aircraft or other vehicle, as the case may be.

(6) Any person who accompanies or assists the Chief Executive Officer or Deputy Chief Executive Officer to enter into or upon any premises, or upon any vessel, boat, aircraft or other vehicle, as the case may be, shall, during the period of such accompaniment or assistance, enjoy the same immunity as is conferred upon the Chief Executive Officer and/or Deputy Chief Executive Officer or other staff member of the Office.

12) Special Powers of Investigation of the Chief Executive Officer or any staff member of the Office

(1) The Chief Executive Officer or any staff member of the Office shall after obtaining a court order have powers to investigate any Records.

(2) An order made under subsection (1) shall be sufficient for the disclosure or production by any person of all or any ordered information or articles as may be required by the staff member of the Office so authorised.

13) Identity Card

The Chief Executive Officer shall issue to a staff member of the Office, or any other person appointed by the Office to assist it, an identity card which shall be prima facie evidence of the person's appointment as such.

14) Staff of the Office

(1) There shall be a Management Committee of the Office.

(2) The Management Committee shall consist of:

(a) The Chief Executive Officer;

(b) The Deputy Chief Executive Officer; and

(c) Such professional, technical, investigative, administrative and support staff as may be appointed by the Director in consultation with the Public Protector on such terms and conditions as the Director in consultation with the Public Protector may consider necessary to assist the Chief Executive Officer in the performance of his or her duties under this Act.

(3) After being appointed, neither the Chief Executive Officer or Deputy Chief Executive Officer, nor any other staff of the Office shall:

(a) be employed in any other work or business;

(b) hold any other public office; or

(c) take any active part in the affairs of any political party or support any candidate for election to a public office.

(4) A person who holds a public office and is seconded to the Office does not contravene subsection (3) only by virtue of continuing to hold that public office, as long

as that person performs no duties of that public office while seconded to the Office.

(5) The Chief Executive Officer may, if he or she is satisfied that it is in the best interest of the Office, terminate the appointment of any staff member and shall assign reasons therefore, subject to any directions by the Director.

(6) In addition to any other ground on which, under this Act, a staff member of the Office, may be removed from office, the staff member may be removed by the Chief Executive Officer on the ground that he or she has breached the Code of Conduct as set out in the Second Schedule or on the ground that the Chief Executive Officer no longer has confidence in the staff member's integrity, provided that no staff member shall be removed from office under this section unless he has first been given a reasonable opportunity to show cause why he should not be so removed.

(7) Before assuming office all staff shall take and subscribe to the Oath of Office as prescribed under the First Schedule.

15) Security Screening Of the Staff of the Office

(1) No person shall be appointed as a staff member of the Office as referred to in Section 14 above unless:

(a) information with respect to that person has been gathered in a security screening investigation by the National Intelligence Agency established by section 3 of the Intelligence Services Act, 1994 (Act No. 38 of 1994); and

(b) the Director in consultation with the Chief Executive Officer, after evaluating the gathered information, is satisfied that such person may be appointed as a staff member without the possibility that such person might be a security risk or that he or she might act in any way prejudicial to the objectives of the Office.

(2) If the Director in consultation with the Chief Executive Officer is so satisfied, he or she shall issue a certificate with respect to such person in which it is certified that such person has successfully undergone a security clearance.

(3) Any staff member may from time to time, or at such regular intervals as the Director and/or Chief Executive Officer may determine, be subjected to a further security screening as contemplated in subsection (1).

(4) The Director may withdraw a certificate referred to in subsection (2) if he or she obtains information which, after evaluation by him or her, causes him or her to believe that the person in question could be a security risk or could possibly act in any manner prejudicial to the objectives of the Office.

(5) If the certificate referred to in subsection (2) is withdrawn, the staff member concerned shall be unfit to continue to hold such office and the Director may discharge him or her from the Office.

16) Appointment of Investigators

(1) The Director shall appoint Investigators in accordance with the provisions below.

(2) Before assuming office the Investigators shall take and subscribe to the Oath of Office as prescribed under the First Schedule.

17) Term of Office

(1) The Investigators shall be appointed for a non-renewable period of seven years

provided that the Office may permit an Investigator who has completed said period to continue in office for such period, not exceeding five years, as may be necessary to enable him or her to do anything in relation to the completion of proceedings that were commenced before the completion of said period.

18) Vacancies

(1) The office of an Investigator shall become vacant if such Investigator is removed from office by the Director for:

- (a) the inability to perform functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehavior;
- (c) incompetence;
- (d) bringing the Office into disrepute; or
- (e) violating the Constitution or any other law of the Republic of South Africa.

(2) Additionally, the Office of an Investigator shall become vacant upon:

- (a) written resignation to the Director at least three calendar months prior to the date on which he or she wishes to vacate such office, unless the Director allows a shorter period in a specific case;
- (b) the death or incapacity of the Investigator; and
- (c) the Investigator attaining the age of sixty five years, provided that the Office may permit an Investigator who has attained that age to continue in office for such period, not exceeding five years, as may be necessary to enable him or her to do anything in relation to the completion of proceedings that were commenced before he or she attained that age.

