

REPUBLIC OF SOUTH AFRICA

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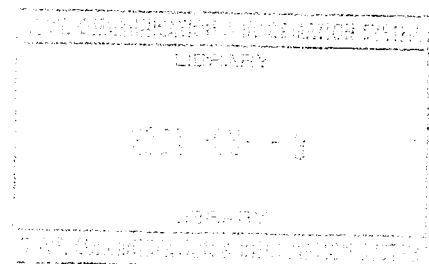
**PORTFOLIO COMMITTEE AMENDMENTS  
TO  
PREVENTION AND COMBATING  
OF CORRUPT ACTIVITIES BILL**

**[B 19B—2002]**

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*(As agreed to by the Portfolio Committee on Justice and  
Constitutional Development (National Assembly))*

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**[B 19C—2002]**

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**AMENDMENTS AGREED TO**  


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**PREVENTION AND COMBATING OF CORRUPT ACTIVITIES BILL**  
**[B 19B—2002]**

ARRANGEMENT OF SECTIONS

1. On page 4, in line 46, to omit “laws,” and to substitute “laws”.
2. On page 4, after line 47, to insert “**SCHEDULE**”.

CLAUSE 1

1. On page 5, in line 16, to omit “dealing” and to substitute “**dealing**”.
2. On page 6, in line 8, after the second “judge” to insert “as”.
3. On page 6, from line 21, to omit paragraph (f) and to substitute:
  - (f) the presiding officer or member of the court of marine enquiry, the maritime court and the court of survey referred to in sections 267(1), 271(1) and 276(1) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), respectively;
4. On page 6, in line 23, to omit “10(3)(a) and to substitute “10(3)(b)”.
5. On page 8, after line 10, to add:
  - (xxvi) “**valuable security**” means any document—
    - (a) creating, transferring, surrendering or releasing any right to, in or over property;
    - (b) authorising the payment of money or delivery of any property; or
    - (c) evidencing the creation, transfer, surrender or release of any such right, the payment of money or delivery of any property or the satisfaction of any obligation.

CLAUSE 2

1. On page 8, after line 39, to insert:
  - (5) A reference in this Act to any person includes a person in the private sector.

CLAUSE 3

1. On page 8, in line 44, to omit “, including a person in the private sector,”.

CLAUSE 5

1. On page 9, in line 56, to omit “(i)” and to substitute “(a)”.
2. On page 9, in line 57, to omit “(aa)” and to substitute “(i)”.
3. On page 10, in line 1, to omit “(bb)” and to substitute “(ii)”.

4. On page 10, in line 5, to omit “(ii)” and to substitute “(b)”.
5. On page 10, in line 6, to omit “(aa)” and to substitute “(i)”.
6. On page 10, in line 7, to omit “(bb)” and to substitute “(ii)”.
7. On page 10, in line 8, to omit “(cc)” and to substitute “(iii)”.
8. On page 10, in line 9, to omit “(iii)” and to substitute “(c)”.
9. On page 10, in line 10, to omit “(iv)” and to substitute “(d)”.

#### CLAUSE 8

1. On page 11, in line 31, after “person;” to insert “or”.

#### CLAUSE 9

1. On page 12, in line 9, after “person;” to insert “or”.

#### CLAUSE 11

1. On page 13, in line 24, to omit “at” and to substitute “from”.
2. On page 13, in line 27, after “who” to insert “, directly or indirectly,”.
3. On page 13, in line 51, to omit “at” and to substitute “from”.

#### CLAUSE 13

1. On page 14, in line 31, to omit “tenderer” and to substitute “tenderee”.
2. On page 14, in line 49, after the second “benefit” to insert “of”.

#### CLAUSE 18

1. On page 17, in line 4, to omit “at” and to substitute “from”.

#### CLAUSE 25

1. On page 21, in line 10, before the second “it” to insert “of Chapter 2”.
2. On page 21, in line 14, to omit “offer” and to substitute “offered”.

