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Prevention of Corruption Order 1993

Kings Order in Council 19 of 1993

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Prevention of Corruption Order 1993

Contents

Part I – Preliminary	1
1. Short title	1
2. Interpretation	1
Part II – Establishment and functions of the Anti-Corruption Commission	2
3. Establishment of the Commission	2
4. Appointment of Commissioner and Deputy Commissioner	2
5. Qualifications for Office of Commissioner or Deputy Commissioner	3
6. Removal from Office of Commissioner or Deputy Commissioner	3
7. Acting Commissioner	3
8. Officers of the Commission	3
9. Applicability of laws governing public service	4
10. Functions of the Commission	4
11. Powers of the Commission	5
12. Special powers of investigation	5
12bis. Powers of arrest	6
13. Identity card	7
14. Impersonation and procurement of Commission's officers	7
15. Resisting or obstructing the Commissioner, Deputy Commissioner, etc.	7
16. Immunity of Commissioner, Deputy Commissioner and other officers	7
17. Unauthorised disclosure or use of information	7
18. Privilege from disclosure in legal proceedings	8
19. Annual reports	8
Part III – Offences	8
20. Bribery	8
21. Bribery for giving assistance etc. with regard to contracts and tenders	9
22. Corrupt transaction by or with public or private bodies	9
23. Penalties	9
24. Additional penalty	9
25. Bribery of judicial officers	10
26. Possession without reasonable explanation of property, etc.	10
27. Dismissal on conviction	10
28. Attempting, inciting etc. commission of offences	11
29. Giver and receiver of bribe to be guilty notwithstanding that purpose is not carried out	11
Part IV – Miscellaneous	11

30. Restriction on disposal of property	11
31. Surrender of passport	11
32. Return of passport	12
33. Bail from persons about to leave Swaziland after commencement of investigation	12
34. Evidence of pecuniary resources or property	13
35. Certificates as to official emoluments etc.	13
36. Protection of informers	13
37. False reports to the Commission	14
38. Consent of the Attorney-General required for prosecuting offences under Part III	14
39. Regulations	14
40. Repeal	14

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Kings Order in Council 19 of 1993

Commenced on 4 November 1993

[This is the version of this document at 1 December 1998.]

[Repealed by [Prevention of Corruption Act, 2006 \(Act 3 of 2006\)](#) on 1 February 2007]

An Order to repeal and replace the Prevention of Corruption Act, 1986 and to provide for matters incidental thereto.

Part I – Preliminary

1. Short title

This Order may be cited as the Prevention of Corruption Order 1993.

2. Interpretation

In this Order, unless the context otherwise requires—

“**Advantage**” means—

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or part;
- (d) any other service, favour or gratification other than entertainment;
- (e) the exercise or forbearance from the exercise of any right, power or duty; or
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage referred to in paragraph (a), (b), (c), (d) or (e);

“**banker’s books**” means—

- (a) any ledger, ledger card, statement of account, day book, cash book, account book or other book or document whatsoever used in the ordinary business of banking;
- (b) any cheque, voucher, record card, report, letter or other document whatsoever;
- (c) a copy of anything referred to in paragraph (a) or (b) which is used in the ordinary business of a bank;

“**company books**” means the annual return and balance sheets and any ledger, day book, cash book, account book, bank book, report, letter or other book or document used in the ordinary business of a company;

“**Commission**” means the Anti-Corruption Commission established under [section 3](#);

“**Commissioner**” means the person appointed under [section 4](#) as the Commissioner of the Commission;

“**Court**” means the High Court or a Magistrate’s court, as the case may be;

“Deputy Commissioner” means the person appointed under [section 4](#) as the Deputy Commissioner of the Commission;

“document” includes any register, book, record, tape recording, any form of computer input or output, and any other material, whether produced mechanically, electrically or manually or by any other material, whether produced mechanically, electrically or manually or by any other means;

“entertainment” means the provision of food or drink for consumption on the occasion when it is provided and any other entertainment connected with or provided at the same time as such food or drink;

“investigating officer” means any person authorised by the Commissioner to exercise the powers of an investigating officer under this Order;

