

- (c) provide the Commissioner with alternatives to prosecution;
- (d) widen the scope of corruption to include that the accused 'offered', 'solicited', 'obtained' or 'received' in addition to 'gave and 'accepted' an advantage;
- (e) reduce the year-long requirement that people who cease to be public officers have to file a declaration in respect of their assets and empower the Commissioner to specify categories of public officers for the purpose of declaration by Statutory instrument published in a *Gazette*;
- (f) provide for administrative sanctions for public officers who fail to submit their Assets Declaration Forms or knowingly records false, inaccurate or misleading information in the forms; and
- (g) vest in the Commissioner, power to direct that contracts may not be proceeded with.

DR. PRISCILLA SCHWARTZ,
Attorney-General and Minister of Justice.

Freetown,
Sierra Leone,
, 2019

BILL

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No.



Sierra Leone

2019

A BILL ENTITLED

The **Anti-Corruption (Amendment) Act, 2019**

Short title.

Being an Act to amend the Anti-Corruption Act, 2008 to specify categories of public officers to whom the declaration requirement under subsection (1) of section 119 applies, to increase penalties for offences under the Act and for other related matters.

[] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

Amendment of section 36 of Act No. 12 of 2008. 1. Section 36 of the Anti-Corruption Act, 2008 is amended by inserting the following new subsection immediately after subsection (3)–

“(4) In addition to the penalties imposed under sub-section (3) the Court shall order a person convicted under subsection (1) to pay the full amount adjudged by the court to have been misappropriated into the Consolidated Fund.”

Amendment of section 37 of Act No. 12 of 2008. 2. Section 37 of the Anti-Corruption Act, 2008 is amended by inserting the following new subsection immediately after subsection (3)–

“(4) In addition to the penalties imposed under sub-section (3) the Court shall order a person convicted under subsection (1) to pay the full amount adjudged by the court to have been misappropriated into the Consolidated Fund.

3. Section 62 of the Anti-Corruption Act, 2008 is amended in subsection (3) by replacing the word “Court” in the last line with the word “Commissioner”.

Amendment of section 76 of Act No. 12 of 2008. 4. Section 76 of the Anti-Corruption Act, 2008 is amended by–

- (a) replacing the fine of “three million Leones” with a new fine of “thirty million Leones”;
(b) replacing the term of imprisonment of “not less than six months” with a new term of imprisonment of “not less than three years”.

Amendment of section 78 of Act No. 12 of 2008. 5. Section 78 of the Anti-Corruption Act, 2008 is amended in subsection (1), by repealing and replacing paragraph (g) with the following new paragraph–

“(g) head of a public body”;

6. Section 85 of the Anti-Corruption Act, 2008 is amended in subsection (1), by replacing the word “may” in line 2 with the word “shall”. Amendment of section 85 of Act No. 12 of 2008.

7. Subsection (1) of section 89 of the Anti-Corruption Act, 2008 is repealed and replaced with the following new subsection– Amendment of section 89 of Act No. 12 of 2008.

“(1) Where the Commissioner is of the opinion that the findings of the Commission on any investigation warrant a prosecution under this Act the Commissioner may–

- (a) institute proceedings in Court ; or
(b) enter into an agreement with a suspect to –
(i) refund the amount involved plus an interest of not less than 10% and;”
(ii) preclude himself from holding public office for a period not less than three years.”

8. Section 97 of the Anti-Corruption Act, 2008 is repealed and replaced by the following new section– Amendment of section 97 of Act No. 12 of 2008.

“Presumption of corruption.

97. Where in any proceedings for an offence under this Act, it is established that the accused gave, offered, solicited, accepted, obtained or received an advantage, the advantage shall be presumed to have been given, offered, solicited, accepted, obtained or received as inducement or reward as is alleged in the particulars of the offence unless the contrary is proved .”

Amendment of section 119 of Act No. 12 of 2008.

9. Section 119 of the Anti-Corruption Act, 2008 is amended by-

- (a) deleting the word “sworn” in subsection (1);
- (b) repealing and replacing subsection (3) with the following new subsection-

“(3) In the case of every person who ceases to be a public officer, not later than three months from the date on which he ceases to be a public officer, except where extended by the Commissioner in writing, he shall file in respect of his assets, income and liabilities covering the period from the date of his last declaration to the date on which he is required by this subsection to furnish a declaration.”

