

**THE ANTI-CORRUPTION LAWS (AMENDMENT)  
BILL, 2025**

**A Bill for**

**AN ACT of Parliament to amend the Ethics and Anti-Corruption Act, Anti-Corruption and Economic Crimes Act, Criminal Procedure Code, Witness Protection Act, Anti-Bribery Act, Evidence Act, Public Officer Ethics Act, and Leadership and Integrity Act; and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

Short title.

**1.** This Act may be cited as the Anti-Corruption Laws (Amendment) Act, 2025.

Amendment of section 2 of Cap. 65.

**2.** Section 2 of the Anti-Corruption and Economic Crimes Act is amended—

(a) in paragraph (a) of the definition of “corruption”, by inserting the expressions “40, 41, 42, 43” immediately after the expression “sections 39”;

(b) in the definition of “public body”—

(i) by deleting paragraph (c) and substituting therefor the following new paragraph—

(c) a county government;

(ii) by inserting the following new paragraph immediately after paragraph (d)—

(da) an entity which renders a service involving the collection or administration of a levy, fee or fund authorised by legislation;

(c) by inserting the following new definition in proper alphabetical sequence—

“proceeds of corruption” means any property or economic advantage derived or realised, directly or indirectly, as a result of or in connection with corruption or an economic crime, and any income, capital or other economic gain or benefit derived or realised such property from the time the offence was reasonably suspected to have been committed;

Amendment of section 4 of Cap. 65.

**3.** Section 4 of the Anti-Corruption and Economic Crimes Act is amended by adding the following new subsections immediately after subsection (4)—

(5) Notwithstanding anything contained in the Criminal Procedure Code, as far as practicable, the trial of an offence under this Act shall be completed within six months from the commencement of the trial.

(6) The court shall not grant an application for the adjournment of proceedings except in compelling and exceptional circumstances.

Insertion of new section 4A in Cap. 65.

**4.** The Anti-Corruption and Economic Crimes Act is amended by inserting the following new section immediately after section 4—

Appeals.

**4A.** (1) An appeal arising from the decision of a special magistrate shall be heard and determined, as far as is practicable in the circumstances, within three months from the date of filing the appeal.

(2) A second appeal to the Court of Appeal shall be heard and determined, as far as is practicable in the circumstances, within six months from the date of filing of the appeal.

Insertion of new section 23A in Cap. 65.

**5.** The Anti-Corruption and Economic Crimes Act is amended by inserting the following new section immediately after section 23—

Power to compel attendance of witness at police station, etc.

**23A.** (1) An investigator may, in writing, require any person whom the investigator has reason to believe has information which may assist in the investigation of an alleged offence under this Act to attend before the investigator at a police station, the Commission's offices in the county or nearest county in which that person resides, or in the nearest office of a national government administration officer.

(2) A person who neglects or fails to comply with the requirement under subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

Amendment of section 28 of Cap. 65.

**6.** Section 28 of the Anti-Corruption and Economic Crimes Act is amended in the opening words, by deleting the words “apply, with notice to affected parties, to the court for an order to” and substituting therefor the words “by notice in writing”.

Amendment of section 29 of Cap. 65.

**7.** Section 29 of the Anti-Corruption and Economic Crimes Act is amended in subsection (1), by deleting the words “for any record, property or other thing reasonably suspected to be in or on the premises and that has not been produced by a person pursuant to a requirement under the foregoing provisions of this Part” and substituting therefor



the words “storage locker or safe deposit box and seize or extract anything necessary for the conduct of investigation”.

Insertion of new section 29A in Cap. 65.

**8.** The Anti-Corruption and Economic Crimes Act is amended by inserting the following new section immediately after section 29—

Investigation of accounts and records.

**29A.** (1) The Commission may, during the conduct of an investigation under this Act, with a warrant—

- (a) investigate bank accounts, accounts held in non-banking financial institutions, mobile money accounts or call data; and
- (b) require the production of statements, records, account opening documents, transaction documents, mandate cards, banker’s books and any other information relevant to the investigation.

(2) In an application for a warrant for the purposes of subsection (1), the Commission may seek an order prohibiting the transfer or dealing with the funds in the accounts specified in subsection (1) for a period of thirty days.

Insertion of new section 35A in Cap. 65.

**9.** The Anti-Corruption and Economic Crimes Act is amended by inserting the following new section immediately after section 36—

Quarterly reports by the Director of Public Prosecutions.

**36A.** (1) The Director of Public Prosecutions shall prepare quarterly reports setting out the number of investigation reports submitted by the Commission, the prosecutions completed and the outcomes thereof, and such other statistical information relating to those reports as the Director considers appropriate.

(2) Where the Director of Public Prosecutions does not initiate prosecution after receiving a report from the Commission under section 35, the Director shall specify in the report under subsection (1) the reasons thereof.

(3) The Director of Public Prosecutions shall publish the reports prepared under subsection (1) in the *Gazette*.

(4) The Director of Public Prosecutions shall submit the reports published under

subsection (2) to the National Assembly within ten days after end of the quarter to which the reports relate.

Amendment of section 47A of Cap. 65.

**10.** Section 47A of the Anti-Corruption and Economic Crimes Act is amended in subsection (4), by inserting the words “procures, counsels or aids” immediately after the words “who incites”.

Insertion of new section 48A in Cap. 65.

**11.** The Anti-Corruption and Economic Crimes Act is amended by inserting the following new section immediately after section 48—

Debarment.

**48A.** A person, including a body corporate or an unincorporated body, that is convicted of an offence under this Act relating to procurement shall, in addition to any other penalty prescribed under this Act or any other written law, be debarred for a period of ten years.

Insertion of new section 56D in Cap. 65.

**12.** The Anti-Corruption and Economic Crimes Act is amended by inserting the following new section immediately after section 54—

Recovery of proceeds of corruption.

**54A.** (1) The Commission may apply to the High Court for an order for—

- (a) the recovery of property that is the proceeds of corruption; or
- (b) the payment of compensation.

(2) A person served with an application under subsection (1) may enter appearance or file a response within fourteen days after appearance and serve it on the Commission.

(3) In any proceedings under this section—

- (a) the Commission shall adduce evidence that the property in question is the proceeds of corruption; and
- (b) the respondent shall be afforded an opportunity to cross-examine any witnesses or adduce evidence.

(4) In any proceedings under this section, any report, record or document from a public office, or any banker’s book or document obtained from a financial institution or produced in the ordinary course of business, procured by the Commission in the exercise of its powers or performance of its functions shall, unless there is sufficient cause to the



contrary, be admissible and shall be proof of the contents thereof without calling the maker.

(5) Where the Court is satisfied, on balance of probability, that the property which is the subject of the application under subsection (1) constitutes proceeds of corruption, the Court may order—

- (a) forfeiture of the property;
- (b) forfeiture of another property belonging to the respondent of corresponding value;
- (c) payment of income or benefits derived from the property; or
- (d) payment of compensation.

(6) An application under this section shall be by way of Originating Motion.

Amendment of section 55 of Cap. 65.

**13.** Section 55 of the Anti-Corruption and Economic Crimes Act is amended—

- (a) in subsection (3), by inserting the words “civil proceedings and shall be” immediately after the words “section shall be”;
- (b) by inserting the following new subsection immediately after subsection (4)—

(4A) In proceedings under this section, where a person introduces new evidence under subsection (3)(b) that was not part of the explanation given under section 26, the Commission shall be afforded a reasonable opportunity to analyse and verify the evidence and file a response thereon.

Amendment of section 61 of Cap. 65.

**14.** The Anti-Corruption and Economic Crimes Act is amended in section 61, by adding the following new subsections immediately after subsection (2)—

Cap. 80.