#### CLAUSE 26

1. On page 21, in line 23, after “18” to insert “of Chapter 2,”.

#### CLAUSE 27

1. On page 21, from line 47, to omit “of Public Prosecutions”.

## SCHEDULE

1. On page 27, after line 14, to insert:

Act 59 of 1959	Supreme Court Act	Section 24 is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph: “(b) interest in the cause, bias, malice or <b>[corruption]</b> <u>the commission of an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, on the part of the presiding judicial officer;</u> ”.
Act 58 of 1962	Income Tax Act	Section 37H is hereby amended by the substitution for paragraph (a) of subsection (23) of the following paragraph: “(a) interest in the application, bias, malice or <b>[corruption]</b> <u>the commission of an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, on the part of any member of the board;</u> ”.
Act 42 of 1965	Arbitration Act	Section 33 is hereby amended by the substitution for subsection (2) of the following subsection: “(2) An application pursuant to this section shall be made within six weeks after the publication of the award to the parties; Provided that when the setting aside of the award is requested on the grounds of <b>[or corruption]</b> <u>the commission of an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, such application shall be made within six weeks after the discovery of [the corruption] that offence and in any case not later than three years after the date on which the award was so published.</u> ”.

2. On page 27, in the third column, after line 52, to add:

2. Schedule 5 to the Act is hereby amended by the substitution for the words in the 20th line, of the following words:

“Any offence relating to exchange control, **[corruption,]** extortion, fraud, forgery, uttering, **[or]** theft, or any offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004—”.

3. On page 28, after line 47, to insert:

Act 61 of 1984	Small Claims Court Act	Section 46 is hereby amended by the substitution for paragraph (b) of the following paragraph: “(b) interest in the cause, bias, malice, or <b>[corruption]</b> <u>the commission of an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, on the part of the commissioner; and</u> ”.
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4. On page 29, in line 35, to omit “any” and to substitute “any”.

5. On page 30, after line 48, to insert:

Act 103 of 1991	Short Process Courts and Mediation in Certain Civil Cases Act	Section 12 is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph: “(b) interest in the cause, bias, malice or <b>[corruption]</b> <u>the commission of an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, on the part of the mediator or the presiding adjudicator, as the case may be; and</u> ”.
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## 6. On page 31, after line 41, to insert:

Act 209 of 1993	Local Government Transition Act, 1993	<p>1. Section 10G is hereby amended by the substitution for paragraph (g) of subsection (2) of the following paragraph:</p> <p>“(g) Any loss suffered by a municipality and which the chief executive officer, or if the chief executive officer is responsible, the council, suspects to be due to any fraudulent <b>[or corrupt]</b> act or an <b>[act of bribery]</b> offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, committed by any person, shall forthwith be reported by the chief executive officer or the council, as the case may be, to the South African Police Service.”.</p> <p>2. Section 10H is hereby amended by the substitution for the words following paragraph (b) of subsection (1) of the following words:</p> <p>“is <i>prima facie</i> of the opinion that a council member, a chief executive officer or an employee has acted unlawfully or is responsible for any act or omission which has resulted or may result in fraud, <b>[corruption]</b> an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or maladministration, or is of the opinion that the allegation is of such a nature that it justifies further action, he or she shall, subject to subsection (5), appoint a commission of inquiry in terms of the respective provincial laws to inquire into the matter: Provided that in the absence of a provincial law relating to a commission of inquiry, the provisions of sections 2, 3, 4, 5 and 6 of the Commissions Act, 1947 (Act 8 of 1947), and the regulations made thereunder, shall with the necessary changes apply to the municipality concerned in so far as they are applicable to the functions of the municipality.”.</p>
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		<p>3. Section 10H is hereby amended by the substitution for subsection (6) of the following subsection:</p> <p>“(6) If the MEC, after considering a report referred to in subsection (4) or a report of a commission contemplated in subsection (5), is of the opinion that a council, a member or a chief executive officer or employee either intentionally acted unlawfully or is responsible for any act or omission which has resulted or may result in fraud, <u>[corruption] an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or maladministration, he or she may take such steps as he or she may deem necessary so as to deal with the matter.”.</u></p>
Act 23 of 1994	Public Protector Act	<p>Section 6 is hereby amended by the substitution for subparagraph (iii) of paragraph (a) of subsection (4) of the following subparagraph:</p> <p>“(iii) Improper or dishonest act, or omission or <u>[corruption] offences referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, with respect to public money;”.</u></p>
Act 40 of 1994	Intelligence Services Control Act	<p>Section 7 is hereby amended by the substitution for paragraph (cA) of subsection (7) of the following paragraph:</p> <p>“(cA) to receive and investigate complaints from members of the public and members of the Services on alleged maladministration, abuse of power, transgressions of the Constitution, laws and policies referred to in paragraph (a), <u>[corruption] the commission of an offences referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, and improper enrichment of any person through an act or omission of any member;”.</u></p>

