



**"AN ACT TO ESTABLISH
THE LIBERIAN ANTI-CORRUPTION COMMISSION"**

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LIBERIA ANTI-CORRUPTION COMMISSION**

PREAMBLE

WHEREAS, corruption in both the public and private sectors of the Liberian society has undermined the institutional framework of good governance; and, as a consequence, has hampered sustainable socio-political tranquility and retarded economic development and growth of Liberia;

REALIZING that, due to the debilitating consequences of corruption, the people of Liberia have declared corruption as public enemy number one and resolved to combat and eradicate it;

ACKNOWLEDGING that, Government has adopted an anti-corruption policy and a comprehensive strategy that outlines the preventative, educational and enforcement measures to be taken to combat corruption in Liberia; and specifically provide for the establishment of an independent Anti-corruption Commission to investigate and prosecute cases of corruption; and

RECALLING Chapter 10, Article 89 of the 1986 Constitution of Liberia which empowers the Legislature to enact laws for the creation of agencies and commission as may be necessary for the effective operation of Government; and Chapter 11, Article 90 of the Constitution which also empowers the Legislature to prescribe a code of conduct for the public domain and to stipulate penalties and mechanisms for violations thereof.

NOW THEREFORE:

It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled:

PART-I: SHORT TITLE

Section 1.1 This Act to Establish the Liberia Anti-Corruption Commission shall also be cited as the Anti-Corruption Commission Act (2008).

PART-II: DEFINITIONS

For the purpose of this Act, the following words or phrases shall have the following meaning:

Corruption	<i>Any act or acts, decision or decisions or use of public resource or resources by a public or private official in the discharge of official duties and/or responsibilities which, in order to satisfy the selfish desire or interest of the said official or other person or persons, natural or legal, ignore the established laws, regulations, and thereby, denies, deprives, and prevents, the State or person or persons natural or legal from receiving entitlement, consideration, and/or treatment.</i>
Acts of Corruption	<i>Bribery, embezzlement, extortion, fraud, influence peddling, insider trading, misuse of entrusted public property and vested authority, and any economic and financial crimes, which are now provided for under the Penal Code of Liberia, or may, hereafter, be defined and enacted.</i>
Civil Society	<i>Citizens who, motivated by conscience and compassion, advocate for social causes, general welfare and wellbeing of all person(s) or select-group of person(s)</i>
Civil Society Org.	<i>Not-for-profit, non-governmental associations of individuals, incorporated and unincorporated who, motivated by shared values and conscience, engage in organized advocacy for social causes, general welfare and wellbeing of all persons or select-group of person(s)</i>
Public Sector	<i>The agencies of government and all persons employed therein who are paid with state funds perform duties and responsibilities defined by laws, regulations, guidelines, procedures, policies and acceptable standards; performance of actors in this sector is not stimulated by profit motive; but rather by a desire to serve the public and be paid for doing so.</i>

Private Sector	<i>Citizens who (individually, incorporated or unincorporated) invest their time, talent, financial and material resources to make a profit.</i>
Chairperson	<i>Head of the Commission appointed by the President with the consent of the Senate.</i>
Commission	<i>The Liberia Anti-Corruption Commission</i>
Commissioner	<i>A Member of the Commission who is appointed by the President with the consent of the Senate</i>
County of Origin	<i>The County of birth of one's mother</i>

PART-III: ESTABLISHMENT OF THE COMMISSION

Section 3.1 That from and immediately after the passage of this Act, there shall be established an independent Commission in Government to be known as the **Liberia Anti-Corruption Commission (LACC)**, hereafter referred to as the "Commission" which shall have the functions and powers as are conferred upon it by this Act.

Section 3.2 **Offices:** The Commission shall have its Head Office in the City of Monrovia, and it may establish branches in all other parts of Liberia; and appoint and/or assign investigators and staff anywhere in Liberia.