(3) Notwithstanding the provisions of the Evidence Act, in any trial for corruption or economic crimes under this Act, or in any civil proceedings instituted by the Commission under this Act, any report, record or document from a public office, or any banker’s book or document obtained from a financial institution or produced in the ordinary course of business, procured by the Commission in the exercise of its powers or performance of its functions shall, unless there is sufficient cause to the contrary, be admissible and shall be proof of the contents thereof without calling the maker.

(4) Where a certificate is required to be produced in respect of any report, record or document from a public office, or any banker’s book or document obtained from a

financial institution or produced in the ordinary course of business, procured by the Commission in the exercise of its powers or performance of its functions under subsection (3), the certificate shall, unless there is sufficient cause to the contrary, be produced by the Commission without calling the maker.

Amendment of section 62 of Cap. 65.

**15.** Section 62 of the Anti-Corruption and Economic Crimes Act is amended—

(a) by deleting the proviso to subsection (1);

(b) by adding the following new subsection immediately after subsection (7)

(8) In this section, “suspension” means the temporary withdrawal and deprivation of powers and privileges in an office including accessing the office, discharging the duties of the office, participating in decision making in or by the office, supervising any subordinate officer and performing any of the functions related to that office.

Amendment of section 42A of Cap. 75.

**16.** Section 42A of the Criminal Procedure Code is amended in the opening words of subsection (2), by inserting the words “Anti-Corruption and Economic Crimes Act” immediately after the words “Proceeds of Crime and Anti-Money Laundering Act”.

Amendment of section 91 of Cap. 75.

**17.** Section 91 of the Criminal Procedure Code is amended in subsection (1)—

(a) by deleting the word “shall” and substituting therefor the words “may be in electronic form or”;

(b) by adding the following new proviso—

Provided that where the summons is in electronic form, it shall be authenticated by the electronic signature or similar device of the presiding officer of the court or by such other officer as the High Court may direct.

Long title of Cap. 79.

**18.** The long title of the Witness Protection Act is amended by inserting the words “and whistle-blowers” immediately after the words “protection of witnesses”.

Amendment of section 2 of Cap. 79.

**19.** Section 2 of the Witness Protection Act is amended—

(a) in the definition of “participant”, by inserting the words “whistle-blower or related person” immediately after the word “witness”;

(b) by deleting the definition of “protected person” and substituting therefor the following new definition—



“protected person” means a person placed under special protection in accordance with this Act and includes—

- (a) a witness and the witness’s related persons;  
and
- (b) a whistle-blower and the whistle-blower’s related persons;
- (c) by inserting the following new definitions in proper alphabetical sequence—

“former participant” means a witness who has been removed from the programme;

“redact” means to edit a document to remove, mask or delete confidential or privileged information;

“related person” means a person associated with a witness or whistle-blower including an immediate family member, a dependant, caregiver or any other person in a close personal relationship or business with the witness or whistle-blower whose association necessitates that person’s protection under this Act;

“whistle-blower” means a person who has personal knowledge or access to data, information, fact or event constituting improper conduct and who makes a public interest disclosure of that information in accordance with the Act or a person who assists such an individual and requires special protection on the basis of an existing threat or risk to that person’s life.

Amendment of section 3 of Cap. 79.

**20.** Section 3 of the Witness Protection Act is amended—

- (a) in subsection (1)
  - (i) in paragraph (a), by inserting the words “inquiry or other proceedings”;
  - (ii) in paragraph (b), by inserting the words “within or” immediately after the word “tribunal”
  - (iii) by adding the following new paragraph immediately after paragraph (b)—
    - (c) a whistle-blower;
- (b) in subsection (2), by inserting the words “or whistle-blower” immediately after the words “related to a witness” appearing in paragraph (a).

Insertion of a new section 3AA in Cap. 79.

**21.** The Witness Protection Act is amended by inserting the following new section immediately after section 3A—

Guiding principles.

**3AA.** The Agency shall, in the performance of its functions and

exercise of its powers, be guided by the following principles—

- (a) covert capability;
- (b) confidentiality;
- (c) institutional independence;
- (d) inter-agency collaboration and co-operation;
- (e) human-rights-based approach
- (f) special focus on vulnerable witnesses; and
- (g) accountability and transparency.

Amendment of section 3B of Cap. 79.

**22.** Section 3B of the Witness Protection Act is amended in subsection (1), by deleting the word “persons” appearing immediately after the words “on behalf of the State, to” and substituting therefor the words “witnesses and whistle-blowers”.

Amendment of section 3C of Cap. 79.

**23.** The Witness Protection Act is amended in section 3C—

- (a) in paragraph (a), by inserting the words “and whistle-blower” immediately after the words “maintain a witness”;
- (b) in paragraph (b), by adding the words “or whistle-blower management programme”;
- (c) in paragraph (d), by inserting the words “and whistle-blower” immediately after the words “measures on witness”;
- (d) by inserting the following new paragraph immediately after paragraph (d)—
  - (da) develop and enforce measures to ensure the confidentiality of witness and whistle-blower information and identity.

Amendment of section 3E of Cap. 79.

**24.** The Witness Protection Act is amended in section 3E—

- (a) by deleting subsection (7);
- (b) by deleting subsection (7A);
- (c) by deleting subsection (7B);
- (d) by adding the following new subsections immediately after subsection 12—

(13) Where the question of the removal of the Director arises on any of the grounds specified in subsection (6), the Chief Justice shall, by notice in the Gazette, appoint a tribunal to inquire into the matter and report to the Chief Justice and



recommend whether or not the Director ought to be removed from office.

(14) Where the question of the removal of the Director has been referred to a tribunal under subsection (13), the President shall suspend the Director from office.

(15) The tribunal appointed under subsection (13) shall consist of a chairperson and two other members selected by the Chief Justice from among persons who hold or have held office as judges of the High Court.

(16) The Chief Justice shall, on receipt of the report under subsection (13), communicate the President.

(17) Where the tribunal recommends that the Director ought not to be removed from office, the President shall lift the suspension and reinstate the Director in office.

(18) The Director shall be afforded appropriate opportunity to defend himself or herself before the question of the Director's removal from office is referred to the tribunal and where the tribunal has commenced proceedings, during the proceedings.

Amendment of section 3F of Cap. 79.

**25.** Section 3F of the Witness Protection Act is amended—

- (a) in subsection (1), by deleting the words “Attorney-General” and substituting therefor the words “Advisory Board”;
- (b) in the opening words of subsection (5), by deleting the words “Cabinet Secretary” and substituting therefor the words “Advisory Board”.

Amendment of section 3I of Cap. 79.

**26.** Section 3I of the Witness Protection Act is amended—

- (a) by deleting the marginal note and substituting therefor the following new marginal note—  
“Protected Persons’ Liability and Compensation Fund”;
- (b) in subsection (1), by deleting the word “Victim” and substituting therefor the words “Protected Persons’ Liability and”;
- (c) in subsection (2) by inserting the following new paragraph immediately after paragraph (d)—
  - (da) a percentage of such monies recovered by the Government as a result of data, information,

fact or event constituting improper conduct reported by a whistle-blower.

Amendment of section 3N of Cap. 79.

**27.** Section 3N of the principal Act is amended by adding the following new subsections immediately after subsection (3)—

(4) Any person authorized to carry a concealed official firearm and ammunition under subsection (3) shall not—

- (a) undertake paramilitary activities;
- (b) commit an act of violence against any other person; or
- (c) participate in any activity for the furtherance of the interests of a political party or political organization, whether inside Kenya or outside Kenya.

(5) The Cabinet Secretary, in consultation with the Cabinet Secretary responsible for matters relating to internal security, shall make Regulations for the control, issuance, storage and use of firearms and ammunition under this section.

Amendment of section 3Q of Cap. 79.