“Judicial Officer” means a judge, magistrate, an arbitrator or the presiding officer of a Swazi Court established under the Swazi Court Act, [No. 80 of 1950](#);

“Minister” means the Minister responsible for Justice;

[Added A.1/1997]

“public body” means the Government and includes any Ministry or Department or other establishment of Government, a local authority, public corporation or any authority, Board, Commission or other body established by the Government by or under any law;

“private body” means any person or organisation not being a public body and it also means a voluntary organization, charitable institution, club, company, firm or partnership;

“public corporation” means any body, whether corporate or unincorporated, in which the Government, the Swazi Nation or the Swazi National Treasury, holds shares or any financial or monetary interest and includes a body in which such corporation holds shares or any financial or monetary or financial interest;

“public office” includes judicial office or any office or position (whether full time or not) held by any person engaged in a public body or private body or any office or position (whether full time or not) in respect of which emoluments or allowances are payable from public funds or from Swazi National Treasury;

“public officer” means the holder of a public office;

“passport” includes a travel document;

“spouse” includes concubine, cohabitant, fiancée or lover.

[Added A.1/1997]

Part II – Establishment and functions of the Anti-Corruption Commission

3. Establishment of the Commission

There is hereby established a Commission to be known as the Anti-Corruption Commission which shall consist of the Commissioner, the Deputy Commissioner and such investigation and other officers of the Commission as may be appointed under [section 8](#).

[Amended A.1/1997]

4. Appointment of Commissioner and Deputy Commissioner

- (1) Subject to [section 5](#), the King in consultation with the Minister may appoint the Commissioner of the Commission for a period of five years and on such terms and conditions as he may determine.

[Amended A.1/1997]

- (2) The King in consultation with the Minister, may appoint the Deputy Commissioner for a period of five (5) years and on such terms and conditions as he may determine.

[Amended A.1/1997]

- (3) The Commissioner and the Deputy Commissioner shall be eligible for re-appointment after the expiration of their respective terms of office.
- (4) The Commissioner shall be responsible for the administration of the Commission subject to any specific or general directions of the King.

[Amended A.1/1997]

- (5) In the performance of their functions and the carrying out of their duties the Commissioner and the Deputy Commissioner shall do so independently, professionally and judiciously.

[Amended A.1/1997]

5. Qualifications for Office of Commissioner or Deputy Commissioner

A person shall not qualify for appointment as Commissioner or Deputy Commissioner unless he is a person of integrity and proven administrative competence and has acceptable academic qualification and experience in law, or economics, or accounting, or criminal investigation, or any other related profession relevant to the functions of the Commission.

[Amended A.1/1997, replaced K.O-I-C. 7/1998]

6. Removal from Office of Commissioner or Deputy Commissioner

The King may, after consultation with the Minister, remove the Commissioner or the Deputy Commissioner from office for misbehaviour or inability to perform the functions of their office whether such inability arises from infirmity of body or mind or from any other cause:

Provided that before removing the Commissioner or Deputy Commissioner from office for the reasons stated in this section, the King shall appoint a tribunal consisting of a person who shall be a judge and two other persons to enquire into the matter and give their findings and conclusions thereon to the King.

[Amended A.1/1997]

7. Acting Commissioner

- (1) If the office of the Commissioner is vacant or the Commissioner is absent from duty or unable for any other reason to perform the functions of his office, the Deputy Commissioner shall, except when the King otherwise directs, act as the Commissioner.
- (2) If both the Commissioner and the Deputy Commissioner are absent from duty or unable for any other reason to perform the functions of their office the King may, subject to sections 4 and 5, appoint another person to act as the Commissioner.

[Amended A.1/1997]

8. Officers of the Commission

- (1) The Commissioner may appoint such investigating and other officers of the Commission to assist in the performance of his functions under this Order as may be necessary.
- (2) Without prejudice to subsection (1) Civil Service Board, the Judicial Service Commission, the Teaching Service Commission or their successors may, at the advice of the Commissioner, cause to be seconded or transferred from the public service or any other Commission to the Commission, such officer as it may deem necessary for the efficient discharge of the functions of the Commission.