PART-IV: POWERS OF THE COMMISSION

Section 4.1 The Commission shall have a common seal, and the powers:

- a. To sue and be sued in its own name;
- b. To enter into contracts and acquire, hold and alienate movable or immovable property by lawful means;

- c. To issue citations in accordance with law requesting the appearance of any persons under investigation but not otherwise arrest;
- d. To cause the arrest and detention of any person or persons in pursuance of its function; provided that any such arrest or detention shall be based on probable cause and upon a prior warrant issued by a court of competent jurisdiction;
- e. To cause the freezing of assets of person or persons being investigated or prosecuted for alleged act or Acts of corruption; provided the freezing of asset or assets of any accused person or persons is, at all times, authorized by a prior order or warrant issued by a Court of competent jurisdiction.
- f. To cause the confiscation of assets of convicted person(s) upon a judicial determination that the asset or assets to be confiscated are the proceeds of the act or Acts of corruption of which the person or persons is convicted of; provided further that the confiscation is ordered at the end of all judicial proceedings, including, if taken, necessary appeal to the Supreme Court of Liberia;
- g. To establish counterpart and technical relationships with similar and other agencies, institutions and organizations in Liberia and abroad, as may be necessary for the effective discharge of its functions;

PART V: FUNCTIONS OF THE COMMISSION

Section 5.1 The Commission shall have the broad mandate and functions to implement appropriate measures and undertake programs geared toward investigating, prosecuting and preventing acts of corruption, including educating the public about the ills of corruption and the benefits of its eradication.

Section 5.2 Without limiting the generality of Part-IV, Section 4.1 above, the Commission shall have the following specific functions in accordance with law:

- (a) To investigate all acts of corruption discovered or reported to have occurred in the public, private, and civil society sectors of Liberia subsequent to the passage of this Act with the aim of identifying the person(s) and the extent of the loss of or damage to any public and/or private property as a result of the subject act of corruption;
- (b) To investigate the conduct of any person, irrespective of office or status, natural or otherwise, if the conduct of the person(s) constitute corruption;
- (c) To examine and investigate any information, matter or report that indicates or raises suspicion that the conduct, action or decision of a public or private official in line of official duty and in the context of the definition of corruption herein provided;
- (d) To cause the prosecution in coordination with the Ministry of Justice, all cases of corruption in the manner provided in this Act;
- (e) To develop and/or adopt appropriate measures consistent with law to identify, trace and freeze any assets and/or proceeds of acts of corruption and ensure the confiscation, in court of law, of said assets and proceeds there from;
- (f) To serve as the agency of Government of Liberia authorized to make and receive requests for the purpose of international mutual legal assistance in the fight against corruption;
- (g) To adopt, design and/or implement appropriate administrative and legal measures as well as educational programs aimed at eradicating and preventing acts of corruption;
- (h) To advise and assist public, private and civil society institutions relative to designing and implementing procedures and systems that are appropriate to

reducing the likelihood of the occurrence of corruption;

- (i) To encourage and foster the effective participation of civil society organizations and the entire nation in the fight against corruption, and in so doing work with them in developing sensitization programs about both the ills of corruption and the benefits of preventing, fighting and eradicating corruption;
- (j) To serve as the agency of Government of Liberia with primary responsibility for the investigation of all acts of corruption and, in so doing, to promote and coordinate the collaboration of all law enforcement agencies of government in the discharge of their activities as they relate to combating corruption, including but not limited to:
 - (1) tracing and monitoring the movement and whereabouts of persons accused of being involved in acts of corruption, and (2) building data-banks, maintaining data bases, and sharing the contents of the data on persons or organizations convicted of acts of corruption without violating the fundamental rights of person(s) or organization(s) as enshrined in the Constitution of the Republic of Liberia.
- (k) To conduct research, survey and related studies about both (1) the dimensions, manifestations, and causes and effects of corruption; and (2) the practices, procedures and systems of governance and management that need to be adopted and promoted to combat, eradicate and prevent acts of corruption;
- (l) To lead the implementation of the Anti-Corruption Strategy of Liberia, including the Code of Conduct for Liberian Public Servants;
- (m) To carry out and discharge any and all of its functions and operating procedures to be established hereafter by the Commission in accordance with law.

PART-VI: COMPOSITION, APPOINTMENT AND TENURE

Section 6.1 **Composition:** The Commission shall be composed of five (5) individual members known as Commissioners; one of whom shall be appointed as Chairperson, one as Vice chairperson who shall act as Chairperson in the absence of the Chairperson. The broad mandates of the Commission shall be:

- (a) Enforcement (consisting of investigation and prosecution of acts of corruption)
- (b) Education and Prevention; and
- (c) Administration

Section 6.2 **Appointment:** The five (5) Commissioners shall be nominated by the President. The President may consult the civil society pursuant to the partnership between Government and said civil society in the fight against corruption. Upon being confirmed by the Liberian Senate, the Commissioners shall subsequently be appointed and commissioned to their respective offices by the President.