**28.** Section 3Q of the Witness Protection Act is amended in subsection (1), by inserting the words “and whistle-blower” immediately after the words “formation of witness” appearing in paragraph (a).

Amendment of section 3V of Cap. 79.

**29.** Section 3V of the Witness Protection Act is amended—

- (a) deleting subsection (1) and substituting therefor the following new subsection—

(1) The Committee shall receive, consider and determine appeals from decisions of the Director on—

- (a) the admission or refusal to admit a person into the programme;
- (b) the termination or suspension of the protection of a person in the programme; or
- (c) any other issue related to the management or welfare of a protected person.

- (b) by inserting the following new subsection immediately after subsection (1)—

(1A) Proceedings before the Committee shall take into consideration the covert nature and sensitivity of witness and whistle-blower protection practices.

- (c) by adding the following new subsection immediately after subsection (2)—



(3) Proceedings before the High Court under subsection (2) shall be conducted *in camera*.

Amendment of section 4 of Cap. 79.

**30.** Section 4 of the Witness Protection Act is amended—

- (a) in subsection (1), by inserting the words “and whistle-blower” immediately after the words “maintain a witness”;
- (b) in subsection (2)—
  - (i) by inserting the following new paragraphs immediately after paragraph (c)—
    - (ca) confidentiality of identity;
    - (cb) confidentiality of information;
    - (cc) protection against reprisal;
    - (cd) immunity from civil or criminal liability;
  - (ii) by deleting paragraph (d) and substituting therefor the following new paragraph—
    - (d) any other special protection measures as may be applicable and appropriate.

Insertion of new section 4A in Cap. 79.

**31.** The Witness Protection Act is amended by inserting the following new sections immediately after section 4—

Psychosocial support.

**4A.** The Agency shall ensure that a protected person receives necessary psychosocial support to address trauma arising from an incident, threats or retaliation.

Confidential property registration.

**4B.** (1) The Agency shall establish a secure system to secure and register the property of protected persons and safeguard the property from seizure or encroachment.

(2) The Agency shall not give access to the information contained in the system established under subsection (1) to an unauthorised person except on the order of a court.

Special trusts for protected persons.

**4C.** (1) The Agency may assist a protected person in the establishment of a trust safeguard the financial and personal welfare of the protected person.

(2) Any trust established under subsection (1) shall be recognised as a special trust and the Agency shall not give access to information relating to

the trust to any person except on the order of a court.

Exemptions for transactions by protected persons.

**4D.** (1) Any transaction relating to a trust account or the transfer of the property of a protected person shall be exempted from reporting requirements under any relevant laws.

(2) The Financial Reporting Centre shall assist, facilitate and collaborate with the Agency to oversee the lawful transactions by a protected person.

Amendment of section 5 of Cap. 79.

**32.** Section 5 of the Witness Protection Act is amended—

(a) in subsection (2)—

- (i) by inserting the words “or whistle-blower” immediately after the words “the witness” appearing in paragraph (a);
- (ii) by inserting the words “or whistle-blower” immediately after the words “the witness” appearing in the opening words of paragraph (c);

(b) in subsection (3), by inserting the following new paragraph immediately after paragraph (a)—

(aa) the whistle-blower;

(c) in subsection (3), by adding the following new paragraphs immediately after paragraph (d)—

- (e) the Court on its own motion based on information obtained during proceedings; or
- (f) the Commission on Administrative Justice; or
- (g) the Ethics and Anti-Corruption Commission.

(d) in subsection (6)—

- (i) by inserting the words “or whistle-blower” immediately after the words “guardian of a witness” appearing in paragraph (a);
- (ii) in paragraph (b), by inserting the word “whistle-blower”—
  - (A) immediately after the words “after the witness”;
  - (B) immediately after the words “require the witness”;

(e) in subsection (7), by inserting the word “whistle-blower” immediately after the words “inclusion of a witness”;



Insertion of new section 5A in Cap. 79.

**33.** The Witness Protection Act is amended by inserting the following new section immediately after section 5—

Inclusion of whistle-blowers to the programme.

**5A.** (1) A whistle-blower may be included in the whistle-blower management programme after making a disclosure of improper conduct or a public interest disclosure and a determination that the safety or wellbeing of the whistle-blower is at a significant risk because of that disclosure.

(2) The Agency may establish mechanisms for the referral of witnesses and whistle-blowers to the Agency by any other law enforcement agency.

Insertion of new section 6A in Cap. 79.

**34.** The Witness Protection Act is amended by inserting the following new section immediately after section 6—

Admission criteria for whistle-blowers.

**6A.** (1) In deciding whether to include a whistle-blower in the whistle-blower management programme, the Director shall have regard to whether—

- (a) there is credible evidence that the life of the whistle-blower is at serious risk due to the whistle-blower's disclosure;
- (b) the disclosure by the whistle-blowers serves a significant public interest;
- (c) the whistle-blower has provided substantial co-operation with a law enforcement or regulatory authority;
- (d) the risk to the whistle-blower cannot be mitigated without special protection; and
- (e) other matters as the Director considers relevant and appropriate are required.

(2) The Director shall not include a whistle-blower in the programme if the Director does not, in his opinion, have enough information to assess the matters referred to in this section in relation to the witness.

Amendment of section 9 of Cap. 79.

**35.** Section 9 of the Witness Protection Act is amended—

- (a) in subsection (1), by inserting the words “or whistle-blower” immediately after the words “a witness”;
- (b) in subsection (2)—
  - (i) by inserting the words “or whistle-blower” immediately after the words “the witness”;
  - (ii) by inserting the words “or whistle-blower” immediately after the words “before the witness”.

Amendment of heading of Part III of Cap. 79.

**36.** The heading of Part III of the Witness Protection Act is amended by inserting the words “AND WHISTLE-BLOWERS” immediately after the word “WITNESSES”.

Amendment of section 13 of Cap. 79.

**37.** Section 13 of the Witness Protection Act is amended—

- (a) in paragraph (a), by inserting the words “or whistle-blower” immediately after the words “allow a witness”;
- (b) in paragraph (b), by inserting the words “or whistle-blower” immediately after the words “the witness”.

Amendment of section 14 of Cap. 79.

**38.** Section 14 of the Witness Protection Act is amended in subsection (1)—

- (a) by inserting the words “or whistle-blower” immediately after the words “of a witness” appearing in paragraph (a);
- (b) by inserting the words “or whistle-blower” immediately after the words “of a witness” appearing in paragraph (b);
- (c) by inserting the words “or whistle-blower” immediately after the words “the witness” appearing in paragraph (c).

Repeal and replacement of section 15 of Cap. 79.

**39.** The principal Act is amended by repealing section 15 and substituting therefor the following new section—

Court proceedings under the Act.

**15.** (1) All proceedings of the High Court under this Part shall be conducted *ex parte* and *in camera*.

(2) All business of the High Court under this Act shall be conducted *in camera*.

(3) Court documents relating to any proceedings under this Part, including digital documents, shall be classified as secret and shall only be accessible by the Court and the Agency.



Insertion of new section 15A in Cap. 79.

**40.** The principal Act is amended by inserting the following new section immediately after section 15—

Redaction.

**15A.** The High Court may, on the application of the Agency or on its own motion, direct that a document that was used in any proceedings under this Act be redacted in respect of identifying information of a protected person.

Amendment of section 16 of cap. 79.

**41.** Section 16 of the Witness Protection Act is amended—

- (a) by deleting the word “protection” appearing in the opening words;
- (b) by inserting the words “or a whistle-blower” immediately after the words “as a witness” appearing in the opening words of paragraph (a);
- (c) by inserting the words “or whistle-blower” immediately after the words “being a witness” appearing in paragraph (b);
- (d) by inserting the words “or whistle-blower” immediately after the words “by the witness” appearing in paragraph (c).

