

## **Nru. 11**

4. 3. 88

### **MALTA**

#### **KAMRA TAD-DEPUTATI**

ABBOZZ ta' Liġi mressaq mill-Onorevoli Guido de Marco, M.P., Viċi Prim Ministru u Ministru ta' l-Intern u tal-Ġustizzja u moqri għall-Ewwel darba fis-Seduta tas-7 ta' Awissu, 1987.

ATT biex jipprovdi għat-twaqqif u l-funzjonijiet ta' Kummissjoni Permanenti Kontra l-Korruzzjoni, u għal hwejjeġ li għandhom x'jaqsmu ma' dan.

#### **HOUSE OF REPRESENTATIVES**

A BILL introduced by the Honourable Guido de Marco, M.P., Deputy Prime Minister and Minister of Interior and Justice and read the First time at the Sitting of the 7th August, 1987.

AN ACT to make provisions for the establishment and functions of a Permanent Commission Against Corruption, and for purposes connected therewith.

**P. MUSCAT TERRIBILE**  
*Agent Skrivan tal-Kamra tad-Deputati*

**P. MUSCAT TERRIBILE**  
*Acting Clerk to the House of Representatives*

**ABBOZZ TA' LIĠI**  
**msejjah**

*ATT biex jipprovdi ghat-twaqqif u l-funzjonijiet ta' Kummissjoni Permanenti Kontra l-Korruzzjoni, u ghal hwejjeġ li ghandhom x'jaqsmu ma' dan.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:—

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1988 dwar il-Kummissjoni Permanenti Kontra l-Korruzzjoni. Titolu fil-qosor  
u bidu fis-sehh.

(2) Dan l-Att għandu jidhol fis-sehh f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' jistabilixxi b'avviż fil-Gazzetta, u dati differenti jistghu jiġu hekk stabbiliti għal dispożizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtieġx Tifsir. xort'ohra —

“att ta' korruzzjoni” tfisser reat jew kongura msemmijin fl-artikolu 6 ta' dan l-Att;

“korp imwaqqaf b'liġi” tfisser kull korporazzjoni jew korp magħqud iehor imwaqqaf b'liġi;

“il-Kummissjoni” tfisser il-Kummissjoni Permanenti Kontra l-Korruzzjoni mwaqqfa taht l-artikolu 3 ta' dan l-Att;

“uffiċjal pubbliku” għandha l-istess tifsir kif mogħti lilha bl-artikolu 124 tal-Kostituzzjoni ta' Malta.

3. (1) Ghandu jkun hemm Kummissjoni, li għandha tkun magħrufa bhala l-Kummissjoni Permanenti Kontra l-Korruzzjoni, li tkun magħmula minn *chairman* u żewġ membri oħra, mahtura mill-President li jaġixxi skond il-parir tal-Prim Ministru mogħti wara li jkun ikkonsulta l-Kap ta' l-Oppożizzjoni.

(2) *Iċ-chairman* tal-Kummissjoni għandu jkun persuna li —

(a) tokkupa, jew kienet tokkupa, il-kariga ta' imhalled f'Malta; jew

(b) tokkupa, jew kienet tokkupa, il-kariga ta' Maġistrat f'Malta, u kienet tokkupa dik il-kariga u teżerċita bhala avukat f'Malta għal perijodu totali ta' mhux anqas minn tnax-il sena; jew

(ċ) tkun eżerċitat bhala avukat f'Malta għal perijodu ta' mhux anqas minn tnax-il sena.

(3) Hadd ma jkun kwalifikat biex iżomm kariga bhala membru tal-Kummissjoni jekk ikun, jew kien, Ministru, Segretarju Parlamentari, membru ta', jew kandidat għal elezzjoni ta', il-Kamra tad-Deputati, membru ta' awtorità ta' gvern lokali, jew ikun uffiċjal pubbliku minbarra meta jkun uffiċjal pubbliku li hu kwalifikat li jinhatar *chairman* tal-Kummissjoni skond is-subartikolu (2) ta' dan l-artikolu.

(4) Bla hsara għad-dispożizzjonijiet ta' dan l-artikolu, il-kariga ta' membru tal-Kummissjoni għandha ssir vakanti —

(a) fit-tmiem ta' hames snin mid-data tal-hatra tiegħu; jew

(b) jekk jinholqu ċirkostanzi li, kieku ma kienx membru tal-Kummissjoni, kienu jiskwalifikawh għal hatra bhala tali.

