

another person, as an inducement to, or reward for, or otherwise on account of, any member, officer or servant of any public body doing or forbearing to do, or having done or forborne to do, anything in respect of any matter or transaction whatsoever, actual or proposed or likely to take place, in which the public body is concerned shall be guilty of a felony.

(2A) For the purposes of subsection (2), where a person gives, promises or offers any gift, loan, fee, reward, consideration or advantage to another person, knowing or having reasonable cause to believe that his doing so may lead to the doing of an act by that other person which constitutes an offence under subsection (1), he shall be taken to have acted corruptly.

(3) Any person who commits an offence under this section shall be liable—

(a) to imprisonment for a term—

(i) not less than five years and not more than ten years where the amount or value of the gift, loan, fee, reward, consideration or advantage exceeds ten thousand shillings; or

(ii) not less than one year and not more than five years where the amount or value of the gift, loan, fee, reward, consideration or advantage does not exceed ten thousand shillings; and

(b) in addition—

(i) where such person is an agent, to be ordered by the court to pay to his principal, in such manner as the court may direct, the amount or value of any gift, loan, reward, consideration or advantage received by him or any part thereof; or

(ii) whether such person is an agent or not, to be ordered by the court to forfeit the whole or such part as the court may direct, of the amount or value of any gift, loan, reward, consideration and advantage received by him, and that the whole or part of the residue be forfeited; or

(iii) whether such person is an agent or not to be ordered by the court to forfeit the whole or such part as the court may deem fit of the amount or value of any gift, loan, fee, reward, consideration or advantage by him:

and upon conviction shall, unless the court for special reasons otherwise orders, be liable to be adjudged to be forever incapable of being elected or appointed

to any public office, and to be incapable for seven years from the date of the conviction of being registered as an elector, or of voting at an election, of members of any public body in Kenya, and if at the date of the conviction he has been elected as a member of any public body his seat shall be vacated from that date; and any written law in force in Kenya for preventing the voting and registration of persons declared by reason of corrupt practices to be incapable of voting shall apply to a person adjudged in pursuance of this section to be incapable of voting.

Corrupt
transactions
with agents.

4. (1) If—

- (a) any agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift, loan, fee, reward, consideration or advantage whatever, as an inducement or reward for doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or
- (b) any person corruptly gives or agrees to give or offers any gift, loan, fee, reward, consideration or advantage whatever, to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or
- (c) any person knowingly gives to any agent, or any 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 the principal.

he shall be guilty of a felony.

(2) Any person who commits an offence under this section shall be liable to imprisonment for a term not exceeding seven years or to a fine not exceeding ten thousand shillings or to both such imprisonment and fine, and, in the case of an agent, to be ordered in addition to pay to his principal, and in such manner as the court may direct, the amount

or value of any gift, loan, fee, reward, consideration or advantage received by him or any part thereof.

(3) Where, under subsection (2) of this section or under paragraph (b) of subsection (3) of section 3, a court orders the payment of the amount or value of any gift, loan, fee, reward, consideration or advantage, that order shall for the purpose of any appeal be deemed to form part of the sentence of the court.

5. A person convicted of an offence under section 3 or section 4 shall, where the matter of transaction in relation to which the offence was committed was a contract or a proposal for a contract with the Government or any public body, or a subcontract to execute any work comprised in such a contract, be liable to imprisonment for a term not exceeding fourteen years:

Increase of maximum penalty in certain cases. L.N. 124/1964. 13 of 1991, s. 4.

Provided that nothing in this section shall prevent the infliction—

- (i) in addition to imprisonment, of such punishment other than imprisonment as may be inflicted under subsection (3) of section 3, or under subsection (2) of section 4; or
- (ii) in lieu of the punishment provided for by this section, of any punishment which may be inflicted for an offence under section 3 or section 4.

6. (1) Any person who, being a public servant solicits, accepts or obtains or agrees to accept or attempts to obtain, for himself or for any other person, any gift, loan, fee, reward, consideration or advantage without lawful consideration or for lawful consideration which he knows or has reason to believe to be inadequate, from any person whom he knows or has reason to believe to have been, or to be, or to be likely or about to be, concerned in any matter or transaction with himself as a public servant, or any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to or acting for or on behalf of the person concerned, or having such connection, shall be guilty of an offence and shall be liable to imprisonment for a term—

Public servant obtaining advantage without consideration. 13 of 1991, s. 5.

- (a) not less than five years and not more than ten years where the amount or value of the gift, loan, fee, reward, consideration or advantage exceeds ten thousands shillings; or

(b) not less than one year and not more than five years where the amount or value of the gift, loan, fee, reward, consideration or advantage does not exceed ten thousand shillings;

and, in addition, the court may order that the amount or value of any gift, loan, fee, reward, consideration or advantage received by him, or any part thereof, be forfeited.

(2) For the purposes of subsection (1), any gift, loan, fee, reward, consideration or advantage received, with the knowledge of the accused person, by any person, where the court is satisfied, having regard to his relationship to the accused person or to any other circumstances, that that person has received it for or on behalf of the accused person or otherwise on account of or in connection with the office or official duties of the accused person, shall be deemed to have been received by the accused person.

Presumption of corruption in certain cases.
L.N. 124/1964.

7. (1) Where, in any proceedings under this Act, it is proved that any money, gift, loan, fee, reward or other consideration or advantage has been paid, offered, promised, lent or given or agreed to be given to, or received or agreed to be received by, a person in the employment, whether permanent or temporary, whether paid or unpaid and whether whole-time or part-time, of the Government or of a public body by or from a person, or agent of a person, holding or seeking to obtain a contract from the Government or from any public body, the money, gift, loan, fee, reward, consideration or advantage shall be deemed to have been paid, offered, promised, lent or given or agreed to be given, and received or agreed to be received, corruptly as such inducement or reward as is mentioned in section 3 or section 4 unless the contrary is proved.

(2) Where, in any proceedings under subsection (1) of section 6, it is proved that any person solicited, accepted or obtained, or agreed to accept or attempted to obtain, any gift, loan, fee, reward, consideration or advantage whatever in any of the circumstances set out in that subsection, then that gift, loan, fee, reward, consideration or advantage shall be deemed to have been solicited, accepted or obtained or agreed to be accepted or attempted to be obtained corruptly, unless the contrary is proved.

Principal may recover any secret gifts.

8. (1) Where any gift, loan, fee, reward, consideration or advantage has in contravention of this Act been given by any person to an agent, the principal may recover as a civil