

**MALTA**

**ATT Nru. XXII ta' l-1988**

ATT mahruġ b'ligi mill-Parlament ta' Malta.

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

**ACT No. XXII of 1988**

AN ACT enacted by the Parliament of Malta.

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

Naghti l-kunsens tieghi.

(L.S.)

PAUL XUEREB  
Aġent President

19 ta' Lulju, 1988

**ATT Nru. XXII ta' l-1988**

*ATT biex jipprovdi għat-twaqqif u l-funzjonijiet ta' Kummissjoni Permanenti Kontra l-Korruzzjoni, u għal hwejjeġ li għandhom 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' jissejjaħ 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-gustizzja jista' jistabilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu 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” għandha t-tifsira mogħtija lilha bl-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” tfisser id-detentur ta' xi kariga pubblika jew persuna mahtura biex taġixxi f'xi kariga bħal dik, u tinkludi

mhux biss l-awtoritajiet kostitwiti, ċivili u militari, iżda wkoll lil dawk il-persuni kollha li huma legittimament mahturin sabiex jamministraw xi parti mill-poter eżekuttiv tal-Gvern, jew li jwettqu kull servizz pubbliku iehor stipulat bil-liġi, sew ġudizzjarju, kemm amministrattiv kif ukoll tax-xorta l-wahda u l-oħra; membri tal-Kamra tad-Deputati; kull persuna li hija fdata bi jew li ghandha funzjonijiet li ghandhom x'jaqsmu ma' l-amministrazzjoni ta' korp imwaqqaf b'liġi li ghandu personalità ġuridika distinta, kull kunsill, bord, *panel*, kumitat jew korp iehor simili mwaqqaf b'xi liġi, jew li hu mpjegat ma' korp bhal dak; u jinkludi, għar-rigward ta' xi att jew omissjoni filwaqt li huwa jkun f'dik il-kariga, kull min, fi żmien tnax-il sena qabel jew f'kull żmien wara d-dhul fis-seħħ ta' dan l-Att, kien uffiċjal pubbliku;

Kummissjoni  
Permanenti  
Kontra  
l-Korruzzjoni.

3. (1) Ghandu jkun hemm Kummissjoni, li ghandha tkun maghrufa 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 ghandu 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 tal-Kamra tad-Deputati, membru ta' awtorità ta' gvern lokali, jew ikun uffiċjal pubbliku minbarra meta jkun uffiċjal pubbliku li hu kwalifikat li jinħatar *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 ghandha ssir vakanti —

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

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

(5) Membru tal-Kummissjoni jista' jitnehha mill-kariga mill-President li jaġixxi skond il-parir tal-Prim Ministru. iżda dak il-membru jista' jiġi mneħhi biss minhabba inkapaċità li jaqdi l-funzjonijiet tal-kariga tieghu (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, għandu jahtar persuna li tkun kwalifikata biex tkun mahtura bħala 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 għet mahtura biex timla l-vakanza jew, skond il-każ, malli l-membri 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 imħallef tal-Qrati Superjuri; u f'kull każ bhal dan minflok dak il-membri għandu jiġi sostitwit persuna li jkollha l-kwalifiki skond dan l-artikolu, bħala membru tal-Kummissjoni li jinħatar mill-President li jaġixxi skond il-parir tal-Prim Ministru, mogħti wara li jkun ikkonsulta l-Kap ta' l-Oppożizzjoni, għall-każ jew każijiet partikolari li għar-rigward tagħhom il-membri jkun għe 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 u li tirraporta dwar dan skond l-artikolu 11 ta' dan l-Att;

(b) li tinvestiga l-kondotta ta' xi uffiċjal pubbliku, inkluż kull Ministru jew Segretarju Parlamentari, li fil-fehma tal-Kummissjoni tista' tkun korrotta jew tista' tkun konnessa ma', jew tista' twassal għal attijiet ta' korruzzjoni u li tirraporta dwar dan skond l-artikolu 11 ta' dan l-Att;