Amendment of section 17 of Cap. 79.

**42.** Section 17 of the Witness Protection Act is amended in subsection (1), by deleting the expression “section 14(1)(a) or (b)” and substituting therefor the expression “section 14”.

Amendment of section 29A of Cap. 79.

**43.** Section 29A of the Witness Protection Act is amended—

- (a) in subsection (1), by inserting the words “or whistle-blowers” immediately after the words “Kenyan witnesses” appearing in paragraph (a);
- (b) in subsection (2), by inserting the words “or whistle-blowers” immediately after the words “the witnesses” appearing in paragraph (b);
- (c) by adding the following new subsection immediately after subsection (2)—

(3) In this section, “competent authority” means the legal entity or agency of a sending country that is responsible for witness protection.

Amendment of section 29B of Cap. 79.

**44.** Section 29B of the Witness Protection Act is amended—

- (a) in subsection (2), by inserting the words “or whistle-blower” immediately after the words “admit the witness”;
- (b) in the opening words of subsection (3), by inserting the words “or whistle-blower” immediately after the words “foreign witness”.

- (c) in subsection (4), by inserting the words “or whistle-blower” immediately after the words “foreign witness”.

Amendment of section 29C of Cap. 79.

**45.** Section 29C of the Witness Protection Act is amended—

- (a) in subsection (1), by inserting the words “or whistle-blower” immediately after the words “admit any witness”;
- (b) in subsection (2), by inserting the words “or whistle-blowers” immediately after the words “foreign witnesses”.

Amendment of section 30 of Cap. 79.

**46.** Section 30 of the Witness Protection Act is amended in paragraph (a), by deleting the words “witness or participant” and substituting therefor the words “witness, whistle-blower or participant” immediately after the words “has been a witness”.

Amendment of section 30F of Cap. 79.

**47.** Section 30F of the Witness Protection Act is amended in subsection (1), by inserting the words “or whistle-blower” immediately after the words “prevent a witness”.

Amendment of section 33 of Cap. 79.

**48.** Section 33 of the Witness Protection Act is amended—

- (a) in the marginal note, by adding the words “and whistle-blowers” immediately after the word “witness”;
- (b) in the opening words of subsection (1), by inserting the words “or whistle-blower” immediately after the words “against a witness”;
- (c) in subsection (1), by inserting the words “or whistle-blower” immediately after the words “by the witness” appearing in paragraph (b);
- (d) in subsection (2), by inserting the words “or whistle-blower” immediately after the words “by the witness”;
- (e) in subsection (3), by inserting the words “or whistle-blower” immediately after the words “a witness”.

Amendment of section 6 of Cap. 79B.

**49.** Section 6 of the Anti-Bribery Act is amended—

- (a) in subsection (1)—
  - (i) by deleting the words “agrees to receive” appearing in paragraph (a);
  - (ii) by deleting the words “recipient of the bribe requests for, agrees to receive or accepts a financial or other advantage and the request, agreement or acceptance itself” appearing in paragraph (b) and substituting therefor the



words “request and receipt of the financial advantage”;

(iii) by deleting the words “or as a consequence of a person requesting for, agreeing to receive or accepting a financial or other advantage” appearing in paragraph (c) and substituting therefor the words “the financial advantage”;

(b) in subsection (2), by deleting the words “requests for, agrees to receive or receives or intends to request for, agree to receive or to accept” appearing in paragraph (a) and substituting therefor the word “receives”.

Insertion of new section 8A in Cap. 79B.

**50.** The Anti-Bribery Act is amended by inserting the following new section immediately after section 8—

Influence peddling.

**8A.** A person commits an offence if that person—

- (a) gives or agrees to influence, or gives or offers an advantage to another person, to cause a public officer to use that public officer’s influence, real or fictitious, to obtain any work, employment, a contract or other benefit from a public body;
- (b) gives, agrees to give or offers an advantage to another person to use his or her influence, real or fictitious, to obtain work, employment, a contract or other benefit from a public body;
- (c) solicits, accepts or obtains an advantage from another person for himself or herself or for any other person, in order to make use of his or her influence, real or fictitious, to obtain work, employment, a contract or other benefit from a public body; or
- (d) being a public officer, solicits, accepts or obtains an advantage from another person for himself or herself or for any other person, in order to make use of his or her influence, real or fictitious, to obtain work, employment, a contract or other benefit from a public body.

Amendment of section 18 of Cap. 79B.

**51.** The Anti-Bribery Act is amended in section 18, by deleting subsection (8).

Insertion of a new section of Cap. 185B.

**52.** The Public Officer Ethics Act is amended by inserting the following new section immediately after section 26—

Verification of declarations.

**26A.** The responsible Commission shall verify the declaration made by a public officer in real time, and any public officer found to have made a false declaration commits an offence, and shall be liable on conviction, to the penalty provided for under section 32.

Amendment of section 4 of Cap. 185C.

**53.** Section 4 of the Leadership and Integrity Act is amended—

(a) in subsection (4), by inserting the words “or an authorised officer” immediately after the words “public entity”;

(b) by deleting subsection (5) and substituting therefor the following new subsection—

(5) Where a public entity or an authorised officer fails to comply with the requirements of subsection (4), the Commission may apply to the High Court for an order requiring the public entity or authorised officer to comply.

Insertion of new section 12B in Cap. 185C.

**54.** The Leadership and Integrity Act is amended by inserting the following new section immediately after section 12A—

Commission to verify self-declarations.

**12B.** Upon receiving a self-declaration form under section 12A, the Commission shall verify the details submitted and any other relevant information and make appropriate recommendations to a recruiting entity.

Amendment of section 13 of Cap. 185C.

**55.** Section 13 of the Leadership and Integrity Act is amended in subsection (2), by deleting the phrase “Independent Electoral and Boundaries Commission” and substituting therefor the phrase “Ethics and Anti-Corruption Commission”; and

Insertion of new section 13A in Cap. 185C.

**56.** The Leadership and Integrity Act is amended by inserting the following new section immediately after section 13—

Integrity verification under Chapter Six of the Constitution.

**13A.** (1) Any recruiting entity or the Independent Electoral and Boundaries Commission may request the Commission to furnish it with information relating to the suitability of a person to hold a State office or public office.

(2) The Commission may furnish the recruiting entity or Independent Electoral



and Boundaries Commission with a report containing appropriate recommendations in respect of a request under subsection (1).

(3) Before furnishing the recruiting entity or Independent Electoral and Boundaries Commission with a report under subsection (2), the Commission may consult a law enforcement agency, professional association, public body or any other relevant agency in respect of a request under subsection (1).

(4) The recruiting entity or the Independent Electoral and Boundaries Commission shall consider the recommendations of the Commission contained in the report furnished under subsection (2) in determining the suitability of the person to hold a State office or public office.

(5) The Commission shall, at least once in each year, publish a list of all persons disqualified from holding a State office or public office.

Amendment of section 19 of Cap. 185C.

**57.** Section 19 of the Leadership and Integrity Act is amended by deleting subsection (6) and substituting therefor the following new subsection—

(6) Without prejudice to the foregoing provisions of this section, a State officer or public officer who—

- (a) fails to declare the operation or control of a bank account outside Kenya; or
- (b) fails to submit to the Commission an annual statement of a bank account outside Kenya he or she has been approved to open, operate or control,

commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or imprisonment for a term not exceeding five years or to both.

Amendment of section 30 of Cap. 185C.

**58.** Section 30 of the Leadership and Integrity Act is amended—

- (a) by renumbering the existing provision as subsection (1);
- (b) by adding the following new subsection—

(2) A person who falsifies any record or misrepresents information to the public commits an offence.