19) Qualifications

(1) A person shall qualify to be considered for appointment as an Investigator if that person:

- (a) is a citizen of the Republic of South Africa;
- (b) holds a degree from a university recognised in the Republic of South Africa; or
- (c) has knowledge and experience of not less than five years in any or a combination of the following fields:
 - (i) Ethics and governance;
 - (ii) Law;
 - (iii) Public administration;
 - (iv) Economics;
 - (v) Accounting, Audit and Financial matters; or
 - (vi) Fraud investigation;
- (d) is a member in good standing of a recognised professional body;
- (e) has had a distinguished career in his or her respective field; and
- (f) is of outstanding honesty and integrity.

(2) A person shall not qualify to be considered for appointment as an Investigator if that person:

- (a) is a member of a governing body of a political party;
- (b) is an unrehabilitated insolvent;
- (c) has been convicted of a crime; or

(d) has been removed from public office or the directorship of a public or private company for contravening the provisions of the Constitution or any other law of the Republic of South Africa.

(3) Subsection (2)(a) shall cease to apply to a person after two general elections have been held since the person ceased to hold such office.

20) Management of Information

(1) The Office shall publish and publicise information falling within its mandate and affecting the nation.

(2) The Chief Executive Officer, Deputy Chief Executive Officer, Investigators and every staff member of the Office shall sign a confidentiality agreement.

(3) A request for information by any person shall be made in terms Section 32 of the Constitution and

(a) shall be addressed to the Director or such other person as the Office may for that purpose delegate;

(b) may be subject to the payment of a reasonable fee; and

(c) may be subject to the confidentiality requirements of the Office.

(4) The Office may decline to give information to any such person on the basis contemplated in the Promotion of Access to Information Act, 2000 (Act 2 of 2000), as amended from time to time.

21) Publicity

(1) The Office shall, in a manner it considers appropriate, publish a notice for public information specifying:

(a) the location of its principal offices;

(b) the amount of various donations received and how it was utilized for corruption education; and

(c) its address or addresses, telephone numbers and any other means of communication and contact with the Investigators.

(2) The Office shall create a website equipped with facilities to enable the anonymous laying of complaints relating to corruption.

22) Protection from Personal Liability

(1) Nothing done by the Chief Executive Officer, Deputy Chief Executive Officer, Investigator or by any person working under the instruction of the Office shall, if done in good faith for the purpose of executing the powers, functions and duties of the Office under the Constitution or this Act, render such a person personally liable for any action, claim or demand, whether it be civil or criminal or otherwise.

(2) Subject to the provisions of this Act, a person as stipulated in sub section (1) shall not be called to give evidence before any court or tribunal in respect of anything coming to such person's knowledge in the exercise of his or her duties under this Act.

(3) For the avoidance of any doubt, nothing in this section shall protect any person mentioned in sub section (1) for anything done outside the ambit of the duties of the Office.

23) Confidentiality and Disclosure of Information

(1) No person shall without written consent given by, or on behalf of, the Office publish or disclose to any third party otherwise than in the course of such person's duties, the contents of any documents, communication, or information which relates to and which has come to such person's knowledge in the course of such person's duties under this Act.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding R100,000.00 (one hundred thousand rand) or to imprisonment for a term not exceeding 5 (five) years, or to both such fine and imprisonment.

(3) If any person having information which, to such person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates such information to any other person, such person shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding R100,000.00 (one hundred thousand rand) or to imprisonment for a term not exceeding 5 (five) years, or to both such fine and imprisonment.

ADMINISTRATION AND GENERAL PRINCIPLES

24) General Principles

In fulfilling its mandate, the Office shall, in addition to upholding the Bill of Rights, observe the principles of the rule of law and maintain the supremacy of the Constitution.

25) Procedures of Office

(1) Subject to the provisions of this Act, the Office may regulate its own proceedings and procedures with due regard to that of the Office of the Public Protector.

(2) The Director, Deputy Director, Chief Executive Officer, Deputy Chief Executive Officer and Investigators shall meet as often as may be necessary for the carrying out of their mandates, and the Director may furthermore call a meeting at any time, but there shall be at least four meetings in any financial year at such place and time as the Director shall decide and upon fourteen days written notice from the Director to all invited.

(3) If the urgency of any particular matter does not permit the notice as is required under subsection (2), a special meeting may be called by the Director upon giving a shorter notice.

(4) The Director together with the majority of the staff shall constitute a quorum at any meeting of the Office.

(5) Subject to the quorum being met, no proceedings of the Office shall be invalid by reason only of a vacancy among the persons thereof.