(ċ) li tinvestiga l-kondotta ta' xi persuna li tkun jew kienet fdata bi, jew li għandha jew li kellha funzjonijiet li għandhom x'jaqsmu ma', l-amministrazzjoni ta' soċjetà jew korp iehor li fihom il-Gvern ta' Malta jew xi wiehed jew iżjed minn xi awtorità oħra tal-Gvern, awtorità ta' gvern lokali, xi korp imwaqqaf b'liġi jew xi soċjetà kif imsemmija qabel jew xi kombinazzjoni tagħhom, ikollhom schem biżżejjed biex jikkontrollaw jew li fuqhom ikollhom kontroll effettiv, meta dik il-kondotta fil-fehma tal-Kummissjoni tista' tkun wahda korrotta jew konnessa ma' jew tista' twassal għal attijiet ta' korruzzjoni, u li tirraporta dwar dan skond l-artikolu 11 ta' dan l-Att;

(d) 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 (ċ) sabiex tiffacilita s-sejba ta' xi attijiet ta' korruzzjoni u sabiex tirrakkomanda ir-reviżjoni ta'

metodi ta' xogħol jew proċeduri li jistghu jwasslu għal attijiet ta' korruzzjoni, u li tirraporta dwar dan skond l-artikolu 11 ta' dan l-Att; u

(e) li tagħti istruzzjonijiet, pariri u għajnuna lil kull persuna, fuq talba tagħha, dwar il-mod kif attijiet ta' korruzzjoni jistghu 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'ligi jew korp ieħor imsemmi fil-paragrafu (ċ).

Allegazzjonijiet ta' attijiet ta' korruzzjoni.

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

Attijiet ta' korruzzjoni.

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

(a) l-atti jew omissjonijiet li jikkostitwixxu r-reati msemmijin fl-artikoli minn 112 sa 118, 120, 121, minn 124 sa 126 u 138 tal-Kodiċi Kriminali;

(b) l-atti jew omissjonijiet li jikkostitwixxu t-tentativ ta' xi wiehed mir-reati msemmija qabel jew li jikkostitwixxu l-komplixt ta' f'xi wiehed minn dawk ir-reati taht l-artikoli 41 u 42 tal-Kodiċi Kriminali; u

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

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandhom japplikaw għal u dwar kull persuna msemmija fil-paragrafu (ċ) ta' l-artikolu 4 ta' dan l-Att, kif jgħoddu għal u dwar uffiċjali pubbliċi.

Investigazzjoni ta' atti jew omissjonijiet oħra.

7. (1) Meta waqt investigazzjoni mill-Kummissjoni ta' att ta' korruzzjoni allegat jew suspett, jinkixef att jew omissjoni li ma jkunx l-att ta' korruzzjoni li jkun qiegħed jiġi investigat, il-Kummissjoni tista' tinvestiga dak l-att jew l-ommissjoni jekk fil-fehma tagħha dak l-att jew l-ommissjoni 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) att jew omissjoni ikun serva bħala mezz biex isir att ta' korruzzjoni; jew

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

8. Il-Kummissjoni tista' tehtieg l-assistenza tal-Pulizija meta tkun qeghda tinvestiga attijiet ta' korruzzjoni taht dan l-Att li dwarhom ikun hemm allegazzjoni jew suspett, u l-Pulizija ghandha taghti dik l-assistenza mitluba izda fl-ghoti ta' dik l-assistenza il-Pulizija jkollha u tezercita biss dawk is-setghat li l-Pulizija hija awtorizzata li tezercita taht il-Kodiċi Kriminali jew kull ligi ohra.

Assistenza tal-Pulizija.

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 tinghata l-opportunità li tinstema', bil-ġurament, mill-Kummissjoni dwar dak l-att ta' korruzzjoni. Waqt is-smiegh quddiem il-Kummissjoni, dik il-persuna tista' tkun assistita minn avukat jew prokuratur legali.

Proċedura dwar investi-gazzjonijiet

(2) Kull investigazzjoni bħal dik għandha ssir skond il-prinċipji tal-ġustizzja naturali u b'dak il-mod li l-Kummissjoni tqis xieraq għat-tikxif tal-verità, izda salv dak li intqal 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-generalità 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-indaġini li tqis xierqa, u għal dan il-għan 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 Proċedura Ċivili.

Kap. 12.

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

Sejha tax-xhieda u għoti ta' ġuramenti.

