

**BILLS SUPPLEMENT**

*to the Uganda Gazette No. 34 Volume CVI dated 5th July, 2013.*

Printed by UPPC, Entebbe by Order of the Government...

CALL No. ....

**Bill No. 7**

*Anti Corruption (Amendment) Bill*

**2013**

**THE ANTI CORRUPTION (AMENDMENT) BILL, 2013**

**MEMORANDUM**

**1. The object of the Bill**

The object of this Bill is to amend the Anti Corruption Act, 2009 No.6 of 2009 to provide for mandatory confiscation of property of persons convicted of offences under the Act.

The proposal to amend the Anti Corruption Act, 2009 is intended to ensure that the government or any other company or organisation recovers the loss, if any, caused by a person convicted of an offence under this Act.

The Bill also seeks to vest the confiscated property of the convicted person with Government and management of this property shall be by the public trustee appointed by the Minister in accordance with the Public Trustee Act.

**2. Defects in the existing law**

Currently, the law gives the court discretion to order for confiscation of property of a convicted person "derived directly or indirectly from the act of corruption". However, due to the nature of offences under the Anti-Corruption Act, it is very difficult to prove that a particular property was derived directly or indirectly from an act of corruption. This creates a lacuna in the law given that securing a conviction does not necessarily

guarantee that the convicted person will make good the loss occasioned to the government or any other organization. There is therefore, a need to amend the Anti Corruption Act in order to bridge the gap.

### **Provisions of the Bill**

3. **Clause 1** of the Bill seeks to amend section 1 of the Anti Corruption Act (the principal Act) by repealing and replacing the definition of “property”. The reason is to widen the scope of the meaning of the word “property”. The clause further provides the definition of “political leader”. The reason is to widen the scope of the categories of persons who may commit the offence of embezzlement.
4. **Clause 2** seeks to amend section 19 of the principal Act by inserting the word “a political leader” immediately after paragraph (c). The reason is to widen the scope of the offence of causing financial loss.
5. **Clause 3** seeks to amend section 20 of the principal Act by inserting the word “a company” and “a political leader” in subsection (1). The reason is to widen the scope of the offence of causing financial loss.
6. **Clause 4** seeks to insert a new section 21A to deal with suspect property. The idea is to deter people from dealing in any way with property suspected to have been acquired as a result of corruption.
7. **Clause 5** This clause seeks to replace section 34(5) of the principal Act to provide for service of a court order secured by the Inspector General of Government. The reason is to harmonize it with subsection (1) which gives the power to both the Directorate of Public Prosecutions and the Inspector General of Government to apply for an order to restrict the operation of a bank account of an accused person.

8. **Clause 6** seeks to replace section 38 of the principal Act to criminalise failure to give information to a police officer or special investigator. Currently, a person is obliged to give information, however, there is no sanction for failure or refusal to oblige. The clause will compel persons with information to cooperate with the police or a special investigator.
9. **Clause 7** This clause seeks to replace section 63 of the principal Act to provide for mandatory confiscation of any property of a convicted person. The reason is to ensure the recovery of resources lost as a result of the criminal acts of a convicted person without having to prove that the property was derived directly or indirectly from the an act constituting an offence under this Act.
10. **Clause 8** seeks to insert a new section 63A to provide for the powers and duties of a public trustee in addition to those he or she exercises under the Public Trustee Act.
11. **Clause 9** seeks to insert a new section 63B to provide for the powers of the Minister to make regulations for the remuneration of the public trustee appointed under the Act.
12. **Clause 10** seeks to amend the principal Act by inserting a new section 64A to provide for confiscation costs. The reason is to require a person whose property has been confiscated to meet the costs of confiscation.
13. **Clause 11** seeks to replace section 65(2) of the principal Act to reduce the period a person is deemed to have absconded from attending court. The reason is to expedite the court process.

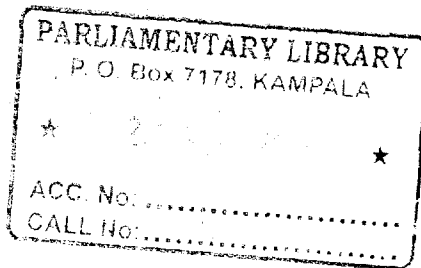
HON. SSIMBWA JOHN,  
*MP Makindye Division East.*

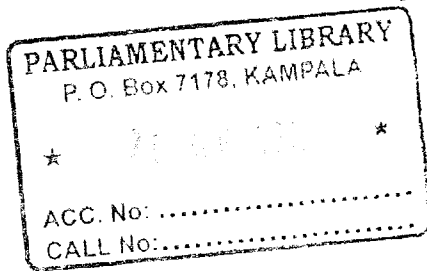
THE ANTI CORRUPTION (AMENDMENT) BILL, 2013.

ARRANGEMENT OF CLAUSES

*Clause*

1. Amendment of section 1 of the principal Act.
2. Amendment of section 19 of the principal Act.
3. Amendment of section 20 of the principal Act.
4. Insertion of a new section 21A.
5. Amendment of section 34 of the principal Act.
6. Replacement of section 38 of the principal Act.
7. Replacement of section 63 of the principal Act.
8. Insertion of a new section 63A.
9. Insertion of a new section 63B.
10. Insertion of a new section 64A.
11. Amendment of section 65 of the principal Act.