Act 66 of 1995	Labour Relations Act	<p>Section 145 is hereby amended by the substitution for paragraphs (a) and (b) of subsection (1) of the following paragraphs:</p> <p>“(a) within six weeks of the date that the award was <i>served</i> on the applicant, unless the alleged defect involves <b>[corruption]</b> <u>the commission of an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004;</u> or</p> <p>(b) if the alleged defect involves <b>[corruption]</b> <u>an offence referred to in paragraph (a),</u> within six weeks of the date that the applicant discovers <b>[the corruption]</b> <u>such of-</u> fence.”.</p>
Act 67 of 1995	Development Facilitation Act	<p>1. Section 8 is hereby amended by the substitution for paragraph (d) of subsection (2) of the following paragraph:</p> <p>“(d) he or she is convicted of an offence involving dishonesty or <b>[corruption]</b> <u>an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or sentenced to imprisonment without the option of a fine; or</u>”.</p> <p>2. Section 15 is hereby amended by the substitution for subparagraph (iv) of paragraph (b) of subsection (6) of the following subparagraph:</p> <p>“(iv) he or she is convicted of an offence involving dishonesty, or <b>[corruption]</b> <u>an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or sentenced to imprisonment without the option of a fine; or</u>”.</p>



7. On page 32, after line 20, to insert:

Act 74 of 1996	Special Investigating Units and Special Tribunals Act	Section 2 is hereby amended by the substitution for paragraph (f) of subsection (2) of the following paragraph: “(f) <b>[corruption]</b> offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, and which offences was committed in connection with the affairs of any State institution; or”.
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8. On page 34, after line 37, to insert:

Act 112 of 1998	Witness Protection Act	The Schedule to the Act is hereby amended by the substitution for the words proceeding paragraph (a) in item 14, of the following words: “Any offence relating to exchange control, <b>[corruption]</b> extortion, fraud, forgery, uttering, <b>[or]</b> theft, or an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004.”.
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9. On page 34, in line 42, to omit “Any” and to substitute “any”.
10. On page 34, in line 57, to omit “6 No.” and to substitute “No. 6”.
11. On page 35, in line 27, before “an” to insert “or”.
12. On page 35, in line 42, to omit “an” and to substitute “any”.
13. On page 35, from line 54, to omit “communications” and to substitute “Communications”.

14. On page 36, in line 9, to omit “an” and to substitute:

or any offence involving dishonesty or of any

15. On page 36, after line 21, to insert:

Act 63 of 2000	Home Loan and Mortgage Disclosure Act	Section 8 is hereby amended by the substitution for subparagraph (i) of paragraph (e) of subsection (2) of the following subparagraph: “(i) an offence involving dishonesty or <b>[corruption]</b> an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004; or”.
Act 56 of 2001	Private Security Industry Regulation Act	The Schedule to the Act is hereby amended by the substitution for the offence mentioned in the 26th line of the following offence: “ <b>[Corruption in terms of statutory law]</b> An offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004.”.
Act 13 of 2002	Immigration Act	Schedule II to the Act is hereby amended by the substitution for the offence “Corruption” of the following offence: “An offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004”.

16. On page 36, after line 55, to add:

Act 70 of 2002	Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002	The Schedule to the Act is hereby amended by the substitution for item 12 of the following item: "12. any offence contemplated in <b>[section 1(1) of the Corruption Act, 1992 (Act 94 of 1992),]</b> Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004;"
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