(a) li tharrek xhieda li għandhom jinstemghu bil-ġurament;

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

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

(3) Tahrika tista' tigi notifikata jew bl-idejn jew bil-posta. Meta tigi notifikata bl-idejn ikun biżżejjed biex tigi 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 tigi notifikata bil-posta jkun biżżejjed biex tigi 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-

tahrira, jew li tirrifjuta, minghajr raġuni xierqa, li twieġeb jew li twieġeb b'mod shiħ u sodisfaċenti, mill-ahjar li taf u li temmen, il-mistoqsijiet kollha li jsirulha mill-Kummissjoni jew bi qbil mal-Kummissjoni, jew li tirrifjuta jew tonqos, minghajr raġuni xierqa, li tipproduċi xi dokument li tkun meħtieġa li tipproduċi mill-Kummissjoni jew bi qbil mal-Kummissjoni, tehel, meta tinsab hatja multa ta' mhux iżjed minn ħames mitt lira Maltija jew prigunerija għal mhux iżjed minn tliet xhur, jew dik il-multa u prigunerija 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 twieġeb għal mistoqsijiet meta t-tweġiba tista' tesponiha għal proċess kriminali, u kull persuna bħal dik ikollha, dwar kull xieħda 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 minghajr il-qbil ta' l-Avukat Ġenerali.

Rapporti li jsiru mill-Kummissjoni.

#### 11. Il-Kummissjoni għandha—

(a) ma' l-ewwel opportunità li jkollha tagħmel rapport tar-riżultati ta' kull investigazzjoni lill-Ministru responsabbli għall-ġustizzja; u

(b) mhux aktar tard mill-ahhar ta' Diċembru ta' kull sēna jew aktar spiss meta jidhrilha spedjenti, tagħmel rapport lill-President fuq il-hidma tagħha u l-kwistjonijiet li jkunu ġew kunsidrati minnha, u tista' wkoll tagħmel dawk ir-rakkomandazzjonijiet li jidhrilha xierqa.

Persuni li jassistu l-Kummissjoni.

12. Il-Prim Ministru jista', kull meta l-Kummissjoni hekk titlob, jahtar persuna jew jinnomina uffiċjal pubbliku sabiex jassistiha, f'kapaċità konsultattiva, meta tkun qegħda tagħmel xi investigazzjoni.

Segretarju u uffiċjali.

13. (1) Għandu jkun hemm Segretarju tal-Kummissjoni li għandu jkun persuna maħtura f'dik il-kariga mill-Prim Ministru jew uffiċjal pubbliku nominat mill-Prim Ministru sabiex iwettaq il-funzjonijiet ta' Segretarju.

(2) Il-Kummissjoni għandu jkollha wkoll dawk l-uffiċjali l-oħra li l-Prim Ministru jidhirlu meħtieġa u jahtar jew iqabbaad kif intqal qabel.

Ġurament tal-kariga.

14. (1) Kull min jinħatar biex ikun, jew biex iservi bħala, *chairman* jew membru tal-Kummissjoni jew jinħatar jew jiġi nominat biex jassisti lill-Kummissjoni taht l-artikolu 12 ta' dan l-Att, għandu, qabel ma jidhol għal dawk id-dmirijiet, jieħu u jiffirma ġurament fil-forma murija fl-Iskeda li tinsab ma' dan l-Att.

(2) Dak il-ġurament jista' jittiehed quddiem Kummissjonarju li għandu s-setgħa li jagħti ġuramenti u għandu jiġi depożitat għand l-Avukat Ġenerali.

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 jigi zvelat hlief ghall-finijiet ta' l-investigazzjoni u ta' kull rapport li ghandu jsir dwarha taht dan l-Att, jew ghall-fini ta' xi proceduri 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 proceduri, minbarra daww imsemmijin qabel, dwar hwejjeġ li jkunu saru jafu bihom waqt investigazzjoni taht dan l-Att.

It-taghrif miksub ikun sigriet.

(2) L-artikolu 133 tal-Kodiċi 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-Kodiċi Kriminali.

16. Kull salarju jew spiża li jithallsu fit-twettiq fis-sehh ta' dan l-Att ghandhom jinħarġu mill-Fond Konsolidat minghajr ebda approprjazzjoni ohra hlief taht dan l-Att.

Spejjeż ta' amministrazzjoni.

17. Investigazzjoni taht dan l-Att tista' ssir dwar hwejjeġ li jigru fid-data tal-bidu fis-sehh ta' dan l-Att jew wara dik id-data jew li ġraw fi zmien tmax-il sena qabel dik id-data, b'dana illi ebda investigazzjoni ma tista' tinbeda dwar xi att jew omissjoni wara li jghaddu aktar minn hames snin mid-data tal-bidu fis-sehh ta' dan l-Att jekk dak l-att jew omissjoni jkunu saru qabel il-bidu fis-sehh ta' dan l-Att, u wara li jghaddu aktar minn hames snin mid-data ta' dak l-att jew omissjoni meta dak l-att jew omissjoni jkun sar fid-data tal-bidu fis-sehh ta' dan l-Att jew wara dik id-data.

