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**ACT of September 24, 2017, containing rules on preventing and combating corruption and establishing an Anticorruption Commission, and on amending the Criminal Code and the Decree on Issuance of Domain Land (Anticorruption Act)****THE PRESIDENT OF THE REPUBLIC OF SURINAME,**

Considering that, for the purpose of preventing and combating corruption in the public sector, it is necessary to establish rules for the creation of an Anticorruption Commission entrusted with preventive tasks, the registration of reports of abuses, the mandatory issuance by public officials of written statements concerning income and assets, and further amending of the Criminal Code and the Decree on the Issuance of Domain Land;

Has, having consulted the Council of State, following approval by the National Assembly, enacted the following act:

**Definitions**

## Article 1

The following definitions apply in this act and in provisions based on it:

- a. President: the President of the Republic of Suriname;
- b. Minister: the Minister entrusted with tending to judicial affairs;
- c. Procurator-General: the Procurator-General at the Court of Justice;
- d. the Commission: the Anticorruption Commission as referred to in Article 2;

- e. state institution:      1°. an organization, institution, body, or business established by the public authorities by or pursuant to law, possessing legal personality or otherwise;
- 2°. an organization, institution, body, or business under public or private law, possessing legal personality or otherwise, in which a certain degree of influence over the management or direction thereof can be exerted by or on behalf of the public authorities by virtue of the fact that the public authorities are a (co-) shareholder, or through the provision of financial, material, personnel, or technical support;
- f. public function:      any task, job, service, or activity that is performed, fulfilled, executed, or provided, either generally, one-time, or regularly, for pay or not for pay by:
- 1°. a member of the Government, the Judiciary, a popular representative body, the Council of State, or the Court of Auditors;
- 2°. a civil servant pursuant to the Personnel Act, or a person employed by a state institution;
- 3°. a state institution or a body of a state institution;
- 4°. a public body or a private institution entrusted with public services, including the supply of electricity, water, and communication services;
- g. public official:      any person, authority, or body entrusted with a public function;

- h. statement: the mandatory statement of income and assets as referred to in Article 9;
- i. person reporting: the party who submits a report to the Commission;
- j. abuse: any conduct, act, fact, or circumstance that does or can give rise to corruption or corrupt practices or on the basis of which corruption or corrupt practices could be considered present;
- k. corruption: the misuse by a public official, in the exercise of his or her function, of his or her function or position and/or of the authorities conferred on him or her and/or the opportunities for influence arising therefrom, whereby he or she does or refrains from doing something because of a received gift, service, or promise for the purpose of directly gaining an unlawful advantage therefrom for oneself or another party.

### **De Anticorruption Commission**

#### Article 2

1. There exists an Anticorruption Commission, hereinafter referred to as “the Commission,” that is entrusted with the prevention and early detection of abuses within state institutions, and with protecting persons reporting abuses and passing reports on to the Procurator-General.
2. The Commission comprises no fewer than 5 (five) and no more than 7 (seven) members who are appointed, suspended, and

dismissed by the President at the recommendation of the Minister, having consulted the National Assembly.

3. The Commission comprises independent experts, of which 3 (three) members are recommended to the President, via the Minister, by
  - a. the Public Prosecutions Department;
  - b. the Central National Audit Service;
  - c. the Tax Service.

The other members must possess expertise in one of the following areas: information and communications technology (ICT), organizational studies, financial control and auditing in the public sector and insight into the functioning of public administration, governmental organization and associated decision-making processes.

4. a. The National Assembly is notified by the Minister of each appointment recommendation, accompanied by substantiation. The recommendation is publicly disclosed by the Minister. Within 6 (six) weeks of receipt of the recommendation, the National Assembly informs the Minister of whether it can consent to the recommendation. If the National Assembly cannot consent to the recommendation, the Minister must reconsider and send a new recommendation to the National Assembly in place thereof, which is publicly disclosed. Public disclosure is effected through any perceptible posting at offices of the Ministry of Justice and Police, the District Commissariats, in at least two daily newspapers, and on the website of the aforesaid ministry;
- b. Anyone can submit to the Minister written objection to a recommendation as referred to in subparagraph a within 30

(thirty) days after the date of public announcement. Upon receipt of an objection, the Minister notifies the National Assembly thereof, together with an opinion from the Minister concerning the merits of the objection. Within 6 (six) weeks after receipt of the opinion, the National Assembly informs the Minister of its findings concerning the objection.