Amendment of section 31 of Cap. 185C.

**59.** Section 31 of the Leadership and Integrity Act is amended by adding the following new subsection immediately after subsection (2)—

(3) A State officer who held dual citizenship before election or appointment to a State office who fails or refuses to renounce his or her other citizenship upon election or appointment as required under subsection (2), may be removed from office on application by any person to the High Court.



## **MEMORANDUM OF OBJECTS AND REASONS**

The principal object of the Bill is to amend the Ethics and Anti-Corruption Act (Cap. 7H), the Anti-Corruption and Economic Crimes Act (Cap. 65), the Criminal Procedure Code (Cap. 75), the Witness Protection Act (Cap. 79), the Anti-Bribery Act (Cap. 79B), the Evidence Act (Cap. 80), the Public Officer Ethics Act (Cap. 185B) and the Leadership and Integrity Act (Cap. 185C); and for connected purposes.

**Clause 1 of the Bill** sets out the short title.

**Clause 2 of the Bill** proposes to amend the section 2 of the Anti-Corruption and Economic Crimes Act (Cap. 7H) in the definition of “corruption” to align it with the provisions of the Act and “public body” to align it with the system of devolved government, and to include a new definition of “proceeds of corruption”.

**Clause 3 of the Bill** proposes to amend section 4 of the Anti-Corruption and Economic Crimes Act to insert a new subsection requiring all anti-corruption and economic offences trials to be concluded within six months after they commence.

**Clause 4 of the Bill** proposes to insert a new section 4A in the Anti-Corruption and Economic Crimes to provide for the time periods within which appeals to the High Court and Court of Appeal shall be heard and determined after the filing of the notice of appeal.

**Clause 5 of the Bill** proposes to insert a new section 23A in the Anti-Corruption and Economic Crimes to provide for the power of the Commission to compel the attendance of a witness at a police station, the Commission’s offices or the offices of a national government administrative officer to provide information relevant to an investigation under the Act.

**Clause 6 of the Bill** provides for the amendment of section 28 of the Anti-Corruption and Economic Crimes Act to do away with the requirement of an order of the Court to compel a person to provide records or property and instead compel such production by notice from the Commission.

**Clause 7 of the Bill** proposes to amend section 29 of the Anti-Corruption and Economic Crimes Act to provide for the power of the Commission to seize records, property or things required to be produced by a person in addition to the power to search for them.

**Clause 8 of the Bill** proposes to insert a new section 29A in the Anti-Corruption and Economic Crimes Act to provide for the power of the Commission to inspect bank accounts, accounts held in non-banking financial institutions, mobile money accounts, money transfer accounts and call data and to apply to the court for orders prohibiting transactions thereon for a period of thirty days.

**Clause 9 of the Bill** proposes to insert a new section 36A in the Anti-Corruption and Economic Crimes to require the Director of Public Prosecutions prepare quarterly reports setting out the number of investigations report submitted by the Commission, the prosecutions completed and the outcomes thereof, and such other statistical information relating to those reports as the Director considers appropriate. Furthermore, if the Director of Pubic Prosecutions does not initiate prosecution after receiving a report from the Ethics and Anti-Corruption Commission under



section 35, the Director shall specify in the report to the National Assembly the reasons thereof. The quarterly reports shall be published in the *Gazette* and submitted to the National Assembly after publication.

**Clause 10 of the Bill** proposes to amend section 47A of the Anti-Corruption and Economic Crimes Act to include procuring, counselling or aiding a person in the commission of an offence under the Act as part of the conspiracy to commit the offence.

**Clause 11 of the Bill** proposes to insert a new section 48A in the Anti-Corruption and Economic Crimes to provide that a person convicted of an offence under the Act relating to procurement shall be debarred for ten years.

**Clause 12 of the Bill** proposes to insert a new section 54A in the Anti-Corruption and Economic Crimes to provide for the procedure for the recovery of property that is the proceeds of crime, or the payment of compensation.

**Clause 13 of the Bill** proposes to amend section 55(3) of the Anti-Corruption and Economic Crimes Act to insert words to the effect that proceedings for the forfeiture of unexplained assets shall be civil proceedings and to insert a new subsection (4A) to afford the Commission sufficient time to analyse new evidence introduced by a respondent and file a response thereon.

**Clause 14 of the Bill** proposes to amend section 61 of the Anti-Corruption and Economic Crimes Act to provide for the production of records ion evidence, and certificates thereon, by the Commission without calling the maker of the records to give evidence.

**Clause 15 of the Bill** proposes to amend section 62 of the Anti-Corruption and Economic Crimes Act to provide for the meaning of “suspension”.

**Clause 16 of the Bill** proposes to amend section 42A of the Criminal Procedure Code to provide that disclosures by the prosecution shall be made to the accused person at least thirty days before the commencement of the trial.

**Clause 17 of the Bill** proposes to amend section 91 of the Criminal Procedure Code to include words whose effect would be to provide for electric forms of summons issued by courts under the Criminal Procedure.

**Clause 18 of the Bill** proposes to amend the long title of the Witness Protection Act to include “whistle-blowers” among the protected persons to whom the Act applies.

**Clause 19 of the Bill** proposes to amend section 2 of the Witness Protection Act to include a definition of “whistle-blower”, that is a person who has personal knowledge or access to data, information, fact or event constituting improper conduct and who makes a public interest disclosure of that information in accordance with the Act or a person who assists such an individual and requires special protection on the basis of an existing threat or risk to that person’s life.

**Clause 20 of the Bill** proposes to amend section 3 of the Witness Protection Act to provide that the Act shall apply to a whistle-blower and to provide that whistle-blowers qualify for protection under the Act.



**Clause 21 of the Bill** proposes to insert a new section 3AA in the Witness Protection Act to provide for the guiding principles of the Act.

**Clause 22 of the Bill** proposed to amend section 3B of the Witness Protection Act to provide that the object and purpose of the Agency include providing the framework and procedures for giving special protection, on behalf of the State, to whistle-blowers.

**Clause 23 of the Bill** proposes to amend section 3C of the Witness Protection Act to provide that the functions of the Agency include the establishment of a whistle-blower protection programme; the criteria for the admission of whistle-blowers in the programme; and the determination of the protection measures for whistle-blowers.

**Clause 24 of the Bill** proposes to amend section 3E Witness Protection Act by deleting subsections (7), (7A) and (7B), and inserting new subsections (13), (14), (15), (16), (17) and (18) to provide for the procedure for the removal of the Director of the Agency.

**Clause 25 of the Bill** provides for the amendment of section 3F of the Witness Protection Act to provide for the role of the Advisory Board in the recruitment of the staff of the Agency.

**Clause 26 of the Bill** proposes to amend section 3I of the Witness Protection Act to provide that one of the sources of the funds for the Victim Compensation Fund shall be a percentage of such monies recovered by the Government as a result of data, information, fact or event constituting improper conduct reported by a whistle-blower.

**Clause 27 of the Bill** proposes to amend section 3N of the Witness Protection Act to prohibit persons authorised to carry firearms and ammunition from carrying out certain activities; and to provide for the making of Regulations in respect of the issuance, storage and use of firearms and ammunition.

**Clause 28 of the Bill** proposes to amend section 3Q of the Witness Protection Act to provide that one of the functions of the Advisory Board shall be to advise the Victim Protection Agency on the formulation of witness protection policies in accordance with the current law and international best practices.

**Clause 29 of the Bill** proposes to amend section 3V of the Witness Protection Act to provide appeals from the decisions of the Director.

**Clause 30 of the Bill** proposes to amend section 4 of the Witness Protection Act to extend the protective actions under the Witness Protection Programme to whistle-blowers.