(6) The Director and Public Protector shall meet as often as may be necessary for the carrying out of their mandates, and the Director may furthermore call a meeting at any time, but there shall be at least four meetings with the Public Protector in any financial year at such place and time as the Director and Public Protector shall decide and upon fourteen days written notice from the Director to the Public Protector.

(7) In the event of a dispute arising between the Director and Public Protector and said dispute cannot be amicably resolved between the Director and Public Protector; said

dispute will be referred to the President who will refer the dispute to a committee of which the members were chosen by the President.

(8) Any decision of the Office on any question shall be by a majority of the persons present and voting at the meeting and in the event of a deadlock of votes, the person presiding at the meeting shall have a casting vote, in addition to such person's deliberative vote.

(9) The Office may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Office, but such person shall not have a vote.

(10) The Office may request and obtain professional assistance or advice from such persons or organisations as it considers appropriate.

(11) Unless otherwise provided for under any other law of the Republic of South Africa, all instruments made by, and decisions of the Office, shall be signified under the hand of the Director or the Chairperson of the meeting at which the decision was made.

(12) The Office shall cause minutes to be kept of all proceedings and meetings of the Office.

26) Disclosure of Financial Interest

(1) If any person present at a meeting of the Office or a meeting of any committee of the Office, at which a matter is the subject of consideration, comes to have knowledge that he or she, or a Person Connected to him or her has a direct or indirect Financial Interest in the matter, that person or other person shall as soon as is practicable after coming into such knowledge, declare such Financial Interest and shall not, unless the Office otherwise directs, take part in any consideration or discussion of such matter, whether or not at the meeting itself nor shall he or she vote on any issue related to such matter.

(2) A disclosure of Financial Interest made under this section shall be recorded in the minutes of the meeting at which it is made.

(3) The person who contravenes this section commits an offence and upon conviction shall be liable upon conviction to a fine not exceeding R100,000.00 (one hundred thousand rand) or to imprisonment for a term not exceeding 5 (five) years, or both such fine and imprisonment.

27) Committees

(1) The Office may, for the purpose of performing its functions under this Act, establish such committees as it considers necessary and delegate to any of those committees such of its functions as it considers appropriate.

(2) Subject to subsection (1) the Office may appoint as members of a committee, persons who are, or are not, Investigators, except that at least one member of a committee shall be an Investigator.

(3) Any person co-opted into a committee of the Office may attend meetings of the Office and participate in its deliberations, but shall not have a vote.

(4) A person serving as a member of a committee shall hold office for such period as the Office may determine.

(5) Subject to any specific or general direction of the Office, a committee may regulate its own procedure.

MANDATE OF THE OFFICE AND EXECUTION THEREOF

28) Mandate of the Office

(1) The Office shall have the mandate to prevent, combat, investigate and educate on the subject of corruption and shall take necessary and effective measures for the discharge of its mandate, including ensuring training of the Chief Executive Officer, Deputy Chief Executive Officer, Investigators and staff.

(2) The Office shall cooperate and collaborate with the office of the Public Protector.

29) Investigating Allegations of Corruption

(1) Alleged or suspected corrupt practices may be investigated by the Office at the request of any Public or Private Body or individual, or on its own initiative.

(2) The Office shall examine the practices and procedures of Public and Private bodies in order to facilitate the discovery of corrupt practices and shall secure the revision of methods of work or procedures which in the opinion of the Office, may be prone or conducive to corrupt practices.

(3) The Office shall receive and investigate complaints of alleged or suspected corrupt practices and may refer complaints to the Public Protector and/or existing anti-corruption bodies for investigation.

(4) The Office shall investigate any conduct, including the conduct of individuals, which in the opinion of the Office may be connected with or conducive to corrupt practices.

(5) The Office shall receive complaints on the breach of the relevant codes of ethics by Prescribed Officers, and shall oversee the enforcement thereof.

(6) The Office shall investigate and recommend to the Special Director of Public Prosecutions: Specialised Commercial Crimes Unit the prosecution of any acts of corruption or violation of codes of ethics or other matter prescribed under this Act or any other law of the Republic of South Africa.

(7) The Office may refer any suspected offence that comes to its notice in the course of its investigations to any appropriate person or body for further investigation, forfeiture of assets, proceedings or prosecution. The person or body, to whom the suspected offence is referred, shall be obliged to report in writing on a quarterly basis to the Office on progress made in respect of the matter so referred.

30) Advising On Effective Measures to Prevent Corruption

(1) The Office shall advise Public and Private bodies on ways and means of preventing corrupt practices, and on changes in methods of work or procedure compatible with the effective performance of their duties, which the Office considers necessary to reduce the occurrence of corrupt practices.

(2) In relation to Prescribed Officers the Office shall develop and promote standards and best practices in integrity and anti-corruption in collaboration with the Public Service Office where appropriate.

(3) The Office shall collaborate with other Prescribed Officers and civil society in the development and promotion of standards and best practices in integrity and anti-corruption.