(5) Membru tal-Kummissjoni jista' jitneħħa mill-kariga mill-President li jaġixxi skond il-parir tal-Prim Ministru, iżda dak il-membru jista' jiġi mneħħi biss minhabba inkapaċità li jaqdi l-funzjonijiet tal-kariga tiegħu (kemm jekk minhabba mard mentali jew korporali jew għal xi raġuni oħra) jew għal imġieba hażina.

(6) Jekk il-kariga ta' membru tal-Kummissjoni tkun vakanti jew jekk xi membru għal xi raġuni ma jkunx jista' jaqdi l-funzjonijiet tal-kariga tiegħu, il-President li jaġixxi skond il-parir tal-Prim Ministru, mogħti wara li jkun ikkonsulta l-Kap ta' l-Oppożizzjoni, jista' jahtar persuna li tkun kwalifikata biex tkun mahtura bhala membru biex tkun membru temporanju tal-Kummissjoni, u kull persuna hekk mahtura għandha, bla hsara għad-dispożizzjonijiet tas-subartikoli (4) u (5) ta' dan l-artikolu, tispicċa milli tkun membru bhal dak malli persuna tkun giet mahtura biex timla' l-vakanza jew, skond il-każ, malli l-membru li ma setax jaqdi l-funzjonijiet tal-kariga tiegħu jirreżumi dawk il-funzjonijiet.

(7) Kull membru tal-Kummissjoni jista' jiġi rikuzat jew għandu jastjeni fl-istess ċirkostanzi bhal imhalled tal-Qrati Superjuri; u f'kull każ bhal dan minflok dak il-membru għandu jiġi sostitwit membru

tal-Kummissjoni li jinhatar mill-President li jaġixxi skond il-parir tal-Prim Ministru, moghti wara li jkun ikkonsulta l-Kap ta' l-Oppożizzjoni, għall-każ jew każijiet partikolari li għar-rigward tagħhom il-membri jkun ġie rikuzat jew ikun astjena.

(8) Fl-eżerċizzju tal-funzjonijiet tagħha l-Kummissjoni ma għandhiex tkun sugġetta għad-direzzjoni jew kontroll ta' xi persuna jew awtorità oħra.

#### 4. Il-funzjonijiet tal-Kummissjoni għandhom ikunu —

Funzjonijiet  
tal-Kummissjoni.

(a) li tikkunsidra attijiet ta' korruzzjoni allegati jew suspetti u, fejn il-Kummissjoni tiddeċiedi li jkun hemm raġuni suffiċjenti li tagħmel investigazzjoni, li tinvestiga dik l-allegazzjoni jew dak is-suspett;

(b) li tinvestiga l-kondotta ta' xi uffiċjal pubbliku li, fil-fehma tal-Kummissjoni, hija korrotta jew hija konnessa ma', jew twassal għal, attijiet ta' korruzzjoni u li tirrapporta dwar dan lill-President;

(ċ) li tinvestiga l-kondotta ta' xi persuna li jkollha jew kellha responsabbiltà ministerjali, li, fil-fehma tal-Kummissjoni, tkun korrotta jew tkun konnessa ma' attijiet ta' korruzzjoni, u li tirrapporta dwar dan lill-President;

(d) li tinvestiga l-kondotta ta' xi persuna li tkun jew kienet fdata bi, jew li għandha jew kellha funzjonijiet li għandhom x'jaqsmu ma', l-amministrazzjoni ta' xi dipartiment tal-Gvern jew awtorità oħra tal-Gvern, awtorità ta' gvern lokali, korp imwaqqaf b'liġi, jew soċjetà jew korp ieħor li fihom il-Gvern ta' Malta, jew xi wiehed jew iżjed mill-Korpi msemmija qabel jew xi kombinazzjoni tagħhom, ikollhom sehem biżżejjed biex jikkontrollaw jew li fuqu jkollhom kontroll effettiv, meta dik il-kondotta, fil-fehma tal-Kummissjoni, tkun wahda korrotta jew tkun konnessa ma' attijiet ta' korruzzjoni, u li tirrapporta dwar dan lill-President;