Section 6.3 **Qualification:** Each member of the Commission shall be a Liberian citizen of not less than thirty (30) years of age, of good moral character in the community, and with proven records in anti-corruption advocacy or professional training and/or experience in law, law enforcement, accounting, auditing or a related field. The membership of the Commission shall also be drawn to reflect the broad spectrum of society; provided further that no two Commissioners shall have the same County of origin and all five (5) shall not be of the same gender.

Section 6.4 **Confirmation:** Persons nominated to serve on the Commission who is an active member of any political party shall publicly resign before confirmation by the Liberian Senate, and appointment by the President of the Republic of Liberia. He or she shall, during the confirmation process, declare his or her assets and property interest which, unless found to be questionable, shall not prejudice the nominee.

Section 6.5 **Oath of Office:** All members of the Commission shall, before assuming their offices subscribe to a solemn oath or affirmation as required by the Constitution of Liberia.

Section 6.6 **Tenure:** The Chairperson and Vice Chairperson of the Commission shall be appointed by the President for a term of five (5) years each, and shall be eligible for reappointment for one additional term of five (5) years.

To ensure continuity, the President on a staggered term basis, subject to confirmation by the Liberian Senate, the President shall appoint three (3) additional Commissioners for terms as follows:

- (a) One (1) Commissioner shall be appointed for an initial term of four (4) years,
- (b) One (1) Commissioner shall be appointed for an initial term of three (3) years,
- (c) One (1) Commissioner shall be appointed for an initial term of two (2) years.

Thereafter, all subsequent appointments shall be for a fixed period of five years. Commissioner so appointed shall be eligible for re-appointment once.

Section 6.7 **Resignation:** A Commissioner may resign his or her office by serving a written notice on the President. A resignation shall become effective upon being received and accepted by the President.

Section 6.8 **Removal:** A Commissioner shall hold office during good behavior. A Commissioner shall be removed from office by the President for any gross breach of duty, misconduct in office, or any proven act of corruption.

Section 6.9 Where a vacancy occurs in the membership of the Commissioner, the President shall within ninety (90) calendar days of the occurrence of the vacancy, nominate a replacement to the Liberian Senate for confirmation consideration as provided for by this Act.

PART VII: DUTIES OF THE COMMISSIONERS AND MEETINGS

Section 7.1

Duties: All powers of the Commission are vested in the five (5) Commissioners provided for in this Act, all acting as a Body. The Commissioners shall be responsible for the formulation of policies and the implementation of all activities and programs of the Commission, including:

- (a) To make, approve, alter or repeal policies, procedures and systems governing or to govern the administration and operations of the Commission;
- (b) To create, merge and/or eliminate offices, committees and divisions of the Commission, and to effect any and all organizational changes in connection therewith;
- (c) To conclude and submit the annual budget and work program(s) of the Commission; and
- (d) To select and remove, pursuant to the provisions of this Act, the Executive Director and other senior officers of the Commission.

Section 7.2

Meetings: The Commissioners shall meet as frequently as necessary for the effective discharge of the mandate of the Commission, but not less than once a month, using the following general guidelines:

- (a) The Commissioners may adopt necessary bylaws or such internal rules as appropriate to provide for the calling of regular meetings and special meetings, the determination of quorum, and to prescribe the conditions under which notice for meetings may be required, served or dispensed with in each case.
- (b) A meeting of the Commissioners shall be convened by the Executive Chairperson, or in his/her absence, by the Vice Chairperson.

(c) All meetings of the Commissioners shall be presided over by the Executive Chairperson or, in his/her absence, by the Vice Chairperson.

(d) Decisions of the Commission shall be by a simple majority of the votes of the members present and voting. The Chairperson shall vote only to break a tie.

PART-VIII: ADMINISTRATION AND MANAGEMENT

Section 8.1

The Chairperson of the Commission shall head the administration and management of the Commission, and as such shall also be known as and referred to as the Executive Chairperson.