(4) The Office shall advise, on its own initiative, any person on any matter within its mandate.

31) Educating the Public on Corruption

- (1) The Office shall disseminate information on the nature, extent and dangerous effects of corrupt practices on society.
- (2) The Office shall raise public awareness on ethical issues and educate the general public on the dangers of corruption and enlist and foster public support in combating corruption with due regard to the requirements of this Act and Chapter 9 of the Constitution.
- (3) The Office shall utilize all donations received by the public, person or institution for the duty imposed on it by sub section (1) and (2).

32) Reports and Recommendation by Office

- (1) The Office may, depending on the findings made, make such recommendations as it considers necessary to the appropriate authority.
- (2) The appropriate authority shall, within thirty days from the date of such recommendation, make a report to the Office on any action taken by such authority.

33) Powers To Execute The Office's Functions

- (1) The Office shall have all powers necessary or expedient for the efficient and effective execution of its functions, under the Constitution, this Act or any other law of the Republic of South Africa.
- (2) The Directorate must exercise such powers and perform such functions in terms of this or any other law of the Republic of South Africa may assign to them.

MANDATE OF THE CHIEF EXECUTIVE OFFICER AND INVESTIGATORS

34) Mandate of Investigators

- (1) The Chief Executive Officer, Deputy Chief Executive Officer, Investigators and/or staff shall advise the Director in formulating Policy Guidelines and ensure that the Office and its staff perform their duties to the highest standards possible in accordance with this Act and Chapter 9 of the Constitution.
- (2) The Director shall give strategic direction to the Office in the performance of its functions as stipulated in this Act and Chapter 9 of the Constitution.
- (3) The Chief Executive Officer, Deputy Chief Executive Officer, Investigators and staff shall establish and maintain strategic linkages and partnerships with other stakeholders in the rule of law and in combating corruption in both the public and private sectors.
- (4) The Chief Executive Officer and Deputy Chief Executive Officer shall deal with reports, complaints of abuse of power, impropriety and other forms of misconduct on the part of the Office or its staff.
- (5) The Chief Executive Officer and Deputy Chief Executive Officer shall deal with reports of conduct amounting to maladministration, including but not limited to, delay in the conduct investigations and unreasonable invasion of privacy by the Office or its staff.

35) Co-operation with Other Bodies

- (1) The Office may in the performance of its functions work in co-operation or

collaboration with any other persons or bodies it may think appropriate, and it shall be the duty of any such person or body to afford the Office every cooperation.

(2) Without limiting the generality of subsection (1), such persons or bodies will include but will not be limited to, the South African Police Service, the Public Protector, the Auditor General, the Human Rights Office, the Public Service Office and the National Prosecuting Authority.

(3) The Office may in the performance of its mandate work in co-operation with any foreign government or international or regional organisation.

36) Code of Conduct

The Director, Deputy Director, Chief Executive Officer, Deputy Chief Executive Officer, Investigators and staff of the Office shall subscribe to the Code of Conduct as set out in the Second Schedule.

COMPLAINTS ABOUT THE OFFICE

37) Complaints Mechanism

(1) The President shall, after consultation with the Auditor General appoint a retired judge in order to investigate complaints referred to in subsection (4), which shall in the first instance be addressed to the President.

(2) For purposes of this section a “retired judge” shall mean a judge discharged from active service as referred to in the Judges’ Remuneration and Conditions of Employment Act, 2001 (Act 47 of 2001), as amended from time to time.

(3) The retired judge shall not investigate complaints about intelligence matters falling under the jurisdiction of the Inspector-General of Intelligence.

(4) The retired judge may receive complaints in the prescribed form and manner from:

(a) Any member of the public who can provide evidence of a serious and unlawful infringement of his or her rights caused by an investigation by the Office;

(b) Any Investigator who can provide evidence of a serious and unlawful infringement of a member of the public’s rights caused by an investigation by the Office;

(c) Any member of the public who can provide evidence of any improper influence or interference, whether of a political or any other nature, exerted upon the Office or individual Investigators or the Executive of the Office regarding the conducting of an investigation;

(d) Any Investigator or staff member of the Office who can provide evidence of any improper influence or interference, whether of a political or any other nature, exerted upon him or her regarding the conducting of an investigation.

(5) The retired judge shall report the outcome of any investigation undertaken by him or her to the National Assembly.

(6) The retired judge may request and obtain information from the National Director of Public Prosecutions in so far as it may be necessary for the judge to conduct an investigation.

(7) To the extent that it is reasonably necessary for the performance of the functions of the retired judge, he or she:

(a) may obtain information and documents under the control of the Office;

(b) may enter any building or premises under the control of the Office in order to obtain

such information and documents; and

(c) shall be entitled to all reasonable assistance by Director, Chief Executive Officer and Deputy Chief Executive officer.

(8) The retired judge shall annually report to the National Assembly on the performance of his or her functions.