- (3) Officers of the Commission appointed by the Commissioner, shall be elected on such terms and conditions as the King, in consultation with the Commissioner, may determine.
- (4) The Commissioner may, subject to the relevant applicable law, terminate the appointment of an officer of the Commission if the Commissioner is satisfied that it is in the interest of the Commission to terminate such appointment and the Commissioner shall give reasons for such termination:

Provided that if the officer was seconded, such officer shall be dealt with in terms of the laws applicable to officers in the Civil Service or the relevant Commission from which such officer was seconded.

[Amended A.1/1997]

9. Applicability of laws governing public service

Except as otherwise provided in this Order or Regulations the Commissioner, Deputy Commissioner and other officers of the Commission shall be subject to such laws and regulations as are generally applicable to officers in the public service.

[Amended A.1/1997]

10. Functions of the Commission

- (1) The functions of the Commission shall be—
 - (a) to take necessary measures for the prevention of corruption in public and private bodies including in particular measures for—
 - (i) examining the practices and procedures of public and private bodies in order to facilitate the discovery of corrupt practices and secure the revision of their methods of works or procedures which, in the opinion of the Commission, may be prone or conducive to corrupt practices;
 - (ii) advising public and private bodies on the ways and means of preventing corrupt practices, and on changes in the methods of work or procedures of such public and private bodies compatible with the effective performance of their duties, which the Commission considers necessary to reduce the likelihood of the occurrence of corrupt practices;
 - (iii) disseminating information on the evil and dangerous effects of corrupt practices on the society;
 - (iv) enlisting and fostering public support against corrupt practices;
 - (b) to receive and investigate complaints of alleged or suspected corrupt practice made against any person, and refer appropriate cases to the Director of Public Prosecutions for prosecution;
 - (c) to investigate the conduct of any public officer which in the opinion of the Commissioner, may be connected with or conducive to corrupt practices.

[Amended A.1/1997]

[Original subsection (2) repealed A.1/1997]

- (2) The Commission may decline to conduct an investigation into any complaint alleging an offence under this Order or to proceed further with an investigation if the Commission is satisfied that—
 - (a) the complaint is trivial, frivolous, vexatious or not made in good faith, or
 - (b) the investigation would be unnecessary, improper or futile.

- (3) In every case where the Commission declines to conduct an investigation the Commission shall inform the complainant in writing of its decision but shall not be bound to assign reasons therefor.

11. Powers of the Commission

- (1) For the performance of the functions of the Commission under this Order the Commissioner may—
- (a) authorise in writing any officer of the Commission to conduct an inquiry or investigation into alleged or suspected offences under this Order;
 - (b) require any public officer or person to answer questions concerning the duties of any other public officer or person and order the production for inspection of any orders, directives, office instructions relating to the duties of such other public officer or person;
 - (c) require any person in charge of any Ministry, Department or other establishment of the Government or the head, Chairman, manager or chief executive officer of any public body or private body to produce or furnish within such time as may be specified by the Commissioner, any document or a certified true copy of any document which is in his possession or under his control and which the Commissioner considers necessary for the conduct of investigation into alleged or suspected offences under this Order.
- (2) In the performance of his duties under this Order the Commissioner, the Deputy Commissioner or, if acting under the authority of a warrant issued for that purpose by or on behalf of the Commissioner, an officer of the Commission shall have—
- (a) access to all books, records, returns, reports and other documents relating to the functions of any Government Ministry, Department or other establishment, public body or private body;
 - (b) access at any time to the premises of any Government Ministry, Department or other establishment, public body or private body, or to any vessel, boat, aircraft or any vehicle whatsoever, and may search such premises, vessel, boat, aircraft or vehicle if he has reason to suspect that any property acquired in contravention of this Order has been placed, deposited or concealed therein.
- (3) In the exercise of his powers of access and search under subsection (2)(b), the Commissioner, Deputy Commissioner or an officer of the Commission may use such reasonable force as is necessary in the circumstances, and may be accompanied or assisted by such other person he deems necessary to assist him to enter into or upon any premises or upon any vessel, boat, aircraft or vehicle as the case may be.
- (4) Any person who accompanies or assists the Commissioner, the Deputy Commissioner or an officer of the Commission to enter into or upon any premises or upon any vessel, boat, aircraft or any vehicle, as the case may be, shall during the period that he accompanies or assists him enjoy the same immunity as is conferred upon the Commissioner or an officer of the Commissioner under [section 16](#).