(e) li teżamina l-prattika u l-proċeduri tad-dipartimenti tal-Gvern, awtoritajiet ta' gvern lokali, korpi mwaqqfa b'liġi jew korpi oħra msemmija fil-paragrafu (d) sabiex tiffacilita s-sejba ta' xi attijiet ta' korruzzjoni u sabiex tirrakkomanda r-reviżjoni ta' metodi ta' xogħol jew proċeduri li jistgħu jwasslu għal attijiet ta' korruzzjoni; u

(f) li tagħti istruzzjonijiet, pariri u għajnuna lil kull persuna, fuq talba tagħha, dwar il-mod kif attijiet ta' korruzzjoni jistgħu jiġu eliminati, b'dan illi talba bħal dik tista' ssir biss minn persuna li jkollha responsabbiltà ministerjali jew li tkun fdata bi, jew ikollha funzjonijiet li għandhom x'jaqsmu ma', l-amministrazzjoni ta' dipartiment tal-Gvern, awtorità ta' gvern lokali, korp imwaqqaf b'liġi jew korp ieħor imsemmi fil-paragrafu (d).

5. Hlief meta l-Kummissjoni taġixxi fuq inizjattiva tagħha stess li iżżomm investigazzjoni taht dan l-Att, dik l-investigazzjoni tista' ssir fuq l-allegazzjoni magħmula u maħlufa minn xi persuna.

Allegazzjonijiet  
ta' attijiet  
ta' korruzzjoni.

Attijiet ta' korruzzjoni.

6. Dawn li ġejjin huma attijiet ta' korruzzjoni taht dan l-Att —

(a) ir-reati msemmijin fl-artikoli minn 112 sa 118, 120, 121, minn 124 sa 126, u 138 tal-Kodiċi Kriminali;

(b) it-tentativ ta' xi wiehed mir-reati msemmija qabel jew kompliċità f'xi wiehed minn dawk ir-reati taht l-artikoli 41 u 42 tal-Kodiċi Kriminali; u

(ċ) il-kongura biex jitwettaq xi reat minn dawk imsemmija qabel. Il-kongura teżisti malli jiġu kkombinati jew miftehma bejn żewġ persuni jew iżjed il-mezzi, ikunu li jkunu, li bihom għandhom jimxu.

Investigazzjoni ta' reati ohra.

7. (1) Meta waqt investigazzjoni mill-Kummissjoni ta' att ta' korruzzjoni allegat jew suspett, jinkixef reat li ma jkunx l-att ta' korruzzjoni li jkun qiegħed jiġi investigat, il-Kummissjoni tista' tinvestiga dak ir-reat jekk fil-fehma tagħha dak ir-reat huwa konness ma' dak l-att ta' korruzzjoni.

(2) Għall-fini tas-subartikolu (1) ta' dan l-artikolu, din il-konnessjoni tkun teżisti meta —

(a) reat ikun serva bhala mezz biex isir att ta' korruzzjoni; jew

(b) il-prova ta' reat jew ta' ċirkostanza tiegħu tkun tinfluwixxi fuq il-prova ta' l-att ta' korruzzjoni jew ta' ċirkostanza tiegħu.

Assistenza tal-Pulizija.

8. Il-Kummissjoni tista' tehtieg l-assistenza tal-Pulizija meta tkun qegħda tinvestiga attijiet ta' korruzzjoni taht dan l-Att li dwarhom ikun hemm allegazzjoni jew suspett, u l-Pulizija għandha tagħti dik l-assistenza mitluba iżda fl-ghoti ta' dik l-assistenza l-Pulizija jkollha u teżercita biss dawk is-setgħat li l-Pulizija hija awtorizzata li teżercita taht il-Kodiċi Kriminali jew kull liġi ohra.

Proċedura dwar investi-gazzjonijiet.

9. (1) Meta mix-xhieda miġbura waqt investigazzjoni il-Kummissjoni jkollha raġuni taħseb li persuna setgħet għamlet att ta' korruzzjoni taht dan l-Att, dik il-persuna għandha tingħata l-opportunità li tinstema', bil-ġurament jew mingħajru, mill-Kummissjoni dwar dak l-att ta' korruzzjoni, hlief jekk dik il-persuna tkun diġa ingħatat opportunità li tagħmel stqarrija lill-Pulizija li jkunu qegħdin jassistu lill-Kummissjoni. Waqt is-smiegh quddiem il-Kummissjoni, dik il-persuna tista' tkun assistita minn avukat jew prokuratur legali.