Section 8.2

The Executive Chairperson of the Commission shall:

- (a) Serve as the Chief Executive Officer of the Commission, and be responsible for the other Commissioners, acting as a body, for the implementation of approved policies and programs of the Commissions;
- (b) Control, supervise and direct the administrative operation of the Commission;
- (c) Serve as the official head and spokesperson of the Commission; and
- (d) Preside over all meetings of both the Commission and the management team of the Commission.
- (e) For the purpose of carrying out the functions of his/her office, have the powers to act, contract, and sign instruments and documents, for the Commission and may, with the approval of the other Commissioners acting as a body, delegate such powers to other officers.

Section 8.3

The Secretariat: A secretariat shall be established to render technical, professional, administrative, and clerical

assistance and support to the Commission in pursuit of its mandate. The Secretariat shall:

- a. Be headed by an Executive Director, appointed by the Commission under a written contract to serve for a term of three (3) years, subject to as many renewals and on such conditions as the Commission may determine.
- b. Have the duty and function of heading the Secretariat of the Commission and, in such capacity, to assist the Executive Chairperson in Managing the affairs and operations of the Commission.
- c. Serve as Secretary to the Commission

Section 8.4

Qualification: To be qualified for appointment as Executive Director, an individual must be of good moral standard and must satisfy the following minimum requirements:

- (a) Is substantively knowledgeable about or experienced in at least one or more of the following discipline:
 - i. Accounting, Economic or Management
 - ii. Law, Political Science or any of the social science
 - iii. Criminal justice/fraud investigation
- (b) The Executive Director shall be recruited through a competitive and transparent recruitment process accompanied by appropriate public vetting.
- (c) The Executive Director shall not hold membership in any political party. He or she shall, before assuming his or her office: (1) declare his or her assets and interests; and (2) subscribe to a solemn oath or affirmation to faithfully and impartially discharge the duties and functions of his or her office.

Section 8.5

Resignation: An Executive Director or any staff employed by the Commission may at any time resign his/her position by a written instrument of resignation addressed to the Executive Chairperson. A resignation is effective upon being received and accepted by the Executive Chairperson.

Section 8.6

Removal: The Executive Director or any staff appointed by the Commission under a definite contract may be dismissed for cause in accordance with the Labor Law and Practices of Liberia and for any breach of the Code of Conduct for Liberian Public Servants.

Section 8.7

Functional Divisions: For the purpose of enhancing the ability of the Commission, the Commission shall be divided into at least three (3) functional divisions with specific responsibilities as indicated below:

- (a) **Administrative Division:** This Division shall have the responsibility of running the day-to-day affairs of the Commission, including the supervision of personnel and the logistical duties of the Commission.
- (b) **The Enforcement Division:** This Division shall consist of two sub-units, namely, the Investigation Unit and the Prosecution and Legal Unit.
 - i. **The Investigation Unit** shall be responsible for discharging the investigative functions of the Commission and handling of all matters concerning mutual legal assistance in respect of act(s) of corruption.
 - ii. **Legal Unit** shall be responsible to advise and discharge the legal activities including programs granted the Commission under this Act.
- (c) **The Education and Prevention Division:** This division shall be responsible to undertake research into the causes, manifestation and dimensions of corruption, especially in Liberia, and advising on

approaches and practices needed to be adopted by public and private institutions to prevent corruption. The Division shall also be responsible for designing and implementing programs aimed at educating the sensitising the public about corruption and what can be done to prevent and combat corruption.

- (d) **Others:** The Commission shall have the power to create new divisions, merge any two or more of the existing divisions, and take any other actions as may be necessary for the proper management of the affairs of the Commission.
- (e) Each of the three functional divisions shall be headed by a line manager who shall be appointed by the Executive Chairperson, subject to the approval of the Commission.
- (f) In addition to the Executive Director and line managers, the Commission shall also employ or hire the services of staff, investigators, consultant, and experts as may be necessary for the proper performance of its functions.

PART IX: REMUNERATION AND CONDITION OF SERVICE

Section 9.1 **Remuneration:** All five (5) members of the Commission as well as the Executive Director and other staff to be employed by the Commission shall carry out their duties and functions and serve the Commission on a full time basis.

