

Office of the Special Prosecutor Bill, 2017

ARRANGEMENT OF SECTIONS

Section

Office of the Special Prosecutor

1. Establishment of the Office of the Special Prosecutor
2. Object of the Office
3. Functions of the Office
4. Independence of the Office
5. Governing body of the Office
6. Duties and liabilities of a member of the Board
7. Tenure of office of members of the Board
8. Meetings of the Board
9. Disclosure of interest
10. Establishment of committees
11. Allowances

Administrative and Financial Provisions

12. Nomination and appointment of Special Prosecutor
13. Functions of Special Prosecutor
14. Removal of Special Prosecutor
15. Nomination and appointment of Deputy Special Prosecutor
16. Functions of Deputy Special Prosecutor
17. Removal of Deputy Special Prosecutor
18. Divisions of the Office
19. Secretariat of the Office
20. Appointment of other staff
21. Funds of the Office
22. Bank account
23. Expenses of the Office
24. Accounts and audit
25. Annual report and other reports

Complaints and Referrals

26. Complaint procedure and referrals

Powers of the Office

27. Officers to exercise powers of police
28. Request for information
29. Power to search and take possession of documents

Office of the Special Prosecutor Bill, 2017

Proceeds of Corruption or Corruption Related Offence

- 30. Seizure of tainted property
- 31. Power to search for tainted property
- 32. Searches in emergencies
- 33. Application of Part Two of Act 30
- 34. Offence relating to search and seizure and obstruction of authorised officer
- 35. Property tracing
- 36. Record of seized property
- 37. Return of seized property
- 38. Mutual legal assistance

Freezing Order

- 39. Freezing of property
- 40. Application for freezing order
- 41. Issue of freezing order
- 42. Effect of freezing order
- 43. Breach of freezing order
- 44. Duration of freezing order
- 45. Review of freezing order
- 46. Extension of freezing order

Disclosure

- 47. Disclosure of funds and other assets
- 48. Use of information contained in disclosure
- 49. Inaccurate disclosure of funds and other assets

Confiscation Order

- 50. Application for confiscation or pecuniary penalty order
- 51. Notice of application
- 52. Amendment of application
- 53. Procedure on application
- 54. Procedure against property where a person dies or absconds
- 55. Confiscation order against property
- 56. Effect of confiscation order

Office of the Special Prosecutor Bill, 2017

- 57. Void transaction
- 58. Protection of third parties
- 59. Effect of quashing of conviction
- 60. Payment instead of confiscation order
- 61. Procedure for enforcement of order for payment

Pecuniary Penalty Order

- 62. Application for pecuniary penalty order
- 63. Lifting the veil
- 64. Enforcement of pecuniary penalty order
- 65. Discharge of pecuniary penalty order

Production Order

- 66. Production order on application
- 67. Requirements for making production order

Realisation of Property

- 68. Realisation of property
- 69. Utilisation of proceeds of realisable property
- 70. Insolvency
- 71. Winding up of company holding realisable property

Miscellaneous Provisions

- 72. Plea bargaining
- 73. Protection of witness
- 74. Collaboration with public agencies
- 75. Confidentiality
- 76. Regulations
- 77. Interpretation
- 78. Consequential amendments
- 79. Transitional provisions

SCHEDULE

Oath of Secrecy

A
BILL

ENTITLED

OFFICE OF THE SPECIAL PROSECUTOR ACT, 2017

AN ACT to establish the Office of the Special Prosecutor as a specialised agency to investigate specific cases of corruption involving public officers and politically exposed persons in the performance of their functions as well as persons in the private sector implicated in the commission of corruption, prosecute these offences on the authority of the Attorney-General and provide for related matters.

PASSED by Parliament and assented to by the President:

Office of the Special Prosecutor

Establishment of the Office of the Special Prosecutor

1. (1) There is established by this Act a body corporate with perpetual succession to be known as the Office of the Special Prosecutor.

(2) For the performance of its functions, the Office may acquire and hold movable and immovable property, dispose of property and enter into a contract or any other transaction.

(3) Where there is hindrance to the acquisition of property, the property may be acquired for the Office under the State Lands Act, 1962 (Act 125) and the cost shall be borne by the Office.

Object of the Office

2. The object of the Office is to

- (a) investigate and prosecute cases of corruption and corruption related offences to prevent corruption in the public sector; and
- (b) recover the proceeds of corruption and corruption related offences.

Functions of the Office

3. (1) To achieve the object, the Office shall

- (a) investigate and prosecute cases of alleged corruption and corruption related offences under the Public Procurement Act, 2003 (Act 663);
- (b) investigate allegations of corruption and corruption related offences under the Criminal Offences Act, 1960 (Act 29) implicating public officers, politically exposed persons and persons in the private sector implicated in the commission of the offence;
- (c) prosecute corruption and corruption related offences involving public officers, politically exposed persons and persons in the private sector implicated in the commission of the offence;
- (d) recover the proceeds of corruption;
- (e) disseminate information gathered in the course of investigation to competent authorities and other persons the Office considers appropriate in connection with the offences specified in paragraphs (a) and (b);
- (f) co-operate and coordinate with competent authorities and other relevant local and international agencies in furtherance of this Act;
- (g) receive complaints from a person on a matter that involves or may involve corruption and corruption related offences; and
- (h) perform any other functions connected with the object of the Office.