(2) Kull investigazzjoni bhal dik għandha ssir skond il-principji 'al-ġustizzja naturali u b'dak il-mod li l-Kummissjoni tqis xieraq għat-tixxif tal-verità, iżda salv dak li ntqal il-proċedura ta' l-investigazzjoni għandha tkun dik li l-Kummissjoni tqis xierqa fiċ-ċirkostanzi tal-każ. L-investigazzjoni għandha ssir fil-privat.

(3) Bla ħsara għall-ġeneralità tas-subartikolu (2) ta' dan l-artikolu, il-Kummissjoni tista' tikseb informazzjoni minn dawk il-persuni u b'dak il-mod, u tagħmel dawk l-indagini li tqis xierqa, u għal dan il-ghan tista' tehtieg minn kull uffiċjal ta' l-awtorità, dipartiment jew korp konċernat li jagħti informazzjoni jew jipproduċi kull dokument rilevanti għall-investigazzjoni minkejja d-dispożizzjonijiet tas-subartikolu (3) tal-artikolu 637 tal-Kodiċi ta' Organizzazzjoni u Kap. 12. Proċedura Ċivili.

10. (1) Il-Kummissjoni jkollha s-setgħa, li tiġi eżerċitata permezz tač-chairman tagħha —

Sejha  
tax-xhieda  
u għoti ta'  
guramenti.

(a) li tħarrek xhieda;

(b) li tagħti l-gurament lil kull xhud u lil kull persuna li jkollhom x'jaqsmu fl-inkjesta, u li tehtieghom li jixhdu.

(2) Tahrika għall-attendenza tax-xhieda tista' tkun fil-forma murija fl-Iskeda li tinsab ma' dan l-Att jew f'dik il-forma l-oħra li tkun xierqa fil-każ, u għandha tkun iffirmata mič-Chairman jew mis-segretarju tal-Kummissjoni.

(3) Tahrika tista' tiġi notifikata jew bl-idejn jew bil-posta. Meta tiġi notifikata bl-idejn ikun biżżejjed biex tiġi ppruvata n-notifika li jiġi ppruvat li t-tahrika thalliet ma' persuna 'l fuq mill-età ta' 16-il sena fil-post tar-residenza jew tan-negozju tal-persuna mharrka; u jekk tiġi notifikata bil-posta jkun biżżejjed biex tiġi ppruvata n-notifika li jiġi ppruvat li t-tahrika kienet indirizzata u mpostata tajjeb.

(4) Xhud jista' jkun assistit minn avukat jew minn prokuratur legali.

(5) Kull persuna mharrka kif intqal qabel li tirrifjuta, jew tonqos mingħajr raġuni xierqa, li tattendi fil-post u l-hin imsemmija fit-tahrika, jew li tirrifjuta, mingħajr raġuni xierqa, li twiegeb jew li twiegeb b'mod shiħ u sodisfaċenti, mill-aħjar li taf u li temmen, il-mistoqsijiet kollha li jsirulha mill-Kummissjoni jew bi qbil mal-Kummissjoni, jew li tirrifjuta jew tonqos, mingħajr raġuni xierqa, li tipproduċi xi dokument li tkun mehtieġa li tipproduċi mill-Kummissjoni jew bi qbil mal-Kummissjoni, tehel, meta tinsab ħatja multa ta' mhux iżjed minn ħames mitt lira Maltija jew priġunerija għal mhux iżjed minn tliet xhur, jew dik il-multa u priġunerija flimkien:

Iżda, bla ħsara għall-ġeneralità tad-dispożizzjonijiet tal-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu, ebda persuna li tixhed quddiem il-Kummissjoni ma tista' tkun imġieghla twiegeb għal mistoqsijiet meta t-twegiba tista' tesponiha għal proċess kriminali, u kull persuna bħal dik ikollha, dwar kull xiehda tagħha quddiem il-Kummissjoni, l-istess privileġġi li għandu xhud li jixhed quddiem il-Qorti.

(6) Ma jinbdew ebda proċedimenti dwar xi reat kontra dan l-artikolu mingħajr il-qbil ta' l-Avukat Ġenerali.

Rapporti li  
jsiru mill-  
Kummissjoni.