Section 9.2 The Commissioners, the Executive Director and all other persons employed by the Commission shall receive compensations and benefits as shall be determined by the Commission through the National Budget processes, including legislative appropriation and approved. The compensation of the Commissioners shall be determined in light of the nature of the challenges involved in combating corruption.

Section 9.3 **Condition of Service:** As soon as possible and after its establishment and staffing, the Commission shall

promulgate a personnel policy to provide for a clear policy of meritorious hiring, compensation, promotion and training.

Section 9.4 The Commission shall also promulgate an internal Code of conduct for Commissioners and staff of the Commission, which shall also comply with the Code of Conduct for Liberian Public Servants. The internal Code of Conduct shall prescribe the minimum acceptable conduct expected of all members and staff of the Commission and the consequence(s) for any breach thereof. The internal Code of Conduct for the Commission shall also establish effective dispute resolution, procedures, including mechanism for the fair and speedy investigation, hearing and determination of any and all contested matters involving Commissioner and staff of the Commission.

PART X: CONDUCT AND COORDINATION OF INVESTIGATION

Section 10.1 A key function of the Commission shall be to investigate any and all acts, information and reports of corruption brought to its attention.

Section 10.2 Except as otherwise provided in this Act, the Commission's power to investigate acts of corruption shall not be limited by any means, person(s) or process except by the requirement(s) of law and to the extent of its available resources, provided, however, that the Commission may from time to time coordinate with other investigative agencies of the Government in the discharge of its investigative power.

Section 10.3 An investigator employed by the Commission shall be deemed authorized to investigate acts, cases, information or reports of corruption duly assigned to him/her. The commission shall issue to all investigators identification device.

Section 10.4 For the purpose of exercising the power of investigation conferred on the Commission by the this Act, the Manager of the Investigation Unit of the Enforcement Division shall have the powers, privileges, rights and immunities of a police office in respect of arrest and detention of persons as

well as search and seizure. The criminal procedures of Liberia shall apply to the exercise of such powers, rights and privileges.

Section 10.5 In compliance with the rights of the individual provided in the Constitution, the Commission shall formulate and adopt, as part of its operating procedures, adequate and appropriate rules and procedures to govern the investigation and interrogation of suspect(s) of corruption by the Commission in order to promote compliance with law and transparency as well as to further public confidence.

Section 10.6 Each investigator shall make a written report of the findings of every investigation conducted by him or her. The report of an investigation shall include appropriate recommendations and the basis for such recommendation(s).

Section 10.7 Individual or individuals, institution or institutions providing false, and misleading information to the commission against other individual or individuals, institution or institutions shall themselves be prosecuted for providing misleading information.

PART XI: CONDUCT AND COORDINATION OF PROSECUTION

Section 11.1 The prosecution of cases of corruption shall be carried out by the Ministry of Justice in coordination with Commission.

Section 11.2 In the event that an investigation reported by the Commission:

- (a) Finds that there is substantial evidence of corruption; and
- (b) Recommends that the person(s) or entity(ies) involved be formally charged and prosecuted;

The matter and the records thereof shall be forwarded to the Ministry of Justice along with a written request signed by the Chairperson requesting that the case be prosecuted. The Commission shall prepare and maintain a register of all

cases forwarded to the Ministry of Justice for prosecution along with details indicating those accepted for prosecution, those not accepted for prosecution, and those actually prosecuted.

Section 11.3 The Ministry of Justice may decline to prosecute a case of corruption recommended for prosecution if it determines that the evidence adduced by the Commission is manifestly inadequate or illegally acquired. In such case, the commission shall be given the opportunity to augment the evidence or to show that the evidence is in fact adequate and property acquired.

Section 11.4 Notwithstanding the above, the Commission may directly prosecute acts or cases of corruption through the courts if:

- a) The Ministry of Justice, for whatever reason(s) does not take action to prosecute a case of corruption forwarded to it by the Commission within three (3) calendar months of the receipt of the request to prosecute.

PART XII: FINANCIAL MATTERS

Section 12.1 The work of the Commission shall be financed through the National Budget by legislative appropriations. It shall be the responsibility of the Chairperson to ensure that the annual budget of the Commission is prepared and submitted in time to appropriate for agencies of Government.