**Clause 31 of the Bill** proposes to insert new sections 4A, 4B, 4C and 4D in the Witness protection Act to provide for psychosocial support for protected persons; the security and registration of the property of protected persons; the establishment of special trusts for protected persons and the exemption of certain transactions by protected persons from reporting requirements.

**Clause 32 of the Bill** proposes to amend section 5 of the Witness Protection Act to provide for the inclusion of whistle-blowers in the Witness Protection Programme.



**Clause 33 of the Bill** proposes to insert a new section 5A in the Witness Protection Act on the inclusion of whistle-blowers to the programme.

**Clause 34 of the Bill** proposes to insert a new section 6A in the Witness Protection Act to provide for the criteria to be considered when admitting a person in the whistle-blower protection programme.

**Clause 35 of the Bill** proposes to amend section 9 of the Witness Protection Act to provide for temporary protection of whistle-blowers pending full assessment.

**Clause 36 of the Bill** proposes to amend the heading of Part III of the Witness Protection Act to include the word “Whistle-blower”.

**Clause 37 of the Bill** proposes to amend section 13 of the Witness Protection Act to provide for the provision identifying documents to whistle-blowers.

**Clause 38 of the Bill** proposes to amend section 14 of the Witness Protection Act to provide for the application, by the Agency, of a court order to make changes to a register of births, marriages, or deaths, in respect of a whistle-blower and the issuance of a new identity document to a whistle-blower.

**Clause 39 of the Bill** proposes to repeal and replace section 15 to the Witness Protection Act to provide for court proceedings under the Act.

**Clause 40 of the Bill** proposes to insert a new section 15A in the Witness Protection Act to provide for the redaction of sensitive information from documents used in proceedings under the Act.

**Clause 41 of the Bill** proposes to amend section 16 of the Witness Protection Act regarding the power of the High Court to make a protection order in respect of a whistle-blower

**Clause 42 of the Bill** proposes to amend section 17 of the Act to clarify that to applies to section 14 of the Act.

**Clause 43 of the Bill** proposes to amend section 29A of the Witness Protection Act to provide for the admission of whistle-blowers from foreign countries on reciprocal basis.

**Clause 44 of the Bill** proposes to amend section 29B of the Witness Protection Act to extend the procedure of admission of foreign witnesses in the protection programme to the admission of foreign whistle-blowers.

**Clause 45 of the Bill** proposes to amend section 29C of the Witness Protection Act to provide for the admission of whistle-blowers in the protection programme at the request of an international court, or tribunal, to which Kenya is a party.

**Clause 46 of the Bill** proposes to amend section 30 of the Witness Protection Act to provide for the protection of confidential information relating to whistle-blowers.

**Clause 47 of the Bill** proposes to amend section 30F of the Witness Protection Act to provide for the protection of whistle-blowers from intimidation, harassment, obstruction, threats, hindrance or prevention of the whistle-blower with intention to subvert the course of justice.



**Clause 48 of the Bill** proposes to amend section 33 of the Witness Protection Act to protect whistle-blowers from any action or proceeding, including a disciplinary action, for assisting courts of law or enforcement agencies.

**Clause 49 of the Bill** proposes to amend section 6 of the Anti-Bribery Act to clarify that the offence relates to soliciting and receiving bribes.

**Clause 50 of the Bill** proposes to insert a new section 8A in the Anti-Bribery Act (hereinafter referred to as the “principal Act”) to provide for the offence of influence peddling.

**Clause 51 of the Bill** proposes to amend section 18 of the principal Act which deals with penalties by deleting subsection (8). The penalty contained in subsection (11) is sufficient in this regard.

**Clause 52 of the Bill** proposes the amendment of the Public Officer Ethics Act to include a new section 26A to provide for the deterrence of corrupt practices by thoroughly scrutinizing the assets of public officers and imposing a penalty.

**Clause 53 of the Bill** proposes to amend section 4 of the Leadership and Integrity Act to extend the application of that section to authorised persons in addition to public entities.

**Clause 54 of the Bill** proposes to amend the Leadership and Integrity Act by inserting a new section 12B to require the Ethics and Anti-Corruption Commission to verify the details of a self-declaration by a State officer.

**Clause 55 of the Bill** proposes to amend section 13 of the Leadership and Integrity Act by inserting a new subsection to require the Commission to verify the self-declaration submitted to the Commission by a person who wishes to be elected to a State office.

**Clause 56 of the Bill** proposes to insert a new section 13A in the Leadership and Integrity Act to provide a procedure for the request by a recruiting entity and Independent Electoral and Boundaries Commission to verify the integrity of a candidate for purposes of Chapter Six of the Constitution.

**Clause 57 of the Bill** proposes to amend section 19 of the Leadership and Integrity Act to clarify that a State officer commits an offence if he fails to declare the operation or control of a foreign bank account or to submit annual statement on the foreign bank account he or she has been authorised to open, operate and control.

**Clause 58 of the Bill** proposes to amend section 30 of the Leadership and Integrity Act to expressly provide that it is an offence for a State officer to falsify any record or misrepresent information to the public.

**Clause 59 of the Bill** proposes to amend section 31 of the Leadership and Integrity Act to provide that any person may apply to the High Court for the removal of a State officer who held dual citizenship before election or appointment to a State office who fails or refuses to renounce his or her other citizenship upon election or appointment as required.

Dated the ....., 2024.

**DORCAS A. ODUOR,**  
**Attorney-General.**



*Section 2 of Cap. 65 which it is intended to amend—*

"corruption" means—

- (a) an offence under any of the provisions of sections 39, 44, 46 and 47;
- (b) bribery;
- (c) fraud;
- (d) embezzlement or misappropriation of public funds;
- (e) abuse of office;
- (f) breach of trust; or
- (g) an offence involving dishonesty—
  - (i) in connection with any tax, rate or impost levied under any Act; or
  - (ii) under any written law relating to the elections of persons to public office;

"public body" means—

- (a) the Government, including Cabinet, or any department, service or undertaking of the Government;
- (b) the National Assembly or the Parliamentary Service;
- (c) a local authority;
- (d) any corporation, council, board, committee or other body which has power to act under and for the purposes of any written law relating to local government, public health or undertakings of public utility or otherwise to administer funds belonging to or granted by the Government or money raised by rates, taxes or charges in pursuance of any such law; or
- (e) a corporation, the whole or a controlling majority of the shares of which are owned by a person or entity that is a public body by virtue of any of the preceding paragraphs of this definition;

*Section 28 of Cap. 65 which it is intended to amend—*

## **28. Production of records and property**

- (1) The Commission may apply, with notice to affected parties, to the court for an order to—
  - (a) require a person, whether or not suspected of corruption or economic crime, to produce specified records in his possession that may be required for an investigation; and
  - (b) require that person or any other to provide explanations or information within his knowledge with respect to such records, whether the records were produced by the person or not.

*Section 29 of Cap. 65 which it is intended to amend—*

## **29. Search of premises**

- (1) The Commission may, with a warrant, enter upon and search any premises for any record, property or other thing reasonably suspected to be in or on the premises and that has not been produced by a person pursuant to a requirement under the foregoing provisions of this Part.

*Section 30 of the Cap. 65 which it is intended to repeal—*

**30. Admissibility of things produced or found**

Where the notice is directed at a person under investigation or a person who has been charged with an offence of corruption or an economic crime, any statement, record or information, given pursuant to such notice, shall not be given in evidence against such person in any criminal proceedings except where such person is charged with knowingly or recklessly giving false information.

*Section 47A of Cap. 65 which it is intended to amend—*

**47A. Attempts, conspiracies, etc.**

(4) A person who incites another to do any act or make any omission of such a nature that, if that act were done or the omission were made, an offence of corruption or an economic crime would thereby be committed, is guilty of an offence.