### 11. Il-Kummissjoni ghandha—

(a) ma' l-ewwel opportunita li jkollha taghmel rapport tar-  
rizultati ta' kull investigazzjoni lill-Ministru responsabbli ghall-gus-  
tizzja; u

(b) mhux aktar tard mill-ahhar ta' Dicembru ta' kull sena jew  
aktar spiss meta jidhrilha spedjenti, taghmel rapport lill-President  
fuq il-hidma taghha u l-kwistjonijiet li jkunu gew kunsidrati  
minnha, u tista' wkoll taghmel dawk ir-rakkomandazzjonijiet li jid-  
hrilha xierqa.

Persuni li  
jassistu l-  
Kummissjoni.

12. Il-Prim Ministru jista', kull meta l-Kummissjoni hekk titlob,  
jahtar persuna jew jinnomina ufficjal pubbliku sabiex jassistiha,  
f'kapaçita konsultattiva, meta tkun qeghda taghmel xi investigazzjoni.

Segretarju u  
ufficjali.

13. (1) Ghandu jkun hemm Segretarju tal-Kummissjoni li  
ghandu jkun persuna mahtura f'dik il-kariga mill-Prim Ministru jew uf-  
ficjal pubbliku nominat mill-Prim Ministru sabiex iwettaq il-funzjonijiet  
ta' Segretarju.

(2) Il-Kummissjoni ghandu jkollha wkoll dawk l-ufficjali l-  
ohra li l-Prim Ministru jidhirlu mehtiega u jahtar jew iqabbad kif intqal  
qabel.

Gurament  
tal-kariga.

14. (1) Kull min jinhatar biex ikun, jew biex iservi bhala, *chair-*  
*man* jew membru tal-Kummissjoni jew jinhatar jew jiçi nominat biex jas-  
sisti lill-Kummissjoni taht l-artikolu 12 ta' dan l-Att, ghandu, qabel ma  
jidhol ghal dawk id-dmirijiet, jiehu u jiffirma gurament fil-forma murija  
fl-Iskeda li tinsab ma' dan l-Att.

(2) Dak il-gurament jista' jittiehed quddiem Kum-  
missjonarju li ghandu s-setgha li jaghti guramenti u ghandu jiçi depożitat  
ghand l-Avukat Ġenerali.

It-taghrif  
miksub ikun  
sigriet.

15. (1) Kull taghrif miksub mill-membri tal-Kummissjoni, minn  
xi persuna mahtura taht l-artikolu 12 ta' dan l-Att jew minn xi ufficjali  
ohra taghha waqt jew ghall-fini ta' xi investigazzjoni taht dan l-Att, ma  
ghandux jiçi żvelat hlief ghall-finijiet ta' l-investigazzjoni u ta' kull rap-  
port li ghandu jsir dwarha taht dan l-Att, jew ghall-fini ta' xi proçeduri  
dwar l-investigazzjonijiet jew taht l-artikolu 10 ta' dan l-Att, u l-membri  
tal-Kummissjoni u l-ufficjali taghha ma jistghux jissejju biex jixhdu f'xi  
proçeduri, minbarra dawk imsemmijin qabel, dwar hwejjeġ li jkunu saru  
jafu bihom waqt investigazzjoni taht dan l-Att.

(2) L-artikolu 133 tal-Kodiçi Kriminali ghandu japplika ghal  
u dwar membri u ufficjali tal-Kummissjoni hekk kif japplika ghal jew  
dwar ufficjal jew impjegat pubbliku msemmija fl-artikolu 133 tal-Kodiçi  
Kriminali.

Spejjeż ta'  
amministrazzjoni.

16. Kull salarju jew spiża li jithallsu fit-twettiq fis-sehh ta' dan l-  
Att ghadhom jinharġu mill-Fond Konsolidat mingħajr ebda approp-  
razzjoni ohra hlief taht dan l-Att.

17. Investigazzjoni taht dan l-Att tista' ssir dwar hwejjeġ li jiġru fid-data tal-bidu fis-sehh ta' dan l-Att jew wara dik id-data jew li graw fi żmien hmistax-il sena qabel dik id-data. Investigazzjoni  
dwar hwejjeġ  
li graw.

## S K E D A

(Artikolu 14)

A. Forma ta' ġurament li jittiehed minn *chairman* jew membru tal-Kummissjoni jew minn persuna li tassisti l-Kummissjoni.

Jiena li ġejt mahtur *Chairman*/Membru ta' /persuna li  
tassisti l-Kummissjoni Permanenti Kontra l-Korruzzjoni naħlef/niddikjara solenne-  
ment li jiena bil-fedeltà kollha, imparzjalment u mill-ahjar li nista' naqdi d-dmir u x-  
xoghol li jmissni bis-saħħa ta' l-imsemmija hatra.