Investigazzjoni dwar hwejjeġ li ġraw.

18. Ma ghandha tittiehed ebda azzjoni legali in konnessjoni ma' xi haġa hawnhekk iżjed 'il quddiem imsemmija, jigifieri —

Komunikazzjonijiet privileġġati.

(a) l-ghemil ta' xi rapport jew talba maghmulin mill-Kummissjoni jew mill-Avukat Ġenerali skond id-dispożizzjonijiet ta' dan l-Att, u kull publikazzjoni ta' dak ir-rapport; u

(b) l-ghoti in *bona fede* ta' xi informazzjoni lill-Kummissjoni ghall-finijiet ta' dan l-Att.

19. (1) Bla hsara ghad-dispożizzjonijiet ta' dan l-artikolu, l-Avukat Ġenerali jista', jekk fil-ġudizzju individwali tiegħu ikun sodisfatt li jkun sew li jagħmel hekk, johroġ ċertifikat bil-miktub li bih jeżenta lil xi persuna msemmija fih minn xi procedimenti kriminali bil-kundizzjoni li dik il-persuna tixhed skond il-liġi dwar il-fatti kollha minnha maghrufa dwar xi att ta' korruzzjoni jew xi reat konness miegħu, quddiem il-Kummissjoni u, jew, xi qorti ta' ġurisdizzjoni kriminali, u mal-hruġ ta' dak iċ-ċertifikat lil dik il-persuna u hekk kif hi tixhed skond kif indikat fih, ebda procedimenti quddiem qorti ta' ġurisdizzjoni kriminali ma jistghu jittiehdu jew jitkomplew kontriha in konnessjoni ma' dak l-att ta' korruzzjoni jew xi reat konness miegħu.

L-Avukat Ġenerali jista' jagħti eżenzjoni minn proceduri kriminali.

(2) L-Avukat Ġenerali jista' jagħti ċ-ċertifikat imsemmi fis-subartikolu (1) ta' dan l-artikolu sew wara talba f'dak is-sens li ssir mill-Kummissjoni, jew minghajr ma ssir dik it-talba kull meta l-htieġa li jsir hekk tkun b'xi mod iehor miġjuba a konjizzjoni tiegħu.

(3) It-talba mill-Kummissjoni għandha ssir bil-miktub u għandu jkun fiha d-dettalji kollha li jkollhom x'jaqsmu mal-każ hekk kif jistgħu jintalbu mill-Avukat Ġenerali, u talba bħal din għandha tintbagħat lill-Avukat Ġenerali konfidenzjalment u dik it-talba mill-Kummissjoni ma għandhiex titqies li tkun ksur tad-dispożizzjonijiet ta' l-artikolu 15 ta' dan l-Att.

(4) Iċ-ċertifikat li jinhareġ mill-Avukat Ġenerali taht id-dispożizzjonijiet ta' dan l-artikolu għandu:

(a) meta x-xiehda għandha l-ewwel tingħata quddiem il-Kummissjoni u iċ-ċertifikat jinhareġ fuq talba tal-Kummissjoni, jinżamm mad-dokumenti tal-Kummissjoni;

(b) meta x-xiehda għandha l-ewwel tingħata quddiem il-Kummissjoni u iċ-ċertifikat jinhareġ mill-Avukat Ġenerali mingħajr talba li ssir mill-Kummissjoni, jiġi mgħoddi mill-Avukat Ġenerali lill-Kummissjoni flimkien ma' rapport dwar il-fatti kif jafhom hu tal-att ta' korruzzjoni li jkun jehtieg li jiġi investigat u l-Kummissjoni għandha jew tisma lil dak ix-xhud f'dik l-investigazzjoni li tkun qegħda tagħmel dwar dak l-att ta' korruzzjoni allegat jew, jekk dik l-investigazzjoni tkun għadha ma nbdiex, tibda tagħmel dik l-investigazzjoni skond ma jkun mehtieg. Il-Kummissjoni għandha żzomm dak iċ-ċertifikat mad-dokumenti tagħha;

(ċ) meta x-xiehda għandha l-ewwel tingħata quddiem qorti ta' ġurisdizzjoni kriminali, jiġi esibit fil-qorti minn rappreżentant tal-Avukat Ġenerali.