- c. After the National Assembly grants its consent as referred to in subparagraphs a and b, the Minister sends the recommendation on to the President.
5. The chair, deputy chair, and other members are appointed by the President for terms of 5 (five) years. The appointment takes place at the recommendation of the Minister, after the National Assembly has been consulted by the Minister and the National Assembly has informed the Minister that it can consent to the appointment recommendation, with due regard for the provisions of paragraph 8. At the end of their term, they are eligible for immediate reappointment for no more than two terms.
6.
  - a. The chair, deputy chair, and other members must not hold any additional positions for public authorities or functions in organizations, paid or otherwise, the exercise of which is undesirable from the perspective of proper performance of their office or preservation of their impartiality and independence or confidence therein. Positions that they hold outside their office must be communicated to the Minister in writing and must be made public.
  - b. Membership in the Commission is irreconcilable with membership in:
    - (1). a popular representative body;
    - (2). the Government;
    - (3). the Council of State and Court of Auditors.

- c. Notwithstanding the provisions of subparagraph b, the members of the Commission must not be related to each other or to members of the bodies named in subparagraph b by blood or affinity through the second degree, by permanent cohabitation, or by marriage.
  - d. A member of the Commission must not occupy the profession or office of attorney, certified public accountant, or civil-law notary.
  - e. A member of the Commission must not fulfill any function in the formal structure of a political organization.
7. Anyone appointed to fill a vacated position must step down at the time when the person to whose position he or she was appointed would have had to step down.
8. Persons eligible for appointment as member of the Commission are residents who:
  - a. hold Surinamese citizenship;
  - b. have attained the age of 40 (forty) years;
  - c. have no prior criminal convictions and are of good character;
9. A member of the Commission is dismissed by the President:
  - a. at his or her own request;
  - b. when the member has attained the age of 70 (seventy) years;
  - c. if he or she is found to be unfit owing to protracted illness or mental or physical disability;
  - d. if he or she is placed under guardianship;

- e. upon acceptance of additional functions that are irreconcilable with membership in the Commission and/or acceptance of additional functions without having informed the President thereof in advance;
  - f. upon conviction by a court, or if a criminal investigation has been instituted against the member;
  - g. upon breach of confidentiality obligations to which he or she is subject or if he or she is found to be unfit for his or her task;
  - h. if the member has been declared bankrupt, has been granted suspension of payments, or has been committed for failure to pay debts;
  - i. if the member, in the opinion of the National Assembly with a majority of two-thirds of the votes, through his or her acts or omissions causes serious harm to the confidence to be held in him or her, of which the President is informed;
  - j. upon loss of Surinamese citizenship.
10. In case of vacancies, action is taken by the President within 1 (one) month, with due observance of paragraphs 3, 4, 5, and 7.
11. The Commission and the support office named in Article 4, paragraph 5, are budgetarily under the budget of the Ministry of Justice and Police.  
Further rules are established by state decree relating to the internal regulations of the Commission as well as the legal position and employment conditions of the chair and members.

### **Tasks and authorities of the Commission**

#### Article 4

1. The tasks of the Commission are:

- a. to periodically provide instructions and directives to state institutions on the prevention of corruption, to screen state institutions on their compliance with said instructions and directives, and to periodically report on such matters to the National Assembly and the Government;
  - b. to provide state institutions with solicited and unsolicited advice on promoting integrity and compliance within the organization and to take measures that discourage the chance of abuses;
  - c. to follow and analyze developments in the field of preventing and combating corruption, both regionally and internationally, and on the basis thereof to deliver opinions to the Minister on a national anticorruption strategy;
  - d. to anticipate new regulations on combating corruption and to deliver opinions to state institutions in that regard;
  - e. to present integrity codes for public officials to the Government and to relevant administrative bodies;
  - f. to coordinate and support information, training, and education regarding the prevention of corruption in the broadest sense;
  - g. in coordination with the Minister, to maintain contacts with international authorities specializing in the field of preventing and combating corruption, including for the sake of financing projects;
  - h. to manage the register of receipts referred to in Article 9, paragraph 1.
2. The Commission is authorized:
- a. to receive and register reports of abuses, for forwarding to the Procurator-General with the request that their processing be taken over. In addition, all documents and information received by the Commission with the report are transferred to the Procurator-General;
  - b. within the framework of the preventive tasks, upon request or at its own initiative, to perform investigations within state institutions concerning their compliance with the instructions