(9) Any person who makes a complaint in terms of this section shall not be entitled to use this section to establish whether there is an investigation against him or her, nor be entitled to any delay, interference or termination of such investigation on the basis that such complaint has been made.

(10) The Minister of Justice and Constitutional Development shall ensure that the retired judge has sufficient personnel and resources to fulfill his or her functions.

REPORTING AND FINANCIAL PROVISIONS

38) Investigating Reports

(1) Following an investigation, the Office shall report to the Special Director of Public Prosecutions: Specialised Commercial Crimes Unit on the results of the investigation by way of a written report.

(2) The Office's report shall include any recommendation the Office may have that a person or persons be prosecuted for corruption. Such recommendation shall be binding upon the National Prosecuting Authority unless it is able, in the light of its own assessment, to persuade the Office that a prosecution is not appropriate.

39) Quarterly Reports

(1) The Office shall prepare quarterly reports setting out the number of reports made to the Special Director of Public Prosecutions: Specialised Commercial Crimes Unit and such other statistical information relating to those reports as the Office considers appropriate.

(2) A quarterly report shall indicate if a recommendation of the Office to prosecute a person for corruption was or was not accepted and whether or not it was persuaded not to proceed with any contemplated prosecution for corrupt practices.

(3) The Office shall give a copy of each quarterly report to the National Assembly, and to the Special Director of Public Prosecutions: Specialised Commercial Crimes Unit.

(4) The Office shall cause all quarterly reports to be published in the Government Gazette and in such other manner as the Office may determine.

40) Annual Report by Office

(1) The Office shall cause an annual report to be prepared for each financial year.

(2) The Office shall submit the annual report to the Special Director of Public Prosecutions: Specialised Commercial Crimes Unit, Public Protector and the National Assembly within three months after the end of the financial year to which it relates.

(3) In respect of the financial year to which it relates, the annual report shall contain:

(a) the financial statements of the Office;

(b) a description of the activities of the Office;

(c) any recommendations made by the Office to any individuals or Public or Private bodies and the action taken;

- (d) the impact of the exercise of its mandate;
 - (e) any impediments to the achievements of its objects and mandates under the Constitution, this Act or any other law of the Republic of South Africa;
 - (f) the information set out in the quarterly reports for the year to which the annual report relates; and
 - (g) such statistical information as the Office considers appropriate relating to complaints to the Office, investigations by the Office and reports by the Office on the results of investigations.
- (4) The Office shall cause the annual report to be published in the Government Gazette and in such other manner as the Office may determine.

41) Funds of the Office

- (1) The funds of the Office shall consist of:
- (a) monies allocated by Parliament for purposes of the Office, which amount shall not be less than ___% of GDP in the preceding financial year;
 - (b) any grants, gifts, donations or other endowments given to the Office; and
 - (c) such funds as may vest in or accrue to the Office in the performance of its functions under this Act or under any other law of the Republic of South Africa.
- (2) Any funds donated or lent to, or gift made to the Office shall be disclosed to the Public Protector and National Assembly and made public before use.

42) Remuneration and Allowances

- (1) The Chief Executive officer, Deputy Chief Executive Officer, Investigators and staff shall be paid such remuneration or allowances as determined by the Director in consultation with the Public Protector.
- (2) The Director must submit the remuneration scale payable to the entire Directorate to National Assembly for approval and such remuneration scale may not be reduced except with the concurrence of National Assembly.

43) Annual Estimates

- (1) At least three months before the commencement of each financial year, the Director in consultation with the Public Protector shall cause to be prepared estimates of the revenue and expenditure of the Office for that year.
- (2) The annual estimates shall in particular make provision for:
- (a) payment of remuneration in respect of the staff of the Office;
 - (b) payment of pensions, gratuities and other benefits which are payable out of the funds of the Office to former staff of the Office;
 - (c) maintenance of the buildings and grounds of the Office;
 - (d) maintenance, repair and replacement of the equipment and other property of the Office;
 - (e) funding of training, research and development, and activities of the Office; and
 - (f) creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of building or installations, equipment and in respect of such other matters as the Office may think fit.
- (3) The annual estimates shall be approved by the committee before the commencement of the financial year to which they relate and shall be submitted to the

Special Director of Public Prosecutions: Specialised Commercial Crimes Unit, and the National Assembly.

44) Financial Year of the Office

The financial year of the Office shall be the period of twelve months commencing on the first day of April each year and ending on the last day of March of the subsequent year.

45) Accounts and Audit

(1) The Chief Executive Officer shall be the Accounting Officer of the Office.

(2) In this section, "Accounting Officer" shall mean the Accounting Officer as contemplated in section 36 of the Public Finance Management Act, 1999 (Act 1 of 1999), as amended from time to time.

(3) The Accounting Officer shall:

(a) be charged with the responsibility of accounting for money received or paid out for or on account of the Office; and

(b) cause the necessary accounting and other related records of account of the income, expenditure, assets and liabilities of the Office to be kept.