*Section 55 of Cap. 65 which it is intended to amend—*

**55. Forfeiture of unexplained assets**

(3) Proceedings under this section shall be commenced in the High Court by way of originating summons.

*Section 62 of Cap. 65 which it is intended to amend—*

**62. Suspension, if charged with corruption or economic crime**

(1) A public officer or state officer who is charged with corruption or economic crime shall be suspended, at half pay, with effect from the date of the charge until the conclusion of the case:

Provided that the case shall be determined within twenty-four months.

*Section 42A of Cap. 75 which it is intended to amend—*

**42A. Disclosure by prosecution**

(1) Pursuant to Article 50(2)(j) of the Constitution, the prosecution shall inform the accused person in advance of the evidence that the prosecution intends to rely on and ensure that the accused person has reasonable access to that evidence.

*Section 91 of Cap 75 which it is intended amend—*

**91. Form and contents of summons**

(1) Every summons issued by a court under this Code shall be in writing, in duplicate, signed and sealed by the presiding officer of the court or by such other officer as the High Court may from time to time by rule direct.

*Section 3 of Cap. 79 which it is proposed to amend—*

**3. Application**

(1) This Act shall apply to—

(a) a witness in criminal proceedings; and

(b) a witness who is required to give evidence in a prosecution or inquiry held before a court, commission, or tribunal outside Kenya—



(i) for the purposes of any treaty or agreement to which Kenya is a party;  
or

(ii) in circumstances prescribed by Regulations made under this Act.

(2) A person is a protected person for purposes of this Act if that person qualifies for protection—

(a) by virtue of being related to a witness;

(b) on account of a testimony given by a witness; or

(c) for any other reason which the Director may consider sufficient.

*Section 3B of Cap. 79 which it is proposed to amend—*

### **3B. Object and purpose of the Agency**

(1) The object and purpose of the Agency is to provide the framework and procedures for giving special protection, on behalf of the State, to persons in possession of important information and who are facing potential risk or intimidation due to their co-operation with prosecution and other law enforcement agencies.

(2) The nature of the special protection referred to in subsection (1) shall entail the power of the Agency to acquire, store, maintain and control firearms and ammunition and electronic or other necessary equipment, despite the provisions of any other law.

*Section 3C which it is proposed to amend—*

### **3C. Functions of the Agency**

The functions of the Agency shall be to—

(a) establish and maintain a witness protection programme;

(b) determine the criteria for admission to and removal from the witness protection programme;

(c) determine the type of protection measures to be applied;

(d) advise any Government Ministry, department, agency or any other person on the adoption of strategies and measures on witness protection;  
and

(e) perform such other functions as may be necessary for the better carrying out of the purpose of this Act.

*Section 3G of Cap. 79 which it is proposed to amend—*

### **3G. Independence of the Agency**

(1) The Agency shall have all the powers necessary or expedient for the performance of its functions under this Act without interference from any authority.

(2) The Agency shall for the purposes of accountability, report to the Attorney-General on the overall fulfilment of its object and purpose and the performance of its functions under this Act.

*Section 3Q of Cap. 79 which it is proposed to amend—*

### **3Q. Functions and Powers**

(1) The principal function of the Board shall be to advise the Agency generally on the exercise of its powers and the performance of its functions under the Act and shall, in particular but without prejudice to the generality of the foregoing—

- (a) advise on the formulation of witness protection policies in accordance with the current law and international best practices;
- (b) have general oversight on the administration of the Agency;
- (c) approve the budgetary estimates of the Agency; and
- (d) perform any other functions as may be conferred by this Act or any other law.

*Section 4 of Cap. 79 which it is proposed to amend—*

#### **4. Protective action**

...

(2) Without prejudice to the generality of subsection (1), the action taken under subsection (1) may include but not be limited to—

- (a) physical and armed protection;
- (b) relocation within or outside Kenya;
- (c) change of identity; or
- (d) any other measure necessary to ensure the safety of a protected person.

*Section 5 of Cap. 79 which it is proposed to amend—*

#### **5. Inclusion in witness protection programme**

(1) The decision to admit into or exclude any person from the programme, shall be the responsibility of the Director.

(2) A person may be included in the programme only if—

- (a) the Director has decided that the witness be so included;
- (b) the person agrees to be included; and
- (c) a memorandum of understanding in accordance with section 7 is signed by the witness or by—
  - (i) a parent or guardian of the person if the person is under the age of eighteen years; or
  - (ii) a guardian or other person who is usually responsible for the care and control of the person, if the person otherwise lacks legal capacity to sign it.

(3) Where a person has not been offered protection under the programme, a written request for his inclusion in the programme may be made to the Director by—

- (a) the witness; or
- (b) a law enforcement agency;
- (c) a public prosecutor; or
- (d) a legal representative or any other intermediary.

...



(6) Where—

(a) a parent or guardian of a witness signs a memorandum of understanding because the witness was under the age of eighteen; and

(b) the memorandum is still operating after the witness turns eighteen, the Agency may require the witness to sign the memorandum.

*Section 9 of Cap. 79 which it is proposed to amend—*

### **9. Temporary protection pending full assessment**

(1) The Director may include in the programme on a temporary basis a witness who, in the Director's opinion, is in urgent need of protection.

(2) The Director may require an interim memorandum of understanding to be signed by or on behalf of the witness.

*The heading of Part III of Cap. 79 which it is proposed to amend—*

## **PART III – PROTECTING WITNESSES FROM IDENTIFICATION**

*Section 13 of Cap. 79 which it is proposed to amend—*

### **13. Identifying documents**

Without limiting the powers of the Director under section 4, he may apply for any documents necessary—

(a) to allow a witness to establish a new identity;

(b) otherwise to protect the witness; or

(c) to restore a former participant's former identity.

*Section 14 of Cap. 79 which it is proposed to amend—*

### **14. Application for court order**

(1) The Agency may, in a manner to be prescribed by rules of court, apply to the High Court for an order authorising a specified person, or a person of a specified class or description—

(a) to make a new entry in a register of births or a register of marriages in respect of a witness;

(b) to make a new entry in a register of deaths in respect of a witness or a relative (by blood or marriage) of a witness; or

(c) to issue in the witness's new identity a document of a kind previously issued to the witness.

*Section 16 of Cap. 79 which it is proposed to amend—*

### **16. Power of High Court to make order**

The High Court may make a witness protection order if it is satisfied that—

(a) the person named in the application as a witness—

(i) was a witness to or has knowledge of an offence and is or has been a witness in criminal proceedings relating to the offence; or

(ii) is a person who, because of his relationship to or association with a person to whom subparagraph (i) applies, may require protection or other assistance under this Act;

(b) the life or safety of the person may be endangered as a result of his being a witness;

(c) a memorandum of understanding has been entered into by the witness in accordance with section 7; and

(d) the person is likely to comply with the memorandum of understanding.

*Section 29A of Cap. 79 which it is proposed to amend—*

**29A. Admission of witnesses from foreign countries on reciprocal basis**

(1) The Director, in consultation with the Attorney-General, may on the basis of any treaty or convention ratified by Kenya enter into a written agreement with a competent authority from a foreign country—

(a) to admit, on reciprocal basis, qualifying witnesses from that country into the witness protection programme under this Act; or

(b) to have Kenyan witnesses protected under the witness protection regime of that foreign country.

(2) The particulars for the agreement referred to under subsection (1) shall include—

(a) personal particulars and relevant documentation with respect to the witnesses sought to be protected;

(b) the reasons for their protection, and the nature of the risk or threat they are facing;

(c) the period of protection;

(d) the source of funding to meet their protection costs; and

(e) any other relevant particulars.

*Section 29B of Cap. 79 which it is proposed to amend—*

**29B. Application for admission of a foreign witness**

(1) An application for protection under this Part shall be in the prescribed form.