- (c) inserting the following new section immediately after subsection (3);

(3A) The written extension of the commissioner under subsection (3) shall not cumulatively exceed 30 days after the expiration of the three months period referred to in subsection (3)”

- (d) inserting the following new subsection immediately after subsection (15) -

“(16) The Commissioner may by statutory instrument published in the *Gazette*, specify categories of public officers for the purpose of declaration of assets, income and liabilities under section 119”.

10. Section 122 of the Anti-Corruption Act, 2008 is amended by inserting, immediately after that section, the following new section-

Amendment of section 122 of Act No. 12 of 2008.

“Administrative sanctions.

122A. (1) A public officer who, without reasonable cause, fails to submit his Assets Declaration Form or knowingly records false, inaccurate or misleading information in the declaration form shall, in addition to any other penalty imposed under this Act, be liable to administrative sanctions as set out in subsection (4).

(2) Notwithstanding subsection (1), the Commission shall, after the expiration of the deadline date for the submission of the declaration form issue a default notice to a public officer who failed to submit its assets declaration form within the 3 months period.

(3) A default notice issued by the Commission under subsection (2) shall-

- (a) notify the public officer of the default;
- (b) outline the sanctions to be imposed; and
- (c) request the public officer to submit the declaration form within 14 days after service of notice.

(4) Any notice required under this section shall be well and sufficiently served if personally served on the public officer concerned or if left and signed for by a person who has general authority to receive service of processes or correspondences, in the office where the public officer works.

Provided that in the case of Exit declaration, service may be done at the last known residential address of the ex-public officer who has an obligation to make the declaration”

(5) Where a public officer fails to comply with a default notice issued by the Commission under subsection (2), the Commissioner shall direct that the Accountant-General, the Director-General, Human Resource Management Office or an officer responsible for the payment of salary as the case may be to,—

- (a) withhold the salary of the public officer;
- (b) suspend the public officer after one month but not more than three months; and
- (c) dismiss the public officer after three months.”

(6) Paragraphs (b) and (c) of subsection (5) shall not apply to an office where the grounds for removal of an officer is stipulated in the Constitution.

Amendment of section 126 of Act No. 12 of 2008.

11. Section 126 of the Anti-Corruption Act, 2008 is amended by inserting, immediately after that section, the following new section—

“126A (1) Where the Commissioner has reason to believe that a contract, to which a public body is a party, is not in the national interest, the Commissioner may, in concurrence with the Chief Executive Officer of National Public Procurement Authority, issue a directive in writing, to the public body, directing not to proceed with the contract.

(2) A party to a contract who is dissatisfied with a directive issued by the Commissioner under subsection (1) may appeal to the High Court within 7 days of the directive.

(3) A party to a contract who fails to comply with the directive issued by the Commissioner under subsection (1) commits an offence and shall be liable on conviction –

- (a) to a fine of not less than fifty million Leones or to a term of imprisonment of not less than five years or to both such fine and imprisonment; and
- (b) to pay into the consolidated Fund any money expended or damages for loss incurred on behalf of Sierra Leone after the issuance of a directive by the Commissioner under subsection (1).”

12. Section 127 of the Anti-Corruption Act, 2008 is amended in subsection (2) by replacing the fine of “not less than five million Leones” with a new fine of “not less than thirty million Leones”; Amendment of section 127 of Act No. 12 of 2008.

13. Section 130 of the Anti-Corruption Act, 2008 is amended by inserting, immediately after that section, the following new section— Amendment of section 130 of Act No. 12 of 2008.

130A. A penalty for an offence under this Act shall be increased, in the case of—

- (a) a fine of “not less than thirty Million Leones” to a new fine of “not less than fifty million Leones.”; and
- (b) a term of imprisonment of “not less than three years” to a new term of imprisonment of “not less than five years.”.

“Penalty increase.

MEMORANDUM OF OBJECTS AND REASON

The object of this Bill is to amend the Anti-Corruption Act (Act No. 12 of 2008) to—

- (a) increase penalties for offences under the Act;
- (b) strengthen protection of those who assist the Commission;