

# SERIOUS FRAUD OFFICE ACT, 1993 (ACT 466)

## ARRANGEMENT OF SECTIONS

### Section

1. Establishment of Serious Fraud Office
2. Divisions of the Office
3. Functions of the Office
4. Ministerial responsibility for the Office
5. Governing body
6. Functions of the Board
7. Tenure of office of members of the Board
8. Meetings of the Board
9. Executive Director and the Deputy Executive Directors
10. Other staff of the Office
11. Authorised officers to have powers of police
12. Exercise of power of investigation
13. Request for information and production of documents
14. Withdrawal from frozen bank account
15. Application of existing enactments
16. Delegation of power to investigate
17. Offences and penalties
18. Prosecution
19. Relation with other state bodies
20. Reward for information
21. Annual report
22. Expenditure of Office
23. Regulations
24. Dissolution of existing bodies and repeals
25. Interpretation

## THE FOUR HUNDRED AND SIXTY-SIXTH ACT

### OF THE PARLIAMENT OF THE REPUBLIC OF GHANA ENTITLED

#### THE SERIOUS FRAUD OFFICE ACT, 1993

AN ACT to establish a Serious Fraud Office as a specialised agency of Government to monitor, investigate and, on the authority of the Attorney-General, prosecute any offence involving serious financial or economic loss to the state and to make provision for connected and incidental purposes.

DATE OF ASSENT: 30th December, 1993.

BE IT ENACTED BY PARLIAMENT as follows—

#### PART I—ESTABLISHMENT OF SERIOUS FRAUD OFFICE, ITS FUNCTIONS AND DIRECTORS

##### Section 1—Establishment of Serious Fraud Office.

(1) There is established by this Act a Serious Fraud Office referred to in this Act as "the Office" which shall form part of the Public Services.

(2) The Office shall consist of—

- (a) an Executive Director;
- (b) Deputy Executive Directors; and
- (c) such officers and staff as the President may appoint for the Office under this Act.

##### Section 2—Divisions of the Office.

The Office shall have such Divisions as the governing board established under section 5 of this Act may, on the advice of the Director, determine.

##### Section 3—Functions of the Office.

(1) The functions of the Office are—

- (a) to investigate any suspected offence provided for by law which appears to the Director on reasonable grounds to involve serious financial or economic loss to the State or to any state organisation or other institution in which the State has financial interest;
- (b) to monitor such economic activities as the Director considers necessary with a view to detecting crimes likely to cause financial or economic loss to the State;
- (c) to take such other reasonable measures as the Director considers necessary to prevent the commission of crimes which may cause financial or economic loss to the State; and
- (d) to co-operate with such international agencies as the Director considers appropriate for any of the purposes under this section.

(2) In the performance of its functions under subsection (1) of this section, the Office shall collect, collate and disseminate information from state agencies and other public bodies.

#### Section 4—Ministerial Responsibility for the Office.

The Minister of Justice and Attorney-General shall be responsible for the Office .

#### Section 5—Governing Body.

(1) There is hereby established a Serious Fraud Office Board referred to in this Act as "the Board" which shall be the governing body of the Office.

(2) The Board shall consist of the following members appointed by the President in consultation with the Council of State—

- (a) a Chairman nominated by the President;
- (b) the Attorney-General or his representative not below the rank of a Chief State Attorney;
- (c) the Minister for the Interior or his representative;
- (d) the Inspector-General of Police or his representative not below the rank of a Commissioner of Police;
- (e) the Executive Secretary, Narcotic Control Board;
- (f) one other person, nominated by the President; and
- (g) the Director of the Office.

#### Section 6—Functions of the Board.

The Board shall have general control of the Office on matters of policy.

#### Section 7—Tenure of Office of Members of the Board.

A member of the Board shall hold office for a period of four years and is eligible on the expiration of his term of office for re-appointment.