Hekk Alla jghini.

(Artikolu 10)

B. Tahrika ta' xhud

(Att ta' l-1988 dwar il-Kummissjoni Permanenti Kontra l-Korruzzjoni)

Lil A.B. (isem il-persuna mharrka u fejn toqghod)

Inti hawnhekk tinsab imharrek biex tidher quddiem  
fi (post) fi (data u hin)  
u li tixhed dwar  
(il-kwistjoni ta' l-inkjesta).

Iffirmat minni illum

ta'

19

(Firma taç-*Chairman*  
jew membru iehor)

## Għanijiet u Raġunijiet

L-Għan ta' l-Abbozz huwa li jwaqqaf Kummissjoni Permanenti Kontra l-Korruzzjoni b'funzjonijiet li tinvestiga attijiet ta' korruzzjoni, hekk kif hemm imfissrin, li jinvolvu persuni fdati bl-amministrazzjonijiet ta' awtorità pubblika, korp imwaqqaf b'liġi jew korp iehor li fuqhom l-amministrazzjoni pubblika jkollha kontroll effettiv, u li tinvestiga l-kondotta ta' dawk il-persuni dwar attijiet ta' korruzzjoni; il-Kummissjoni tista' tirakkomanda wkoll ir-reviżjoni ta' proċeduri f'amministrazzjoni msemmija qabel u tagħti parir lill-persuni fdati b'dik l-amministrazzjoni dwar il-mod kif attijiet ta' korruzzjoni jistghu jeliminati.

**A BILL**  
**entitled**

*AN ACT to make provisions for the establishment and functions of a Permanent Commission Against Corruption, and for purposes connected therewith.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and  
commencement.

1. (1) This Act may be cited as the Permanent Commission Against Corruption Act, 1988.

(2) This Act shall come into force on such date as the Minister responsible for justice may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of this Act.

Interpretation.

2. In this Act, unless the context otherwise requires:—

“Commission” means the Permanent Commission Against Corruption established under section 3 of this Act;

“corrupt practice” means an offence or a conspiracy mentioned in section 6 of this Act;

“public officer” has the same meaning as is assigned to it by section 124 of the Constitution of Malta;

“statutory body” means any corporation or other body corporate established by law.

Permanent  
Commission  
Against  
Corruption.

3. (1) There shall be a Commission, to be known as the Permanent Commission Against Corruption, which shall consist of a chairman and two other members, appointed by the President acting in accordance with the advice of the Prime Minister, given after he has consulted the Leader of the Opposition.

(2) The chairman of the Commission shall be a person who:—

(a) holds, or has held, the office of a judge in Malta; or

(b) holds, or has held, the office of a magistrate in Malta, and has held that office and practised as an advocate in Malta for a period of not less than twelve years in the aggregate; or

(c) has practised as an advocate in Malta for a period of not less than twelve years.

(3) A person shall not be qualified to hold office as a member of the Commission if he is, or was, a Minister, Parliamentary Secretary, a member of, or a candidate for election to, the House of Representatives, a member of a local government authority, or if he is a public officer other than a public officer who is qualified to be appointed chairman of the Commission under subsection (2) of this section.

(4) Subject to the provisions of this section, the office of a member of the Commission shall become vacant:—

(a) at the expiration of five years from the date of his appointment; or

(b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Commission may be removed from office by the President, acting in accordance with the advice of the Prime Minister, but such member may be removed only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) If the office of a member of the Commission is vacant or if a member is for any reason unable to perform the functions of his office, the President acting in accordance with the advice of the Prime Minister, given after he has consulted the Leader of the Opposition, may appoint a person who is qualified to be appointed to be a member to be a temporary member of the Commission; and any person so appointed shall, subject to the provisions of subsections (4) and (5) of this section, cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

(7) Any member of the Commission may be challenged or shall abstain in the same circumstances as a judge of the Superior Courts; and in any such case for that member there shall be substituted a member of the Commission appointed by the President acting in accordance with the advice of the Prime Minister, given after he has consulted the Leader of the Opposition, for the particular case or cases in respect of which the member has been challenged or has abstained.

(8) In the exercise of its functions the Commission shall not be subject to the direction or control of any other person or authority.

Functions of the Commission.