and directives referred to in paragraph 1, subparagraph a, and to evaluate the organizational structures, processes, and procedures for their sensitivity to abuses; within this framework, the Commission is authorized to engage in local orientation;

- c. to summon and examine public officials and relevant persons or authorities in connection with the provisions of paragraph 1, subparagraph b. The written report of the examination is signed by the chair following adoption by the Commission;
  - d. to request from state institutions and/or public officials documents and information needed or desired for the auditing and investigation referred to in subparagraph b and to examine witnesses under oath in this regard; the chair is authorized to administer the oath.
3. A party who is summoned by the Commission in order to be examined pursuant to paragraph 2, subparagraph c, is obliged to comply with said summons and to cooperate with Commission.
  4. A state institution or public official as referred to in paragraph 2, subparagraph d, is obliged to provide the requested information to the Commission.
  5. The Commission has an office. The task of the office is to provide administrative, personnel, and scholarly support to the Commission.
  6. Further rules are established by state decree relating to the organizational structure, the appointment, suspension, and dismissal of personnel, and other matters affecting the office.

### **Protection of persons reporting abuses**

#### **Article 8**

1. Anyone who is or was involved in the processing of a report must not reveal the identity of the person reporting, except in cases where the person reporting has given his or her express consent

thereto.

2. If the person reporting is an employee, he or she will not suffer adverse consequences as a result of the report in the form of measures or decisions by the employer or the competent authority that have or could have adverse consequences for his or her legal position and/or in the exercise of his or her function, to the extent that a measure or decision relating to legal position is reasonably related to the submitted report or reasonably could be related thereto.

For the application of the provisions of this paragraph, employee is understood to mean a party who, by virtue of appointment or employment contract governed by public law performs or has performed work under the provisions of civil law. Also considered employees are interns, trainees and apprentices, volunteers, temps provided by an intermediary, personnel on loan from another institution, and persons working on an on-call basis.

3. Measures taken or decisions made by the employer or competent authority that have or could have adverse consequences for the legal position of the person reporting are null and void by operation of law.
4. The person reporting is entitled to pro bono legal aid if, as a result of good-faith reporting of a suspicion of abuse, he or she suffers adverse consequences for his or her legal position as referred to in paragraphs 2 and 3.
5. The person reporting is not liable for harm suffered by a third party as a result thereof, subject to establishment in law otherwise.
6. The members of the Commission who fulfill another function in addition to membership in the Commission may not suffer adverse influence on their legal position with respect to the fulfillment of the other function, to the extent that such influence is or could be

reasonably related to membership in the Commission. The provisions of paragraphs 2 through 5 apply to them *mutatis mutandis*.

### **The register**

#### Article 11

1. The Commission maintains a register of receipts for statements given into the custody of a notary as provided to the Commission in accordance with Article 9, paragraph 1. The Procurator-General has access to the register.  
The statements given into the notary's custody are kept by the notary under strict confidentiality in a closed or sealed envelope. Only information in accordance with the provisions of this act is provided from them.
2. Based on the provisions of Article 16, paragraph 1, a statement given into custody can be requested from the notary by the Procurator-General, and he or she can obtain information from the statements referred to in Article 9, paragraph 1, if a judicial investigation or prosecution has been instituted against the respective public official, or if the public official's conduct is an element of the investigation or prosecution of a criminal offense and a judicial investigation or prosecution is proceeding with regard to that offense.
3. Rules are established by state decree relating to the establishment of the register referred to in paragraph 1.

(.....)

Paramaribo, September 24, 2017,

**DESIRÉ D. BOUTERSE**