(5) Kopja ta' kull ċertifikat mahruġ mill-Avukat Ġenerali taht id-dispożizzjonijiet ta' dan l-artikolu u li jinżamm mad-dokumenti tal-Kummissjoni għandha tiġi prodotta fuq talba tax-xhud f'kull proċediment kontrih quddiem qorti ta' ġurisdizzjoni kriminali.

(6) L-Avukat Ġenerali jista' johroġ ċertifikat taht id-dispożizzjonijiet ta' dan l-artikolu minkejja kull oppożizzjoni mix-xhud.

(7) Għall-finijiet ta' dan l-artikolu "qorti ta' ġurisdizzjoni kriminali" tinkludi kull qorti marzjali taht l-Att ta' l-1970 dwar il-Forzi Armati ta' Malta.

Att Nru. XXVII  
ta' l-1970.

Emenda tal-  
Kodiċi  
Kriminali,  
Kap. 9.

**20.** Minflok is-subartikolu (3) ta' l-artikolu 639 tal Kodiċi Kriminali għandu jidhol dan li ġej:

"Xiehda tal-kompliċi (3) Meta x-xhud waħdani kontra l-akkużat f'xi proċediment għal xi reat li ma jkunx wiehed minn dawk imsemmija fl-artikoli 112 sa 118, 120, 121, 124 sa 126, u 138, ikun il-kompliċi, u x-xiehda tiegħu ma tkunx biżżejjed korroborata b'ċirkostanzi oħra, ix-xiehda ta' dan ix-xhud waħdu ma tkunx biżżejjed biex l-akkużat jiġi misjub hati."

## SKEDA

(Artikolu 14)

A. Forma ta' gurament 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 nahlef/niddikjara solen-nement li jiena bil-fedeltà kollha, imparzjalment u mill-aħjar li nista' naqdi d-dmir u x-xogħol li jmissni bis-saħħa ta' l-isemmija 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 toqgħod)

Inti hawnhekk tinsab imħarrek biex tidher quddiem

fi	(post) fi	(data u ħin)
u li tixhed dwar		
(il-kwistjoni ta' l-inkjesta).		

Iffirmat minni llum	ta'	19
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(Firma taç-*Chairman*  
jew membru ieħor)

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 125 tas-7 ta' Lulju, 1988

JIMMY FARRUGIA  
*Speaker*

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

I assent.

(L.S.)

PAUL XUEREB  
Acting President

19th July, 1988

**ACT No. XXII of 1988**

*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” has the meaning assigned to it in section 6 of this Act;

“public officer” means the holder of any public office or a person appointed to act in any such office, and includes not only the constituted authorities, civil and military, but also all such persons as are lawfully appointed to administer any part of the executive power of the Government, or to perform any other public service imposed by law, whether it be judicial, administrative or mixed, members of the House of Representatives; any person who is entrusted with or has functions relating to the administration of a

statutory body having a distinct legal personality, any council, board, panel, committee or other similar body established by any law, or who is employed with such a body; and includes, in relation to any act or omission during the tenure of such post, any person who, within a period of twelve years before or at any time after the coming into force of this Act, was a public officer;

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

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 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, shall 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 person qualified in accordance with this section, as 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 and to make a report thereon in accordance with section 11 of this Act;

(b) to investigate the conduct of any public officer, including any Minister or Parliamentary Secretary, which in the opinion of the Commission may be corrupt or may be connected with or may be conducive to corrupt practices and to report thereon in accordance with section 11 of this Act;

(c) 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 partnership or other body in which the Government of Malta, or any one or more of any other authority of the Government, a local government authority, a statutory body, or a partnership as 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 may be corrupt or connected with or conducive to corrupt practices, and to report thereon in accordance with section 11 of this Act;

(d) to examine the practices and procedures of government departments, local government authorities, statutory bodies or other bodies referred to in paragraph (c) 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 to report thereon in accordance with section 11 of this Act, and

(e) 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 (c).

**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. Allegations of corrupt practices.

**6.** (1) The following shall be corrupt practices under this Act— Corrupt practices.

(a) the acts or omissions which constitute the offences under sections 112 to 118, 120, 121, 124 to 126, and 138 of the Criminal Code,

(b) the acts or omissions which constitute an attempt to commit any of the aforesaid offences or which constitute complicity in any of those offences under sections 41 and 42 of the Criminal Code, and

(c) conspiracy to commit any acts or omissions which constitute 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.