(4) The annual accounts of the Office shall be audited by the Auditor-General.

INVESTIGATIONS

46) Investigators

For the purposes of an investigation, Investigators shall have the powers, privileges and immunities of a police officer.

47) Identification for Investigators

(1) The Office shall issue identification documentation to an Investigator and such identification shall be evidence that the person to whom it is issued is an Investigator.

(2) The identification documentation issued by the Office shall be signed by the Director.

48) Complaint Not Investigated

(1) If the Office receives a complaint concerning corrupt conduct on the part of any person and the Office declines to investigate or discontinues its investigation before the investigation is concluded, the Office shall inform the complainant in writing of its decision and of the reasons for its decision.

49) Notice to Suspect

(1) The Office may by notice in writing inform a person that he or she is reasonably suspected of corruption and require such suspected person to furnish to the Office, within a reasonable time specified in the notice, a written statement:

(a) enumerating the suspected person's Financial Interests and the times at which these Financial Interests were acquired;

(b) stating, in relation to any Financial Interest that was acquired at or about the time of the suspected corruption, whether the Financial Interest was acquired by purchase, gift, inheritance or in some other manner, and what consideration, if any, was given for the Financial Interest;

(c) identifying all Persons Connected to him or her; and
(d) with regard to such Persons Connected to him or her, supply or supplying the information as set out in subsections (a) and (b).

(2) The Office may also by notice in writing inform a Person Connected to a person contemplated in subsection (1) he, she or it is connected to a person reasonably suspected of corruption, and require such Person Connected to a suspected person to furnish to the Office, within a reasonable time specified in the notice, a written statement setting out the information as set out in subsections (1)(a)-(d) above.

(3) A person who neglects or fails to comply with a requirement under this section is guilty of an offence and is liable on conviction to a fine not exceeding R100,000.00 (one hundred thousand rand) or to imprisonment for a term not exceeding 5 (five) years or to both.

(4) The powers of the Office under this section may be exercised only by an Investigator.

50) Requirement to Provide Information

(1) The Office may by notice in writing inform an Associate, or an Associate who has a direct or indirect Financial Interest in the matter, or any Person Connected to such Associates, that he or she is an Associate of a suspected person, or a Person Connected to such Associates as the case may be, and require such persons within a reasonable time specified in the notice, a written statement of his or her Financial Interests at the time specified in the notice.

(2) The Office may by notice in writing require any person, Person Connected to him or her, Associate of either, or any Person Connected to such Associate, to provide, within a reasonable time specified in the notice, any information or documents in the person's possession that relate to a person suspected of corruption.

(3) A person, Person Connected to him or her, Associate of either, or any Person Connected to such Associate, who neglects or fails to comply with a requirement under this section is guilty of an offence and is liable on conviction to a fine not exceeding R100,000.00 (one hundred thousand rand) or to imprisonment for a term not exceeding 5 (five) years or to both.

(4) No requirement under this section requires anything to be disclosed that is protected by the legal professional privilege.

51) Production of Records of Financial Interests

(1) The Office may by notice in writing:

(a) require a person, Person Connected to him or her, Associate of either, or any Person Connected to such Associate, who has a direct or indirect Financial Interest, whether or not suspected of corruption, to produce specified Records in his or her possession that may be required for an investigation; and

(b) require that person, Person Connected to him or her, Associate of either, or any Person Connected to such Associate, to provide explanations or information within his or her knowledge with respect to such Records, whether the Records were produced by the person or not.

(2) A requirement under subsection (1)(b) may include a requirement to attend personally to provide explanations and information.

(3) A requirement under subsection (1) may require a person to produce Records or provide explanations and information on an ongoing basis over a period of time as determined by the Office.

(4) The Office may make copies of or take extracts from any Record produced pursuant to a requirement under this section.

(5) A requirement under this section to produce a Record stored in electronic form includes a requirement:

(a) to reduce the Record to hard copy and produce it; and

(b) if specifically required, to produce a copy of the Record in its original electronic form.

(6) The Office may by notice in writing require a person, Person Connected to him or her, Associate of either, or any Person Connected to such Associate, to produce for inspection, within a reasonable time specified in the notice, the Records of all Financial Interests in the possession, custody or control of such person, Person Connected to him or her, Associate of either, or any Person Connected to such Associate, being property of a person reasonably suspected of corruption.

(7) A person, Person Connected to him or her, Associate of either, or any Person Connected to such Associate, who neglects or fails to comply with a requirement under this section is guilty of an offence and is liable on conviction to a fine not exceeding R100,000.00 (one hundred thousand rand) or to imprisonment for a term not exceeding 5 (five) years or to both.

(8) No requirement under this section requires anything to be disclosed that is protected by the legal professional privilege.