Section 12.2 The Commission may also request and receive technical assistance, donations or grants from Liberia's Development Partners and other international multilateral institutions in furtherance of its operations; provided that no such assistance, donation or grant is requested or received on condition that the Commission performs any function or discharge any duty determined by the donor against the interest of a Liberian(s) which is not a priority of the Commission. Notwithstanding, these amounts are to form part of the Commission's budget.

Section 12.3 The Commission shall adopt a system of sound accounting and financial management policies in conformity with

financial regulations of the Government of Liberia and generally accepted accounting principles to ensure prudent and efficient management of funds. The commission shall specifically cause to be kept proper books and records of accounts for funds and resources received and expenditure incurred during its fiscal year.

Section 12.4 The financial statement of the Commission shall be prepared, audited and published within three months following the end of the financial year. Semi-annual, un-audited financial reports of the Commission shall also be prepared and made available to donors and the public upon request.

Section 12.5 Without prejudice to the right and work of the General Auditing Commission, the accounts of the Commission shall also be audited by an independent audit firm.

PART XIII: INDEPENDENCE; COOPERATION

Section 13.1 The Commission shall be independent in all its operations. It shall enjoy financial autonomy and operational independence; and shall generally formulate policies and discharge its functions without regards to political, religious or other social concerns, except to the extent reasonably necessary to further the Commission's general mandate to combat corruption.

Section 13.2 In furtherance of the independence of the Commission, the full amount of each annual budgetary appropriation made for the Commission in the National budget shall be disbursed to the Commission on a quarterly basis.

Section 13.3 The Chairperson, Executive Director, Managers, and all staff and investigators of the Commission shall be free of undue interference in the discharge of their duties.

Section 13.4 Each investigator shall enjoy independence in respect of the scope of his or her investigation, including the findings and conclusions thereof. Neither the Executive Chairperson nor the Executive Director, managers, nor any Commissioners or anyone else shall seek to influence the findings and/or conclusions of an investigation report. Only a supervising

officer shall contact an investigator in respect of the status of an on-going investigation.

Section 13.5

In the performance of its functions, the Commission may:

- a) Cooperate with other national and international public; and private institutions in the design and/or implementation of specific measures and programs;
- b) Coordinate and collaborate with other law enforcement agencies, including the Ministry of Justice and existing law enforcement agencies of the Government of Liberia; and
- c) In consequence of such coordination and cooperation, as indicated above, accept the inputs of such private and public bodies in deciding the content, methodology and timing of its actions.

PART XIV: ANNUAL REPORTS

Section 14.1

The Commission shall, within three month after the end of any fiscal year, submit to the President and Legislature, an annual report, indicating the following:

- a. The number and summaries of investigations carried out during the year with indication of their findings and status;
- b. The number of corruption investigated by the Commission and forwarded to the Ministry of Justice for prosecution along with an indication of the number of such cases that have been or are being prosecuted;
- c. The monetary value of corruption cases investigated and/or prosecuted by the Commission;
- d. A summary of the state of the Commission and its finances; and
- e. Any other matter that may be required by the Legislature.

Section 14.2 Notwithstanding the provision of Section (15.1), the Commission shall report quarterly to the President and the Legislature on progress made in the pursuance of its mandate.

Section 14.3 The Commission shall submit such and other reports as are requested by the Legislature and the Chairperson shall deem necessary.

Section 14.4 The Commission shall publish its annual report and other reports for the consumption of the general public. The annual report and other reports of the Commission may be published in the local print and electronic media and on the internet and in such other manner as the Commission may determine, taking into consideration the need to reach more members of the public.

PART XV: REPEALS AND AMENDMENTS

Section 15.1 That from and immediately after the passage of this Act, Sections 22.2(a) and 22.2(b) of the New Executive Law of Liberia are hereby amended to remove the exclusivity granted the Ministry of Justice, to prosecute, defend, and institute all suits of corruption in which the Republic of Liberia is a party, or is necessary for law enforcement. Further, all provisions of the New Executive Law authorizing existing law enforcement agencies to investigate suspected acts of corruption are hereby repealed.

PART XVI: EFFECTIVE DATE

Section 16.1 This Act shall take effect immediately upon publication into handbills.

ANY LAW TO THE CONTRARY NOT WITHSTANDING