(2) Upon receipt of an application under subsection (1), the Director shall assess and, after consultation with the Attorney-General, determine whether or not to admit the witness into the programme.

(3) Before a foreign witness is admitted into the programme under this section, the Director shall—

(a) request to be furnished with such further information as may be necessary; and

(b) confirm that the foreign authority requesting for such protection shall provide all the resources and other material necessary for the protection.

(4) Where it is decided to admit a foreign witness in the programme, the Director shall liaise with the Cabinet Secretary responsible for immigration for the necessary permits.

(5) The Agency may make Regulations to give full effect of this Part.

*Section 29C of Cap. 79 which it is proposed to amend—*



**29C. Admission of witnesses at request of international court, or tribunal, to which Kenya is a party**

(1) Subject to the provisions of any other law, the Director may upon request from an international court, tribunal, commission, institution or organisation to which Kenya is a party, and after consultations with the Attorney-General, admit any witness to the programme.

(2) The provisions of this Part relating to the protection of foreign witnesses shall, with necessary modifications, apply to a request made pursuant to this section.

*Section 30 of Cap. 79 which it is proposed to amend—*

**30. Disclosures concerning participants**

A person who, without lawful excuse, discloses information—

(a) about the identity or location of a person who is or has been a witness or participant; or

(b) which compromises the security of such a person,

is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding seven years.

*Section 30F of Cap. 79 which it is proposed to amend—*

**30F. Prohibition against intimidation, harassment etc.**

(1) A person shall not intimidate, harass, obstruct, threaten, hinder or prevent a witness with intention to subvert the course of justice.

*Section 33 of Cap. 79 which it is proposed to amend—*

**33. Protection of witnesses**

(1) No action or proceeding, including a disciplinary action, may be instituted or maintained against a witness in respect of—

(a) any assistance given by the witness to the court or to a law enforcement agency;

(b) a disclosure of information made by the witness to the court or to a law enforcement agency.

(2) Subsection (1) does not apply with respect to a statement made by a witness who did not believe it to be true.

(3) No person shall be required to identify, or provide information that might lead to the identification of, a witness who assisted or disclosed information to the court or law enforcement agency.

*Section 6 of Cap. 79B which it is intended to amend—*

**6. Receiving a bribe**

(1) A person commits the offence of receiving a bribe if —

(a) the person requests, agrees to receive or receives a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly whether by that person receiving the bribe or by another person;

(b) the recipient of the bribe requests for, agrees to receive or accepts a financial or other advantage and the request, agreement or acceptance itself



constitutes the improper performance by the recipient of a bribe of a relevant function or activity.

(c) in anticipation of or as a consequence of a person requesting for, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly by that person, or by another person at the recipients' request, assent or acquiescence.

*Section 18 of the Cap. 79B which it is intended to amend—*

### **18. Penalties**

(1) An individual found guilty of an offence under section 5, 6, or 13—

(a) shall be liable on conviction, to imprisonment for a term not exceeding ten years, or to a fine not exceeding five million shillings, or both; and

(b) may be liable to an additional mandatory fine if, as a result of the conduct constituting the offence, the person received a quantifiable benefit or any other person suffered a quantifiable loss.

(2) The mandatory fine referred to in subsection (1)(b) shall be—

(a) equal to five times the amount of the benefit or loss described in subsection (1)(b);

(b) if the conduct that constituted the offence resulted in both a benefit and loss described in subsection (1)(b), equal to five times the sum of the amount of the benefit and the amount of the loss.

(3) Any other person who commits an offence under section 5, 6, or 15 shall be liable on conviction to a fine not exceeding five million shillings.

(4) A person or private entity found guilty of an offence under section 10 is liable on conviction to a fine.

(5) In determining the fine to be paid under subsection (4), the court shall not only seek to mete out punishment for the offence committed but also seek to deter similar offences by the same or other private entities.

(6) In addition to the imprisonment or fine stipulated in this section, the court may order the convicted person or private entity, or in appropriate cases, a public body, to pay back the amount or value of any advantage received by him to the Government.

(7) Notwithstanding the penalty prescribed in subsection (5), the court shall order the confiscation of any property acquired as a result of the advantage received by the convicted person or private entity.

(8) If the convicted person is a State officer or a public officer, such person shall be barred from holding public office, in accordance with the provisions of the Constitution, the Anti-Corruption and Economic Crimes Act (Cap. 65), the Public Officer Ethics Act (Cap. 185B), and the Leadership and Integrity Act (Cap. 185C).

(9) If the convicted person is a director of a company, such person shall be disqualified from holding the position of director in that or any other company in Kenya for a period of not more than ten years.

(10) If the convicted person is a partner in a firm, such person shall be disqualified from serving as a partner in that or any other firm in Kenya, for a period of not more than ten years.



(11) A person who is convicted of an offence involving bribery shall be disqualified from being elected or appointed to hold a state office or a public office for a period of not more than ten years after conviction.

(12) A person, other than a natural person, convicted of bribery, shall be disqualified from transacting business with the national or county government for period of ten years after such conviction.

*Section 4 of Cap. 185C which it is intended to amend—*

#### **4. Implementation of the Act**

(1) Every person has the responsibility of implementing the provisions of this Act to the extent required by this Act.

(2) The Commission is responsible for overseeing and enforcing the implementation of this Act.

(3) In undertaking its mandate, the Commission may request a State organ to assist it in ensuring compliance with and enforcing Chapter Six of the Constitution and this Act.

(4) The Commission may require any public entity to carry out such functions and exercise such powers as may be necessary under this Act.

(5) Where a public entity has failed to comply with the requirements under subsection (3), the Commission may make an application before a High Court judge for appropriate orders requiring the public entity to comply.

*Section 13 of Cap. 185C which it intended to amend—*

#### **13. Moral and ethical requirements**

(1) For the purposes of Articles 99(1)(b) and 193(1)(b) of the Constitution, a person shall observe and maintain the following ethical and moral requirements—

(a) demonstrate honesty in the conduct of public affairs subject to the Public Officer Ethics Act (Cap. 185B);

(b) not to engage in activities that amount to abuse of office;

(c) accurately and honestly represent information to the public;

(d) not engage in wrongful conduct in furtherance of personal benefit;

(e) not misuse public resources;

(f) not discriminate against any person, except as expressly provided for under the law;

(g) not falsify any records;

(h) not engage in actions which would lead to the State officer's removal from the membership of a professional body in accordance with the law; and

(i) not commit offences and in particular, any of the offences under Parts XV and XVI of the Penal Code (Cap. 63), the Sexual Offences Act (Cap. 63A), the Counter-Trafficking in Persons Act (Cap. 61) and the Children Act (Cap. 141).

(2) A person who wishes to be elected to a State office shall, for the purposes of this section, submit to the Independent Electoral and

Boundaries Commission a self-declaration in the form set out in the First Schedule.

*Section 19 of Cap. 185C which it is intended to amend—*

**19. Bank accounts outside Kenya**

(6) Without prejudice to the foregoing provisions of this section, a State officer who fails to declare operation or control of a bank account outside Kenya commits an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding five years, or a fine not exceeding five million shillings, or both.

*Section 30 of Cap. 185C which it is intended to amend—*

**30. Falsification of records**

A State officer shall not falsify any records or misrepresent information to the public.

*Section 31 of Cap. 185C which it is intended to amend—*

**31. Citizenship**

(1) Subject to Article 78(3) of the Constitution, a State officer who acquires dual citizenship shall lose his or her position as a State officer.

(2) A person who holds dual citizenship shall, upon election or appointment to a State office, not take office before officially renouncing their other citizenship in accordance with the provisions of the Kenya Citizenship and Immigration Act (Cap. 170).