4. The functions of the Commission shall be:—

(a) to consider alleged or suspected corrupt practices and, where the Commission determines that there are sufficient grounds for holding an investigation, to investigate any such allegation or suspicion;

(b) to investigate the conduct of any public officer which, in the opinion of the Commission, is corrupt or is connected with or conducive to corrupt practices and to report thereon to the President;

(c) to investigate the conduct of any person who has or has had ministerial responsibility, which, in the opinion of the Commission, is corrupt or is connected with corrupt practices, and to report thereon to the President;

(d) to investigate the conduct of any person who is or has been entrusted with, or has or has had functions relating to, the administration of a government department or other authority of the Government, a local government authority, a statutory body, or of a partnership or other body in which the Government of Malta, or any one or more of the said bodies aforesaid or any combination thereof, has a controlling interest or over which it has effective control, where such conduct, in the opinion of the Commission, is corrupt or is connected with corrupt practices, and to report thereon to the President;

(e) to examine the practices and procedures of government departments, local government authorities, statutory bodies or other bodies referred to in paragraph (d) in order to facilitate the discovery of any corrupt practices and to recommend the revision of methods of work or procedures which may be conducive to corrupt practices; and

(f) to instruct, advise and assist any person, on his request, on ways in which corrupt practices may be eliminated, provided that such request may only be made by a person who has ministerial responsibility or who is entrusted with, or has functions relating to, the administration of a government department, local government authority, statutory body or other body referred to in paragraph (d).

Allegations of corrupt practices.

5. Except where the Commission acts on its own initiative in holding an investigation under this Act, such investigation may be held on the allegation made and subscribed on oath by any person.

Corrupt practices.

6. The following shall be corrupt practices under this Act —

(a) the offences under sections 112 to 118, 120, 121, 124 to 126, and 138 of the Criminal Code;

(b) the attempt to commit any of the aforesaid offences or complicity in any of those offences under sections 41 and 42 of the Criminal Code; and

(c) conspiracy to commit any of the aforesaid offences. A conspiracy shall subsist from the moment in which any mode of action whatsoever is planned or agreed upon between two or more persons.

7. (1) Where during an investigation by the Commission of an alleged or suspected corrupt practice, an offence, other than the corrupt practice being investigated, is disclosed, the Commission may investigate that offence if in its opinion such offence is connected with that corrupt practice. Investigation of other offences.

(2) For the purpose of subsection (1) of this section, there is such connection when —

(a) an offence has served as a means for the commission of the corrupt practice; or

(b) the proof of an offence or of a circumstance thereof has a bearing on the proof of the corrupt practice or of a circumstance thereof.

8. The Commission may request the assistance of the Police in the conduct of investigations into alleged or suspected corrupt practices under this Act and the Police shall give the assistance requested but in giving that assistance the Police shall only have and exercise such powers as the Police are authorised to exercise under the Criminal Code or any other law. Police assistance.

9. (1) Where on the evidence collected in an investigation the Commission has reason to believe that a person may have committed a corrupt practice under this Act, such person shall be afforded the opportunity to be heard, with or without oath, by the Commission in respect of that corrupt practice unless such person has already been afforded the opportunity to make a statement to the Police assisting the Commission. During the hearing before the Commission, such person may be assisted by an advocate or legal procurator. Procedure in respect of investigations.

(2) Every such investigation shall be conducted in conformity with the principles of natural justice and in such manner as the Commission deems necessary for the discovery of the truth, but except as aforesaid the procedure for conducting an investigation shall be such as the Commission considers appropriate in the circumstances of the case. The investigation shall be conducted in private.

(3) Without prejudice to the generality of subsection (2) of this section, the Commission may obtain information from such persons and in such manner, and make such inquiries as it thinks fit, and for this purpose may require any officer of the authority, department or body concerned to furnish information or produce any documents relevant to the investigation notwithstanding the provisions of sub-section (3) of section 637 of the Code of Organization and Civil Procedure.

10. (1) The Commission shall have power, exercisable through its chairman —

(a) to summon witnesses;

(b) to administer an oath to any witness and to any person concerned in the inquiry, and require them to give evidence.

(2) Summonses for attendance of witnesses may be in the form set out in the Schedule to this Act or in such other form as may be appropriate to the case, and shall be signed by the Chairman or secretary of the Commission.

(3) A summons may be served either by hand or by post. Where it is served by hand it shall be sufficient to prove service by evidence that the summons was left with a person over the age of 16 years at the place of residence or of business of the person summoned; and if served by post it shall be sufficient to prove service by evidence that the summons was properly addressed and posted.