12. Special powers of investigation

- (1) Where it appears to the Commissioner that an offence under this Order may have been committed by any person, the Commissioner may for the purposes of an investigation of such offence authorise an investigating officer to exercise the following powers:

[Amended A.1/1997]

- (a) to investigate the acquisition of any property (whether movable or immovable) in or outside Swaziland by or on behalf of such person, during such period as may be specified in the order;

- (b) to require such person to furnish and produce all relevant information and documents in respect of—
 - (i) all expenditure incurred by him in respect of himself, spouse, children and parents;
 - (ii) all liabilities incurred by him, his agent or trustee and specifying in respect of each such liability whether it was incurred jointly (and, if so, with whom) or severally;
 - (iii) any money acquired or sent outside Swaziland during such period as may be specified in order;
 - (c) to investigate and inspect any bank account or other account of whatever description or kind and any banker's books or company books of, or relating to, the person named or otherwise identified in the order;
 - (d) to require from any person production of any accounts, books or company books of, or relating to, the person named or otherwise identified in the order and the disclosure of all or any information relating to such accounts, books or documents;
 - (e) to take copies of such accounts, books or documents or of any relevant entry therein;
 - (f) require any person who is being investigated to furnish the investigating officer with a sworn affidavit containing any information referred to in paragraphs (a) and (b).
- [Added A.1/1997]*
- (2) Any person who, having been lawfully required under subsection (1) to disclose any information or to produce any accounts, books or documents to an investigating officer shall, notwithstanding any other law to the contrary, comply with such requirement.
 - (3) Any person who—
 - (a) without reasonable excuse fails or neglects to disclose any information or to produce any accounts, books or documents required by an investigating officer under subsection (2); or
 - (b) obstructs an investigating officer in the execution of an order made under subsection (1);
 shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand Emalangenis or to imprisonment not exceeding two years or both.
 - (4) The information referred to in subsection (1)(f) shall be admissible as evidence during the trial of that person and if he tenders himself as a witness, such information may be used in cross-examination and for purposes of impeaching his credibility.
- [Added A.1/1997]*

12bis Powers of arrest

- (1) An investigating officer or an officer authorised by the Commissioner, may without warrant, arrest a person if he or she reasonably suspects that such person has committed an offence under this Act.
- (2) If, during an investigation by the Commission of a suspected offence under this Order, another offence is disclosed, any such officer may, without warrant, arrest a person if he reasonably suspects that such person has committed that other offence.
- (3) The officer may—
 - (a) use force as is reasonable in the circumstances in effecting the arrest under subsections (1) and (2);
 - (b) for the purpose of effecting such arrest, enter and search any person or place, if he has reason to believe that there is in the premises or place a person who is to be so arrested.

- (4) Premises or places shall not be entered under subsection (3), unless the officer has first stated that he is an officer of the Commission and the purpose for which he seeks entry and produces his identity card to any person therein requesting its production.
- (5) A person arrested under this section shall be brought before court within a reasonable time, which time shall not exceed forty-eight (48) hours.

[Added A.1/1997]

13. Identity card

The Commissioner shall issue to an officer of the Commission an identity card which shall be *prima facie* evidence of the officer's appointment as such.

14. Impersonation and procurement of Commission's officers

Any person who falsely pretends that—

- (a) he is an officer of the Commission or has any of the powers of such officer under this Order, or under any authorization or warrant issued under this Order, or
- (b) he is able to procure an officer of the Commission to do or refrain from doing anything in connection with the duties of such officer,

shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand Emalangeni or to imprisonment not exceeding two years or both.

