

(2H). Where the President intends to remove a Director or Assistant Director from office under paragraph (f) of subsection (2G), then—

- (a) the President shall appoint a tribunal which shall consist of a chairman and two other members selected by the President from among persons—
 - (i) who hold or have held office as Judges of the High Court or the Court of Appeal;
 - (ii) who are qualified to be appointed as Judges of the High Court or the Court of Appeal; and
- (b) the tribunal shall inquire into the matter and report on the facts to the President and recommend to him whether the Director or Assistant Director ought to be removed from office.

(2I) Where the question of removing the Director or an Assistant Director has been referred to the tribunal under this section, the President may suspend the Director or Assistant Director from the exercise of the functions of his office and any such suspension may at any time be revoked by the President, and shall in any case cease to have effect if the tribunal recommends to the President that the Director or Assistant Director should not be removed.

(3) The functions of the Authority shall be—

- (a) to take necessary measures for the prevention of corruption in the public, parastatal and private sectors;
- (b) to investigate, and subject to the directions of the Attorney-General, to prosecute for offences under this Act and other offences involving corrupt transactions; and
- (c) to advise the Government and the parastatal organizations on ways and means of preventing corruption;
- (d) to inquire and investigate the extent of liability of any public officer in the loss of any public funds and to institute civil proceedings against the officer and any other person involved in the transaction which resulted in the loss for the recovery of such loss;

- (e) to investigate any conduct of a public officer which is connected with or conducive to corrupt practices and to make suitable recommendations thereon.
- (f) to undertake such further or other investigations as may be directed by the Attorney-General;
- (g) to enlist members of the public in fighting corruption by the use of education and outreach programmes.

(4) In the performance of their functions the members of the Authority shall have all the powers of a police officer of or above the rank of Assistant Superintendent of Police and the provisions of the Police Act conferring upon police officers powers necessary or expedient for the prevention, investigation and prosecution of offences shall apply in relation to members of the Authority as if references in those provisions included references to members of the Authority.

(5) The Director may assume the responsibility for any investigation or prosecution commenced by the police for an offence involving corruption.

(6) The Authority may appoint such officers or servants or hire the services of such consultants, experts or independent investigators as may be necessary for the proper discharge of its functions under this Act or any other written law, upon such terms and conditions of service as the Authority may determine.

(7) The funds of the Authority shall comprise—

- (a) moneys provided by Parliament for that purpose;
- (b) such moneys, or assets, as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) all moneys from any other source provided for or donated or lent to the Authority;

(8) There shall be paid out of the funds of the Authority, such sums of money as are required to defray the expenditure incurred by the Authority in the exercise of its powers or the performance of its functions under this Act.

(9) The Authority shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Authority.

(10) The provision of Part VII of the Exchequer and Audit Act shall apply to the Authority.

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(11) There is established an Advisory Board which shall comprise seven members appointed by the President, all of whom shall be persons knowledgeable or experienced in law, monetary and financial matters, accountancy and fraud investigation.

(12) The purpose for which the Advisory Board is established shall be—

- (a) to recommend to the President persons for appointment as Directors or Assistant Directors pursuant to the provisions of subsection (2);
- (b) to advise the Authority generally on the exercise of its powers and the performance of its functions under this Act.

(13) The President may make regulations—

- (a) setting out the procedure for appointing the members of the Advisory Board established by subsection (7) and prescribing the terms and conditions of service of such members;
- (b) generally for the better carrying out of the provisions of this section.

11C. Any person who without reasonable or probable cause, makes a false allegation that any person is engaged in corrupt practices or transactions in contravention of this Act shall be guilty of an offence and liable to imprisonment for a term not exceeding five years.

False claims
as to
corrupt
transaction.
13 of 1991, s. 7.

12. A prosecution for an offence under this Act shall not be instituted except by or with the written consent of the Attorney-General*:

Sanction to
prosecute.

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and he may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

*Power delegated to the Director of Public Prosecutions where the amount of Value of the gift, loan, fee, reward consideration of advantage in respect of which the offence is alleged to have been committed does not exceed KSh. 10,000, and to the persons for the time being holding the offices of Deputy Public Prosecutor, Assistant Deputy Public Prosecutor, Provincial State Counsel, Coast Province, Provincial State Counsel, Central Province, Provincial State Counsel, Eastern Province, Provincial State Counsel, Nyanza Province, Provincial State Counsel, Western Province, where the amount or value of the gift, loan, fee, reward consideration or advantage in respect of which the offence is alleged to have been committed does not exceed KSh. 1,000. (L.N. 332/1996).