(4) Any witness may be assisted by an advocate or a legal procurator.

(5) Any person summoned as aforesaid who refuses, or without sufficient cause fails, to attend at the time and place mentioned in the summons, or refuses, without sufficient cause, to answer or to answer fully and satisfactorily, to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Commission, or refuses or fails, without sufficient cause, to produce any document he was required to produce by or with the concurrence of the Commission shall be liable on conviction to a fine (*multa*) not exceeding five hundred Maltese liri or to imprisonment not exceeding three months, or to both such fine and imprisonment:

Provided that, without prejudice to the generality of the provisions of paragraph (b) of subsection (1) of this section, no person giving evidence before the Commission may be compelled to answer any question which tends to expose him to any criminal prosecution, and every such person shall, in respect of any evidence given by him before the Commission be entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

(6) No proceedings shall be commenced in respect of any offence against this section without the concurrence of the Attorney General.

11. The Commission shall —

(a) at the earliest opportunity make a report of the results of every investigation to the Minister responsible for justice; and

(b) not later than the end of December of each year, or as frequently as it may deem expedient, make a report to the President on its activities and on matters considered by it, and may also make such recommendations as it may deem appropriate.

12. The Prime Minister may, whenever the Commission so requests, appoint a person or designate a public officer to assist it, in a consultative capacity, in the conduct of any of its investigations.

Persons assisting the Commission.

13. (1) There shall be a Secretary to the Commission who shall be a person appointed as such by the Prime Minister or a public officer designated by the Prime Minister to perform the functions of Secretary.

Secretary and staff.

(2) The Commission shall also have such other staff as the Prime Minister may deem necessary and appoint or designate as aforesaid.

14. (1) Every person appointed to be, or to serve as, chairman or member of the Commission or appointed or designated to assist the Commission under section 12 of this Act, shall, before entering upon those duties, take and subscribe an oath in the form set out in the Schedule to this Act.

Oath of office.

(2) Such oath shall be taken before any commissioner for oaths and shall be deposited with the Attorney General.

15. (1) Information obtained by the members of the Commission, any person appointed under section 12 of this Act or any other of its officers in the course of or for the purpose of an investigation under this Act shall not be disclosed except for the purposes of the investigation and of any report to be made thereon under this Act, or for the purpose of any proceedings relating to the investigation or under section 10 of this Act, and the members of the Commission and its officers shall not be called upon to give evidence in any proceedings, other than such as aforesaid, of matters coming to their knowledge in the course of an investigation under this Act.

Secrecy of information.

(2) Section 133 of the Criminal Code shall apply to and in relation to members and officers of the Commission as they apply to or in relation to a public officer or servant referred to in section 133 of the Criminal Code.

16. Any salary or expense payable in carrying this Act into effect shall be defrayed out of the Consolidated Fund without any further appropriation other than under this Act.

Expenses of administration.

17. An investigation under this Act may be conducted in respect of matters which arise on or after the date of the coming into force of this Act or which arose within a period of fifteen years before such date.

Investigation of past matters.

SCHEDULE

(Section 14)

A. Form of oath to be taken by chairman or member of Commission or person assisting Commission.

I, \_\_\_\_\_ having been appointed to be Chairman/Member of/person assisting the Permanent Commission Against Corruption do swear/solemnly affirm that I will faithfully, fully, impartially and to the best of my ability discharge the trust and perform the duties devolving upon me by virtue of the said appointment.

So help me God.

(Section 10)

B. Summons to Witnesses

(The Permanent Commission Against Corruption Act, 1988)

To A.B. (name of person summoned and residence)

You are hereby summoned to appear before

at \_\_\_\_\_ (place) on \_\_\_\_\_ (date and time)

and to give evidence respecting \_\_\_\_\_ (the matter of the inquiry).

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

(Signature of Chairman or other member)

**Objects and Reasons**

The Object of the Bill is to establish the Permanent Commission Against Corruption with functions to investigate corrupt practices, as defined therein, involving persons entrusted with the administrations of a public authority, statutory body or other body in which the public administration has effective control, and to investigate the conduct of those persons in respect of corrupt practices; the Commission may also recommend the revision of procedures in any administration aforesaid and advise the persons entrusted with that administration on ways in which corrupt practices may be eliminated.