15. Resisting or obstructing the Commissioner, Deputy Commissioner, etc.

Any person who—

- (a) assaults, resists or obstructs the Commissioner, Deputy Commissioner or an officer of the Commission in the execution of his duties; or
- (b) unlawfully hinders or delays the Commissioner, Deputy Commissioner or an officer of the Commission in effecting entry into or upon any premises, vessel, boat, aircraft or vehicle,

shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand Emalangeni or to imprisonment not exceeding two years or both.

16. Immunity of Commissioner, Deputy Commissioner and other officers

No action or other proceeding shall be brought against the Commissioner, Deputy Commissioner or an officer of the Commission in the respect of any act or thing done or omitted to be done in good faith in the performance of his functions under this Order.

17. Unauthorised disclosure or use of information

- (1) The Commissioner, Deputy Commissioner or an officer of the Commission shall not without the written permission of the Minister, publish or disclose to any person, otherwise than in the exercise of his functions under this Order, the contents of any document or any information which has come to his knowledge in the course of his duties or investigation of any alleged or suspected offence under this Order.
- (2) Any person who knowingly acts in contravention of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand Emalangeni or to imprisonment not exceeding two years or both.
- (3) If any person in possession of the contents of any document or any information which he has reason to believe has been prohibited or disclosed in contravention of subsection (1) publishes

or discloses to another person, otherwise than for the purpose of any prosecution or legal proceedings under this Order, the contents of such document or such information he shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand Emalangeni or to imprisonment not exceeding two years or both.

18. Privilege from disclosure in legal proceedings

In any legal proceeding the production of the report or record of proceedings of any inquiry or investigation carried out by the Commission into any alleged or suspected offence under Part III shall be privileged if the Minister certifies that the production of such report or record is not in the public interest.

19. Annual reports

- (1) The Commissioner shall, not later than three months after the end of each year, submit to the Minister a report on the activities of the Commission during that year:

[Amended A.1/1997]

Provided that the report of the Commissioner shall not contain the facts or findings of any pending investigation that may have been carried out by the Commission during that year.

[Added A.1/1997]

- (2) The Minister shall, within thirty days after he has received the report during the sitting of Parliament, cause it to be laid before Parliament and if Parliament is not sitting, within fourteen days of the next sitting of Parliament.

Part III – Offences

20. Bribery

- (1) Any person who, whether in Swaziland or elsewhere offers or promises any advantage to any public officer as an inducement to or a reward for or otherwise on account of that public officer—
- (a) performing or forbearing to perform or having performed or forborne to perform any act in his capacity as such public officer;
 - (b) expediting, delaying, hindering or preventing or having expedited, delayed, hindered or prevented, the performance of any act, whether by that officer or by another public officer in his or that other officer's capacity as such public officer; or
 - (c) assisting, favouring, hindering or delaying or having assisted favoured, hindered or delayed, any person in the transaction of any business with a public or private body,
- shall be guilty of an offence.
- (2) Any public officer who, whether in Swaziland or elsewhere, solicits or accepts any advantage as an inducement to or a reward for or otherwise on account of the public officer—
- (a) performing or forbearing to perform or having performed or forborne to perform any act in his capacity as such public officer;
 - (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of any act, whether by himself or by another public officer in his or that other officer's capacity as such public officer; or
 - (c) assisting, favouring, hindering or delaying or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public or private body,
- shall be guilty of an offence.

21. Bribery for giving assistance etc. with regard to contracts and tenders

- (1) Any person who, whether in Swaziland or elsewhere, offers or promises any advantage to any public officer as an inducement to or a reward for or otherwise on account of the public officer giving assistance or using influence in, or having given assistance or used influence in—
- (a) the promotion, execution or procuring of—
 - (i) any contract or tender for any contract with a public or private body for the performance of any work or the provision of any service or the supply of any goods; or
 - (ii) any subcontract or tender for a subcontract to perform any work, provide any goods required to be performed, provided or supplied under any contract with a public or private body; or
 - (b) the payment of the price or other consideration or money stipulated or otherwise provided in any such contract, subcontract or tender,
- shall be guilty of an offence.
- (2) Any public officer who solicits or accepts any advantage as an inducement to or a reward for or otherwise on account of his giving assistance or using influence in or having given assistance or used influence in—
- (a) the promotion, execution or procuring of; or
 - (b) the payment of the price or other consideration or moneys stipulated or otherwise provided in any such contract, subcontract or tender referred to in subsection (1),
- shall be guilty of an offence.