52) Search of Premises

(1) The Office may, with a warrant, enter upon and search any premises for any Records, property or any other thing reasonably suspected to be in or on the premises and that has not been produced by a person, Person Connected to him or her, Associate of either, or any Person Connected to such Associate, pursuant to a requirement under the foregoing provisions of this Part.

53) Admissibility of Things Produced or Found

Anything provided by a person, Person Connected to him or her, Associate of either, or any Person Connected to such Associate, pursuant to a requirement under the foregoing provisions of this Part, or obtained on a search of premises, may be taken and retained by the Office for such time as is reasonable for the purposes of the investigation concerned and is admissible in evidence in a prosecution of any person, including the person who produced it or from whom it was obtained, for an offence.

54) Surrender of Travel Documents

(1) On the ex parte application of the Office, a court may issue an order requiring a person, Person Connected to him or her, Associate of either, or any Person Connected to such Associate, to surrender his or her travel documents to the Office if:

(a) the person, Person Connected to him or her, Associate of either, or any Person Connected to such Associate, is reasonably suspected of corruption; and

(b) the corruption concerned is being investigated.

(2) If a person, Person Connected to him or her, Associate of either, or any Person

Connected to such Associate, surrenders his or her travel documents pursuant to an order under subsection (1), the Office:

(a) shall return the documents after the investigation of the corruption concerned is completed, if no criminal proceedings are to be instituted; and

(b) may return the documents, at its discretion, either with or without conditions to ensure the appearance of the person.

(3) A person against whom an order under subsection (1) is made may apply to the court to discharge or vary the order or to order the return of his or her travel documents and the court may, after hearing the parties, discharge or vary the order, order the return of the travel documents, or dismiss the application.

(4) If a person fails to surrender his or her travel documents pursuant to an order under subsection (1), the person shall be in contempt of court and may be arrested and brought before the court and the court shall, unless the court is satisfied that the person does not have any travel documents, make an appropriate order.

(5) Persons detained pursuant to an order under subsection (4) shall be released if:

(a) they surrender their travel documents to the Office;

(b) they satisfy the court that they do not have any travel documents; or

(c) the investigation of the corruption concerned is completed and the court is satisfied that no criminal proceedings are to be instituted.

(6) A person who is detained pursuant to an order under subsection (4) shall be brought before the court at least every eight days or at such shorter intervals as the court may order, to determine if the person should be released under subsection (5).

55) Arrest of Persons

The Directorate shall have power to arrest any person for and charge them with an offence, and to detain them for the purpose of an investigation, to the like extent as a police officer.

56) Disclosure That May Affect Investigation

(1) No person shall, except with leave of the Director or with other lawful excuse, disclose the details of an investigation under this Act, including the identity of anyone being investigated.

(2) A person who contravenes this section is guilty of an offence and is liable on conviction to a fine not exceeding R100,000.00 (one hundred thousand rand) or to imprisonment for a term not exceeding 5 (five) years or to both.

57) Impersonating an Investigator

(1) No person other than an Investigator shall represent him or herself to be or act as an investigator.

(2) A person who contravenes this section is guilty of an offence and is liable on conviction to a fine not exceeding R100,000.00 (one hundred thousand rand) or to imprisonment for a term not exceeding 5 (five) years or to both.

58) Protection of Informers

(1) No action or proceeding, including a disciplinary action, may be instituted or maintained against a person in respect of:

- (a) assistance given by the person to the Office or an Investigator; or
- (b) a disclosure of information made by the person to the Office or an Investigator.
- (2) Subsection (1) does not apply with respect to a statement made by a person who did not believe it to be true.
- (3) In a prosecution for corruption or a proceeding under this Act, no witness shall be required to identify, or provide information that might lead to the identification of, a person who assisted or disclosed information to the Office.
- (4) In a prosecution for corruption or a proceeding under this Act, the Court shall ensure that information that identifies or might lead to the identification of a person who assisted or disclosed information to the Office is removed or concealed from any documents to be produced or inspected in connection with the proceeding.
- (5) Subsections (3) and (4) shall not apply to the extent determined by the court to be necessary to ensure that justice is fully done.

EVIDENCE, PRESUMPTIONS AND OTHER MATTERS

59) Certificates to Show Value of Financial Interests

- (1) In a prosecution for corruption or any other proceeding under this Act, a certificate by the Office as to the value of a benefit or Financial Interest, is admissible and is prima facie proof of that value unless the contrary is proven.
- (2) A Court shall presume, in the absence of evidence to the contrary, that a certificate purporting to be the certificate of a value by the Office is such a certificate.