(2) The provisions of subsection (1) of this section shall apply to and in connection with every person mentioned in paragraph (c) of section 4 of this Act, in the same way as they apply to and in connection with public officers.

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

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

(a) an act or omission has served as a means for the commission of the corrupt practice, or

(b) the proof of an act or omission 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.

Procedure in respect of investigations.

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 oath, by the Commission in respect of that corrupt practice. During the hearing before the Commission, such person may be assisted by an advocate or legal procurator.

(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 subsection (3) of section 637 of the Code of Organization and Civil Procedure.

Cap. 12

Summoning of witnesses and administration of oaths.

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

(a) to summon witnesses who shall be heard on oath,

(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 —

Reports by  
Commission.

(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.

Expenses of administration.

**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.

Investigation of past matters.

**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 twelve years before such date, so however that no investigation may be commenced in connection with any act or omission after the lapse of five years from the date of the coming into force of this Act, if that act or omission occurred before the coming into force of this Act, and after the lapse of five years from the date of such act or omission where that act or omission occurred on or after the date of the coming into force of this Act.

Privileged communications.

**18.** No action shall lie at law in connection with any matter as is hereinafter mentioned, that is to say—

(a) the making of any report or request made by the Commission or the Attorney General in accordance with the provisions of this Act, and any publication of such report; and

(b) the giving in good faith of any information to the Commission for the purpose of this Act.

Attorney General may grant exemption from criminal proceedings.

**19.** (1) Subject to the provisions of this section, the Attorney General may, if in his individual judgement he is satisfied of the advisability so to do, issue a certificate in writing exempting any person mentioned therein from any criminal proceedings on condition that such person gives evidence according to law of all the facts known to him relating to any corrupt practice or any offence connected therewith, before the Commission and, or, any court of criminal jurisdiction, and on the issue of such certificate and the giving evidence in accordance therewith by the person to whom it refers, no proceedings before a court of criminal jurisdiction may be taken or continued against him in connection with such corrupt practice or any offence connected therewith.

(2) The Attorney General may grant the certificate mentioned in subsection (1) of this section either after a request to that effect by the Commission, or without any such request whenever the necessity so to do is otherwise brought to his notice.

(3) The request by the Commission shall be made in writing and shall contain all the pertinent details as may be requested by the Attorney General, and such a request shall be sent to the Attorney General in confidence and such request by the Commission shall not be deemed to be a breach of the provisions of section 15 of this Act.

(4) The certificate issued by the Attorney General under the provisions of this section shall:

(a) when the evidence is first to be given before the Commission and the certificate is issued at the request of the Commission be kept in the records of the Commission;

(b) when the evidence is first to be given before the Commission and the certificate is issued by the Attorney General without a request from the Commission, shall be transmitted by the Attorney General to the Commission together with a report on the facts as known to him of the corrupt practice requiring investigation and the Commission shall either hear such witness in any investigation before it on such alleged corrupt practice or, if such investigation is not yet initiated, initiate the same accordingly. The Commission shall keep such certificate in its records;

(c) when the evidence is first to be given before a court of criminal jurisdiction, be exhibited in court by a representative of the Attorney General.

(5) A copy of any certificate issued by the Attorney General under the provisions of this section and kept in the records of the Commission shall be produced at the request of the witness in any proceedings against him before a court of criminal jurisdiction.

(6) The Attorney General may issue a certificate under the provisions of this section notwithstanding any opposition by the witness.

(7) For the purpose of this section "court of criminal jurisdiction" includes any court-martial under the Malta Armed Forces Act, 1970.

Act No. XXVII  
of 1970.

**20.** For subsection (3) of section 639 of the Criminal Code there shall be substituted the following:

Amendment  
of the  
Criminal  
Code, Cap. 9

“(Evidence by accomplice) (3) When the only witness against the accused in any proceeding for any offence other than those under sections 112 to 118, 120, 121, 124 to 126, and 138, is an accomplice whose evidence is not sufficiently corroborated by other circumstances, the evidence of such single witness shall not be sufficient for the conviction of the accused.”

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)

\_\_\_\_\_  
Passed by the House of Representatives at Sitting No. 125 of the 7th July, 1988.

JIMMY FARRUGIA  
*Speaker*

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