22. Corrupt transaction by or with public or private bodies

Any person who by himself or on behalf of or in conjunction with any other person (whether in Swaziland or elsewhere)—

- (a) solicits or accepts from another person either for himself or for any other person any advantage as an inducement or a reward for, or on account of such person, doing or forbearing to do or having done or forborne to do anything in relation to any matter or transaction with which any public or private body is or may be concerned;
- (b) offers or promises any advantage to another person either for the benefit of that person or any other person as an inducement or a reward for or on account of such person doing or forbearing to do anything in relation to any matter or transaction with which any public or private body is or may be concerned,

shall be guilty of an offence.

23. Penalties

Any person who is guilty of an offence under section 20, 21 or 22 shall be liable on conviction, to fine not exceeding ten thousand emalangeneni or imprisonment not exceeding five years or both.

24. Additional penalty

- (1) If a person is convicted of an offence under this Part, the court shall in addition to any penalty it may impose under section 23 or 25 order the person convicted to pay to the rightful owner the amount or value, as determined by the court, of any advantage actually received by him.

- (2) If after reasonable inquiry, the rightful owner cannot be ascertained or traced or is himself implicated in the commission of the particular offence under this Part the court shall order that the amount or value of such advantage shall be forfeited to the Government.

25. Bribery of judicial officers

- (1) Any judicial officer who directly or indirectly solicits any advantage, knowing or having reason to suspect that it has been made in order to influence the result of any case tried or being tried by him shall be guilty of an offence and liable on conviction to imprisonment not exceeding ten years.
- (2) Any person who directly or indirectly offers any advantage to a judicial officer with the object of influencing the result of any case tried or being tried by that judicial officer shall be guilty of an offence and liable on conviction to a fine not exceeding twenty thousand Emalangeni or to imprisonment not exceeding ten years or to both.

26. Possession without reasonable explanation of property, etc.

- (1) Any person who being or having been a public officer—
 - (a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or
 - (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments;shall, unless he gives a satisfactory explanation to the court as to how he was able to maintain such standard of living or how such pecuniary resources or property came under his control, be presumed to have maintained such standard of living or acquired such pecuniary resources or property as the result of the commission of an offence under section [20](#), [21](#), [22](#) or [25](#) of this Part, and shall be guilty of that offence and liable on conviction to the penalty prescribed in relation to that offence under section [23](#), [24](#) or [25](#) as the case may be.
- (2) If the Commissioner has reasonable grounds to suspect that any person who has no known source of income or who is not known to be engaged in any gainful employment possesses or is in control of any property or pecuniary resources, the Commissioner shall request such person to give satisfactory explanation in writing as to how the property or pecuniary resources have been acquired by him or come under his control, and if such person is unable to give any satisfactory explanation he shall be guilty of an offence and liable on conviction to the penalty prescribed in [section 23](#).
- (3) Where a court is satisfied in the proceedings for an offence under subsection (1) (b) or subsection (2) that, having regard to his relationship to the accused and to other circumstances, there is a reason to believe that a person was holding such pecuniary resources or property shall, unless the contrary is proved, be presumed to have been in the control of the accused, or to have been acquired by the accused.
- (4) In this section “official emoluments” includes a pension or gratuity or any other retirement benefit payable under any law for the time being in force or under any terms and conditions of service or employment applicable to the public officer.

27. Dismissal on conviction

The conviction of a judicial officer or other public officer for an offence under this Part, shall, subject to any other law, warrant his dismissal from office.

28. Attempting, inciting etc. commission of offences

Any person who attempts, incites or procures or attempts to incite or procure, the commission of an offence under this Part shall be dealt with and punished in like manner as if he has been convicted of that offence.