60) Certificates to Show Office and Compensation

- (1) In a prosecution for corruption or any other proceeding under this Act, and in the absence of evidence to the contrary, a certificate by a Prescribed Officer of a Public or Private body, as to a person's position with that body or the person's compensation from that body, is admissible and is proof of that position or compensation.
- (2) A Court shall presume, in the absence of evidence to the contrary, that a certificate purporting to be the certificate by a Prescribed Officer of a Public or Private body, is such a certificate

FIRST SCHEDULE

Oath of Office

I, _____ having been appointed (the Director/Deputy Director/Chief Executive Officer/Deputy Chief Executive Officer/Investigator/Staff) of the Office of the Director of National Integrity do swear/solemnly affirm that I will at all times obey, respect, protect and uphold the Constitution and the fundamental rights entrenched therein. I will at all times obey, respect, protect, uphold and enforce all other laws of the Republic of South Africa. I will faithfully and fully, impartially and to the best of my knowledge and ability, discharge the trust, perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice, in accordance with the Constitution and the Law, and under the rule of law, (so help me God).

Sworn / Declared by the said _____

Before me this _____ day of _____

Chief Justice of the Constitutional Court

SECOND SCHEDULE

Code of Conduct for the Director, Deputy Director, Chief Executive Officer, Deputy Chief Executive Officer, Investigator and Staff of the Office

1) Impartiality and Independence of Investigators and Staff

(1) Every member of the Office shall impartially and independently perform their functions in good faith and without fear, favour or prejudice, and without influence from:

- (a) the Government;
- (b) any public officer;
- (c) any political party;
- (d) any candidate participating in an election; or
- (e) any other person or authority.

2) Independence from Political or Public Office

(1) Members of the Office shall not, during tenure of office, be eligible for:

- (a) appointment or nomination to a political office; or
- (b) appointment to another public office.

(2) The members of the Office:

- (a) by their membership, association, statement, conduct or in any other manner place in jeopardy the perceived independence of the Office, or in any other manner harm the credibility, impartiality, independence or integrity of the Office;
- (b) make private use of or profit from any confidential information gained as a result of being an Investigator; or
- (c) divulge any information to any third party, save in the course of official duty.

3) Disclosure of Conflicting Interests

(1) If an member of the Office or a Person Connected to them has a direct or indirect interest in any contract, proposed contract or other matter in a private capacity (whether personally or via any corporate entity or trust) before the Office and is present at any meeting of the Office at which the contract, proposed contract or other matter is the subject of consideration, the staff member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter or be counted in the quorum of the meeting during consideration of the matter.

(2) A member of the Office whose personal interest conflicts with their official duties shall:

- (a) in writing, declare the personal interests to their supervisor or other appropriate person or body and comply with any directions given to avoid the conflict; and
- (b) refrain from participating in any deliberations with respect to the matter.

(3) No member of the Office shall transact business with the Office directly or indirectly.

4) Professionalism

(1) The Directorate shall:

- (a) perform their duties in a manner that maintains public confidence in the Office;
- (b) treat the public and colleagues with courtesy and respect;
- (c) discharge all their duties in a professional, timeous and efficient manner and in line with the rule of law; and
- (d) respect the rights and freedom of all persons that he or she may interact with.

5) Improper Enrichment

(1) The members of the Office shall not:

- (a) use their office or organisation to improperly enrich themselves or others;
- (b) accept or request gifts or favours from any person who may have a commercial interest with the Office or any other interest that may be affected by the normal business of the Office; or
- (c) use information that is acquired during the course of their duties or connected to their duties for their benefit or for the benefit of others.

6) Integrity in Private Affairs.

(1) Investigators and staff shall conduct their private affairs in a manner that maintains public confidence in the integrity of their office and the Office as a whole and shall:

- (a) not evade paying taxes;
- (b) not neglect their financial obligations;
- (c) submit an annual declaration of their income, assets, interests and liabilities, and that of any person connected to them as defined, to the Chief Executive Officer of the Office;
- (d) not engage in political activity that may compromise or be seen to compromise the neutrality of their office, or the Office; and
- (e) not preside over or play a central role in the organisation of a fundraising activity.

7) Sexual Harassment

(1) Members of the Office shall not sexually harass a member of the public or a colleague. Sexual harassment includes:

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; or
- (c) making gestures, jokes or comments, including innuendoes regarding another person's sexuality.

8) Nepotism

The Directorate shall not practice favouritism on the grounds of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth or otherwise in performance of their duties.

9) Privileged Information and Security of Interests of the State

The Directorate shall safeguard privileged information that comes into his or her possession and protect it from improper or inadvertent disclosure.

10) Application of Other Codes of Ethics

This Code is in addition to the provisions of any other code of ethics that may apply to the members of the Office, and where there is a conflict between such code of ethics and this Act the provisions of this Act shall prevail.

11) Breach of Code

Any breach of this Code by an member of the Office shall be treated as misconduct.

12) Disciplinary Code

- (1) The Chief Executive Officer shall issue a Disciplinary Code for the Office providing for the discipline of its staff.
- (2) The Disciplinary Code may provide for investigations and for the determination, including by a hearing, of matters that may be in dispute.
- (3) The Disciplinary Code may provide for penalties up to and including dismissal and

may include provisions for the recovery of costs arising from loss of or damage to property of the Office.