#### Section 8—Meetings of the Board.

- (1) The Board shall meet at such times and places as the Chairman shall determine.
- (2) The Board may co-opt any person to attend any of its meetings except that a person co-opted does not have a right to vote on any matter before the Board.
- (3) The quorum for a meeting of the Board shall be four.
- (4) Decisions of the Board at its meetings shall be that of the majority of the members present and voting and where there is equality of votes the Chairman shall have a casting vote.
- (5) The validity of the proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment or qualification of a member.
- (6) Except as otherwise provided in this Act the Board shall regulate the procedure for its meetings.

#### Section 9—Executive Director and the Deputy Executive Directors.

(1) The President shall in accordance with the advice of the Board given in consultation with the Public Services Commission appoint for the Office an Executive Director and Deputy Executive Directors.

(2) The Director and his deputies shall hold Office on such terms and conditions as the President shall in accordance with advice of the Board given in consultation with the Public Services Commission determine.

(3) The Executive Director shall be the head of the Office and shall subject to the general directions of the Board on matters of policy, be responsible for the overall operation and administration of the Office.

(4) The Deputy Executive Directors shall head the Divisions of the Office.

#### Section 10—Other Staff of the Office.

- (1) There may be engaged for the Office by the President in accordance with the advice of the Board given in consultation with the Public Services Commission such officers, professionals, experts and consultants as may be required for the efficient discharge of the functions of the Office.
- (2) The conditions of service of persons employed for the office shall be determined by the President in accordance with the advice of the Board given in consultation with the Public Services Commission.
- (3) Other public officers may be seconded or transferred to the Office.
- (4) The President may in accordance with article 195(2) of the Constitution delegate any of his powers of appointment under this Part.

#### Section 11—Authorised Officers to have Powers of Police.

The Executive Director, Deputy Executive Directors and other officers of the Office authorised by the Director shall exercise all the powers and have the immunities conferred on a police officer under the provisions of the Criminal Procedure Code, 1960 (Act 30), the Police Service Act, 1970 (Act 350) and any other enactment for the time being in force relating to a police officer.

### PART II—INVESTIGATIONS AND PROSECUTION

#### Section 12—Exercise of Power of Investigation.

- (1) The power to investigate any matter under section 3 of this Act shall be exercised by the Director or an officer of the Office authorised by the Director.
- (2) The Director may if he thinks fit, conduct an investigation under section 3 in conjunction either with the police or any other person who in the opinion of the Director is a proper person to be concerned in the investigation.

#### Section 13—Request for Information and Production of Documents.

- (1) The Director or an officer acting under his direction may by notice in writing require any person or a representative of any organisation whose affairs are to be investigated or any other person whom he has reason to believe has information relevant to the investigation to appear before the Director or the officer at a specified time and place to answer questions or otherwise furnish information with respect to any matter relevant to the investigation.
- (2) The Director may by notice in writing require the person or organisation under investigation or any other person to produce at a specified time and place any specified documents which appear to the Director to relate to a matter relevant to the investigation or any documents of a specified class which appear to him to relate to the investigation.
- (3) If the documents are produced, the Director may take copies or extracts from them or require the person producing them to provide an explanation of any of them or both.
- (4) If the documents are produced, the Director may require the person who was required to produce them, to state to the best of his knowledge and belief, where they are.
- (5) Where an officer of the Office has reasonable grounds for believing that—
  - (a) a person has failed to comply with a request under this section to produce documents; or
  - (b) it is not practicable to serve a notice under subsection (2) of this section in relation to the production of the documents; or
  - (c) the service of a notice for the production of the documents might seriously prejudice the investigation,the officer may apply to a Judge or a Chairman of a Tribunal by motion ex-parte supported by affidavit verifying the facts upon which the application is based for the issue of a warrant authorising any police officer to enter (using such force as is reasonably necessary for the purpose) and search the premises on which any documents appearing to be documents of the description specified in the affidavit are suspected to be held, and to take possession of them or to take in relation to any documents so appearing any other steps which may appear to be necessary for preserving them and preventing interference with them.
- (6) Unless it is not practicable in the circumstances, a police officer executing a warrant issued under subsection (5) shall be accompanied by an officer of the Office.