29. Giver and receiver of bribe to be guilty notwithstanding that purpose is not carried out

- (1) If, in any proceedings for an offence under any section of this Part, it is proved that the accused accepted any advantage, believing or suspecting or having grounds to believe or suspect that the advantage was given as an inducement to or a reward for or otherwise on account of the accused doing or forbearing to do or having done or forborne to do, any act referred to in that section, it shall be no defence that—
 - (a) the accused did not actually have the power, right or opportunity to do or forebear to do any such act;
 - (b) the accused accepted the advantage without intending to do or forebear to any such act.
- (2) If, in any proceedings for an offence under any section of this Part, it is proved that the accused offered any advantage to another person as an inducement to or a reward for or otherwise on account of that other person doing or forbearing to do, or having done or forborne to do any act referred to in that section, believing or suspecting or having reason to believe or suspect that such other person had the power, right or opportunity to do or forebear to do any such act, it shall be no defence that such other person had no such power, right or opportunity.

Part IV – Miscellaneous

30. Restriction on disposal of property

- (1) If an order has been made under [section 12](#) the court shall direct that the person named or otherwise identified in the order shall not dispose of or otherwise deal with any property specified in the order without the authority of the court.
- (2) A direction given under subsection (1) shall, unless it otherwise provides, apply to the income from any property specified in the order as it applies to the property itself.
- (3) Any person who disposes of or otherwise deals with any property specified in a direction given under subsection (1) other than in accordance with the authority of the court shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand Emalangeni or to imprisonment not exceeding two years or both.

31. Surrender of passport

- (1) A Magistrate's court may, on application by the Commissioner, order a person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed by such person under this Order to surrender to the Commissioner any passport in his possession.
- (2) Subject to [section 32](#), a passport surrendered to the Commissioner may be detained for one month or for such further period as the court may determine, if on application by the Commissioner, the magistrate is satisfied that the investigation could not reasonably have been completed before expiration of the one month.
- (3) An application under subsection (2) shall not be heard by a magistrate unless reasonable notice of the application has been given by the Commissioner to the person who surrendered the passport.
- (4) All proceedings before a magistrate under this section shall be conducted in Chambers.

32. Return of passport

- (1) A person who has surrendered a passport under [section 31\(1\)](#) may at any time apply to the magistrate's court for its return and the application shall contain a statement of the grounds on which it is made.
- (2) Notice of an application under subsection (1) shall be given by the applicant to the Commissioner.
- (3) The magistrate may—
 - (a) grant the application either without condition or subject to such conditions as to the further surrender of the passport and the appearance of the applicant at any place and time as the magistrate may specify; or
 - (b) refuse the application.
- (4) Without prejudice to subsection (3), the magistrate may, before granting an application under subsection (1), require that—
 - (a) the applicant enters into a recognisance, with such sureties, if any, as he may require; or
 - (b) the applicant deposits such sum of money and enters into such recognisance as he may require.
- (5) Where an application is granted under subsection (3) subject to conditions or is refused, the applicant aggrieved may within fourteen days appeal to the High Court against the conditions or refusal, stating the grounds therefor, but the lodging of that appeal shall not of itself affect that operation of any such conditions.
- (6) If after considering the grounds of appeal the High Court is satisfied that the detention of the passport will, having regard to all the circumstances including the interests of the investigation, cause unreasonable hardship to the applicant, order that the passport be returned to the applicant either without conditions or upon such conditions as to the further surrender of the passport and the appearance of the applicant at such time and place as may be specified in the order.
- (7) Proceedings under this section shall be conducted in Chambers.