A Bill for an Act

ENTITLED

**THE ANTI CORRUPTION (AMENDMENT) ACT, 2013**

**An Act to amend the Anti Corruption Act, 2009; to provide for mandatory confiscation of property of a person convicted of an offence under this Act to widen the scope of the offences of embezzlement, causing financial loss; to restrict the use of bank account of an accused person, and to provide for related matters.**

BE IT ENACTED by Parliament as follows:

**1. Amendment of section 1 of the Anti Corruption Act, 2009.**

The Anti Corruption Act, 2009, Act No. 6 of 2009 in this Act referred to as the principal Act is amended in section 1 by—

- (a) inserting the definition of “political leader” immediately after the definition of “inspectorate officer” the following—

“political leader” means a person elected or appointed to hold a political office under the laws of Uganda or under the Constitution of a political party or political organisation;

“political office” means an office relating to the conduct of governments or politics;

(b) substituting for the definition of “property” the following—

“property” includes money, assets of every kind whether corporeal or incorporeal, movable or immovable, tangible or intangible and legal documents or instruments evidencing title to or interest in such assets;

## **2. Amendment of section 19.**

The principal Act is amended by—

Inserting immediately after paragraph (c) the following—

“(ca) a political leader; or.”

## **3. Amendment of section 20.**

The principal Act is amended by—

(a) substituting for subsection (1) the following—

“(1) A person employed by the Government, a bank, a credit institution, an insurance company, a company, a public body or a political leader, who in the performance of his or her duties, does any act knowing or having reason to believe that the act or omission will cause financial loss to the Government, bank, credit institution, insurance company, a company, or public body commits an offence and is liable on conviction to a fine not exceeding three hundred and thirty six currency points or to a term of imprisonment not exceeding fourteen years or both.”

(b) in subsection (2) by inserting immediately after paragraph (b) the following—

“(c) “a company” means a company incorporated under the Companies Act, 2012.”

**4. Insertion of a new section 21A.**

The principal Act is amended by inserting immediately after section 21 the following—

**“21A. Dealing with suspect property.**

(1) A person who deals with property that he or she believes or has reason to believe was acquired as a result of an offence under this Act commits an offence and is liable on conviction to a fine not exceeding one hundred and sixty currency points or imprisonment not exceeding seven years or both.”

(2) For the purposes of sub section (1), a person deals with property if that person—

- (a) holds, receives or conceals the property;
- (b) enters into a transaction in relation to the property or causes such a transaction to be entered into; or
- (c) removes the property from the jurisdiction of court for the purpose of assisting any person to avoid confiscation of that property.

**5. Amendment of section 34.**

The principal Act is amended by substituting for section 34(5) the following—

“(5) The Director of Public Prosecutions or the Inspector General of Government shall ensure that an order issued by court under subsection (1) is served on the banker, an accused person or a suspected person and any other person to whom the order relates.”

**6. Replacement of section 38.**

The principal Act is amended by substituting for section 38 the following—

**“38. Obligation to give information.**

(1) A person whom a police officer or special investigator requires information under this Act shall give the police officer or special investigator the information which is in his or her power to give.

(2) A person who fails to give the information required under subsection (1) commits an offence and is liable on conviction to a fine not exceeding two hundred and forty currency points or imprisonment not exceeding three years or both.”

**7. Replacement of section 63 of the principal Act.**

The principal Act is amended by substituting for section 63 the following—

**“63. Confiscation order.**

(1) Where a person is convicted of an offence under this Act, in addition to the penalties imposed under this Act, the court shall make an order confiscating the property owned by the convicted person or the interest owned by the convicted person in the property.

(2) A confiscation order issued under subsection (1) shall vest the property of the convicted person in the Government and the property shall be managed by the public trustee appointed by the Minister in accordance with the Public Trustee Act.

(3) Where the property is registrable property the order shall be registered with the appropriate authority.”

**8. Insertion of a new section 63A.**

The principal Act is amended by inserting immediately after section 63 the following—



**“63A Powers and duties of public trustee.**

(1) In addition to the provisions of sections 3 and 4 of the Public Trustee Act, the public trustee shall in accordance with this Act—

- (a) take possession and custody of any property under a restraining or confiscation order;
- (b) manage any property in respect of which he or she has been appointed a public trustee; or
- (c) appoint the owner of the property to manage the property affected by a restraining order under the supervision of the Public Trustee;

(2) A public trustee appointed under this Act shall not be liable to any civil proceedings for any act done in good faith in the performance of his or her duties.”

**9. Insertion of a new section 63B.**

The principal Act is amended by inserting immediately after section 63A the following—

**“63B Fees chargeable.**

The Minister shall make regulations for the remuneration of the public trustee appointed under this Act.”vv

**10. Insertion of a new section 64A.**

The principal Act is amended by inserting immediately after section 64 the following—

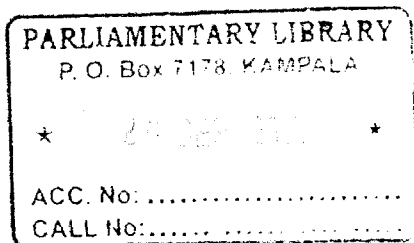
**“64A Confiscation costs.**

Where the court orders confiscation of property under section 64, the costs of enforcing the order shall be paid by the convicted person.”

**11. Amendment of section 65 of the principal Act**

The principal Act is amended by substituting for section 65(2) the following—

“(2) For the purposes of subsection (1), a person is taken to have absconded if reasonable attempts to arrest the person under a warrant have been unsuccessful during the period of six months commencing on the day the warrant was issued, and the person shall be taken to have absconded on the last day of that period.”



**Cross Reference**

Public Trustee Act, Cap. 161.

