

ANTI-CORRUPTION (AMENDMENT) (NO.3) BILL, 2021

(Bill No. 68 of 2020)

OBJECTS AND REASONS

The Anti-Corruption Commission Act, 2016 (Act 2 of 2016) was enacted to establish the Anti-Corruption Commission; provide for its functions and powers and to create a means by which it can investigate, detect and prevent corrupt practices.

2. The Anti-Corruption Commission Act, 2016 was amended in 2020 empowering the Commission to investigate money laundering aspects in corruption cases also.

3. This Bills seeks to amend section 51A of the Act to empower the Commission to investigate certain offences under Penal Code in furtherance of corrupt practices. It is proposed to expand the investigation scope of the Commission relating to corrupt practices.

4. It is proposed to amend section 64 of the Act, empowering the authority to institute prosecution against the accused in the cases investigated by the Commission.

5. It is also proposed to insert new sections 64A, 64B and 64C relating to institution of criminal proceedings; discontinuance of proceedings; and the powers of the Commission to prosecute cases through a qualified person or through an Attorney-At-Law.

Dated this 10th day of December, 2021.

**FRANK D.R. ALLY
ATTORNEY-GENERAL**

ANTI-CORRUPTION (AMENDMENT) (NO.3) BILL, 2021

(Bill No. 68 of 2021)



**A BILL
FOR**

AN ACT TO AMEND THE ANTI-CORRUPTION ACT, 2016 (ACT 2 OF 2016).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Anti-Corruption (Amendment) (No.3) Act, 2021.

Amendments to Act 2 of 2016

2. The Anti-Corruption Act, 2016 (hereinafter referred to as the principal Act) is amended as follows —

- (a) in section 51A of the principal Act, repeal the words “Chapter X”, and therefor substitute the following words “Chapter V, Chapter X, Chapter XXVI, Chapter XXVII, Chapter XXVIII, Chapter XXX, Chapter XXXII, Chapter XXXV”;
- (b) in section 60 of the principal Act, after subsection (2), the following subsections shall be inserted —

“(2A) Where the Registrar General or any other public authority responsible for the registration of property or stamping of instruments under any law, has reasons to believe or has received reasonable information or reasonably infers that an investigation by the Commission is ongoing in respect of a property or a proprietor of a property registered with the Registrar General or the public authority, the Registrar General or the public authority shall —

- (a) on his or her own motion, restrict the registration or stamping of any instrument of disposal of, or dealing with, the property pending confirmation or otherwise under paragraph (b); and
- (b) seek confirmation of the investigation from the Commission.

(2B) A request for confirmation under subsection (2A)(b) shall be made within 3 days of the knowledge to the Registrar General or the public authority and the Commission shall within a period 3 days from the date of receipt of the request inform the Registrar General or the public authority about the investigation going on or otherwise.

- (2C) Where the Commission confirms the investigation under subsection (2A)(b), the Registrar General or the public authority responsible for the registration of property shall restrict the registration or the disposal of, or dealing with, the property or any other transaction related thereto for a period of 30 days from the date of such confirmation unless the Commission directs otherwise.”;
- (c) in section 64 of the principal Act, after the words “PART III”, the words “and money laundering offences committed under the Anti-Money Laundering the Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020), in furtherance of the said corrupt practices” shall be added;
- (d) after section 64 of the principal Act, the following sections shall be inserted —

Institution of proceedings

“64A. Criminal proceedings instituted by the Commission by the powers conferred under section 64 shall be instituted and referred to as “Republic Versus _____” or “Anti-Corruption Commission Versus _____”.

Discontinuance of proceedings

64B. Subject to article 76 of the Constitution, the Commission may discontinue any proceedings instituted under section 64, at any stage before the delivery of the judgement by the Court.

Prosecution of cases by the Commissioner in person or by a qualified person.

64C.(1) The powers of the Commission under section 64 may be exercised by the Commissioner in person or a qualified person.

(2) Subject to article 76 of the Constitution and in the exercise of the powers conferred upon the Commission under subsection (1), the Commission shall not be subject to the direction and control of any other person.

(3) For the purposes of subsection (1), the term “qualified person” means —

- (a) an Attorney-At-Law employed by the Commission; or
- (b) an Attorney-At-Law appointed by the Commission acting in accordance with the general or specific instructions of the Commission; or
- (c) a person employed or appointed by the Commission for the purpose of conducting proceedings under this Act.

(4) A qualified person who is not an Attorney-At-Law shall take and subscribe to the oath of office under the Official Oaths Act (Cap. 153) before assuming the duties of his or her office, before the Chief Justice or a Judge of the Supreme Court in relation to such office.

(5) The Commission shall not later than the 31st January of each year or where the Commission has appointed a person in the course of a year, not later than 30 days after the appointment, notify the Registrar of the names and other prescribed particulars of the person employed by the Commission for the purposes of subsection (1) and the Registrar shall enter the names and the prescribed particulars of the person in a register kept for this purpose.

(6) The Commission shall notify the Registrar of the name of any person who is entered on the register referred to in subsection (5), who has ceased to be employed by the

Commission within 30 days of the person ceasing to be so employed and the Registrar shall remove the name of that person from the register.”.