33. Bail from persons about to leave Swaziland after commencement of investigation

- (1) If, in the course of an investigation of an offence alleged or suspected to have been committed by any person under this Order, it appears to the Commissioner that such person is about to leave Swaziland, the Commissioner may apply to the court for a warrant for the apprehension of that person and his production before the court.
- (2) Where on any such application the court is satisfied upon oath that there is reasonable cause to believe that the person whose apprehension is being sought is about to leave Swaziland and that in all the circumstances, the investigation could not reasonably have been completed before the date of that application, the court may issue a warrant to apprehend such person and cause him to be brought before the court as soon after his apprehension as is practicable to be dealt with according to subsection (3).
- (3) On the production before the court of any person apprehended in execution of warrant issued under subsection (2), the court shall, unless the person apprehended can satisfy the court that he is not about to leave Swaziland and that he has no intention of leaving Swaziland offer to admit him to bail on his giving in cash:
 - (a) a deposit of E500 if the amount or the value of the advantage in respect of which the offence is committed is E2.000; or

- (b) a deposit equivalent to one half the amount or the value of the advantage if the amount or value of the advantage in respect of which the offence is committed is E2.000 or more:

Provided that if the amount or value of the advantage involved is E2.000 or more the court shall not admit such person to bail on recognisance.

- (4) In deciding the day on which a person admitted to bail under subsection (3) is to appear, the court shall have regard to the time reasonably necessary for completion of the investigation of the offence alleged or suspected to have been committed by such person and to any special hardship to such person likely to result from his being on bail.
- (5) All proceedings under this section shall be conducted in Chambers.

34. Evidence of pecuniary resources or property

- (1) In any proceedings against a person for an offence under Part III the fact—
 - (a) that the accused who at the date of or at any time after the date of the alleged offence is, in possession of pecuniary resources or property disproportionate to his known sources of income for which he cannot satisfactorily account; or
 - (b) that he had at the date of or at any time after the date of the alleged offence, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account;may be proved and may be taken by the court—
 - (i) as corroborating the evidence of any witness in such proceedings that the accused accepted or solicited any advantage; and
 - (ii) as showing that such advantage was accepted or solicited as an inducement or reward.
- (2) For the purpose of subsection (1) a person accused of an offence under Part III shall be presumed to be in possession of pecuniary resources or property or to have obtained an accretion to such resources or property where such resources or property are held or such accretion is obtained by another person whom having regard to his relationship to the accused or to any other circumstances, there is reason to believe held such resources or property or obtained such accretion in trust for or otherwise on behalf of the accused or as a gift from the accused.

35. Certificates as to official emoluments etc.

In any proceedings against a public officer for an offence under this Order, a certificate purporting—

- (a) to certify—
 - (i) the rate of, and the total amount of, official emoluments and allowances of the public officer;
 - (ii) that the public officer was or was not serving at any specified time or any specified period as a public officer; or
 - (iii) that a public officer held or did not hold any specified office; and
 - (b) to be signed by the authorised or appropriate officer of the relevant public or private body,
- shall be admitted in evidence in such proceedings by the court on its production without further proof.

36. Protection of informers

- (1) In any trial in respect of an offence under Part III of this Order a witness shall not be obliged to disclose the name or address of any informer or state any matter which might lead to the discovery of such informer.

- (2) Where in any document which is in evidence or liable to inspection in any civil or criminal proceeding under this Order contains any entry of record in which an informer is named or described or which might lead to the discovery of such informer, the court shall cause such entry or record to be concealed from view or to be obliterated in such a manner as in the opinion of the court may not disclose the identity of the informer.
- (3) Where the court is of the opinion that an informer wilfully made in his complaint to the Commission a material statement which he knew or believed to be false or did not believe to be true, or that justice cannot be fully done between the parties without the discovery of the informer, the court may require full disclosure of the identity of the informer.

37. False reports to the Commission

Any person who, during the course of an investigation into an offence alleged or suspected to have committed under this Order, knowingly—

- (a) makes or caused to be made a false report to the Commission of the commission of an offence;
- (b) misleads the Commission or any investigating officer,

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand Emalangeni or imprisonment not exceeding one year or both.

38. Consent of the Attorney-General required for prosecuting offences under Part III

No prosecution for an offence under Part III of this Order shall be instituted by the Director of Public Prosecutions except with the prior consent and advice of the Attorney-General having been given.

[Amended A.1/1997]

39. Regulations

The Minister may make regulations in respect of any matter necessary to be prescribed to give effect to this Order.

[Amended A.1/1997]

40. Repeal

Part IV of the Crime Act, 1889 and the Prevention of Corruption Act, 1986 are repealed.