

Prevention of Malpractice Manual

**A publication of the
Internal Affairs Division
of the Mauritius Revenue
Authority**

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MAURITIUS REVENUE AUTHORITY

Foreword by the Director-General



One of the core values of the Mauritius Revenue Authority (MRA) is integrity management which is crucial if MRA is to earn the respect and confidence of taxpayers, employees and the public at large.

2. MRA's first initiative in July 2006 has been to publish a **“Code of Conduct and Ethics”** which not only describes the vision, mission, values and goals of the organisation, but, is a useful medium for the promotion of good governance, transparency and accountability among MRA employees.

3. The Manual **“Prevention of Malpractice”** prepared by the Internal Affairs Division of the MRA, has been approved by **the Board on 14th December 2006**. It lays down the procedures for filing complaints, the responsibilities and accountabilities of officers of the Division, the step by step investigative process and finally the type of measures that would be taken to deal with instances of fraudulent, corrupt practices and other forms of misconduct by employees.

4. I am confident that this Manual will provide the right messages to all its readers namely:

- that MRA requires all its employees to maintain the highest ethical standards; and
- any corrupt, coercive, collusive and fraudulent practices will be speedily and expediently dealt with.

Sudhamo Lal
Director-General

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MAURITIUS REVENUE AUTHORITY

INTERNAL AFFAIRS DIVISION

PREVENTION OF MALPRACTICE MANUAL

PART ONE

GENERAL PROVISIONS

1 Introduction

1.1 One of the functions of the Mauritius Revenue Authority is to “deliver a high standard of service to the public with a view to promoting voluntary compliance with the Revenue Laws, promoting fairness and transparency, increasing the efficiency and effectiveness of its Departments and Divisions and maximising revenue collection”.

1.2 The Internal Affairs Division is mandated under Section 3(5)(a) of the Mauritius Revenue Authority Act 2004, to deal with allegations of malpractice or other complaints against an officer and employee of the Mauritius Revenue Authority (MRA) and to process and verify the declaration of assets made by an officer or employee or prospective officer or employee.

1.3 To discharge the above functions, the Internal Affairs Division is publishing this Manual of Procedures on how it proposes to deal with allegations of malpractices and other complaints and process and verify declaration of assets.

1.4 In Wikipedia Encyclopedia, “malpractice” is defined as a type of tort in which the misfeasance, malfeasance or non feasant of a professional, under duty to act, fails to follow generally accepted professional standards and that breach of duty is the proximate cause of injury to a plaintiff who suffers damages. It is committed by a professional or his/her subordinates or agents on behalf of a client or patient that causes damages to the client or patient. Malpractice also covers “fraud or an act of corruption”. An “act of corruption” is defined in the POCA Act 2002 and is reproduced at **Annex 1**. Fraud is generally defined as the use of

deception with the intention of obtaining an advantage, avoiding an obligation or causing a loss to another party.

1.5 Briefly, malpractice not only damages an institution's integrity, but also its efficiency and productivity and ultimately leads to its collapse.

1.6 Fighting malpractice in any institution is therefore crucial and the concern of one and all.

1.7 Internal Affairs has the statutory duty to deal with allegations of malpractice and other complaints and will be able to perform this function if the whole institution is committed to the detection of all elements which could breed, or are conducive to, malpractice.

1.8 The Manual of Procedures for dealing with allegations of malpractice and other complaints and for processing and verifying declaration of assets is being published by Internal Affairs for the benefit of all officers and employees of the MRA and ultimately the public.

1.9 The objective is to ensure that:

- (a) there is a comprehensive approved set of procedures which takes into consideration the legal environment in which Internal Affairs is operating;
- (b) Internal Affairs is operating within a framework which is transparent and understood by all concerned.

2. **Complaint mechanism**

2.1 **What is a complaint?**

2.1.1 A complaint is the expression of a grievance or dissatisfaction about, or a formal accusation of, malpractice on the part of an employee.

2.2 **Who may make a complaint?**

2.2.1 Any person, or any officer or employee of the MRA, may make a complaint when it concerns malpractice (as defined in 1.4 above) by an employee of the MRA.

2.3 Complaints intake and valuation

2.3.1 Complaints can be received through a variety of ways: phone calls, hotlines, letters, e-mail, faxes or in person.

2.4 To whom should the complaint be submitted?

2.4.1 The complaint must be submitted to the Internal Affairs Division and if the complaint is made in person, any employee of that Division will be available to receive the complaint and the complainant. The complainant will be encouraged to sign a complaint form and make a written statement as per the statement form at **Annex II** of this Manual.

2.5 When may complaints be made?

2.5.1 Complaints may be made at any time in any of the ways outlined in 2.3 above. When the complaint is made in person, the Division will receive them between **10.00 hours to 16.00 hours** during week days in the **MRA Headquarters, Eham Court, Cnr Mgr. Gonin & Sir V. Naz Street, Port Louis.**

2.6 What acts can be complained about?

2.6.1 Any act or omission by an officer/employee reasonably and genuinely considered as constituting malpractice (as defined in 1.4 above). Such malpractice may interalia arise from violation of laws, rules and regulations administered by the MRA or of the Prevention of Corruption Act 2002 or other laws relating to fraud and dishonesty or the MRA Code of Conduct and Ethics.

2.7 Anonymous complaints

2.7.1 The Division recognises that persons may wish to submit anonymous complaints for legitimate reasons. While these complaints are more difficult to evaluate and investigate, the Division does not dismiss outright a complaint because it is not in writing or not signed. However, investigations are less likely to reveal all the facts surrounding the misconduct or offence where the Division is deprived of the opportunity to contact the complainant. Also an anonymous complainant cannot be made aware of the results of the investigation.

2.7.2 For these reasons, the Division encourages persons having legitimate concerns to sign the complaint letter and fully cooperate with the Internal Affairs officer.

2.8 **Particulars of complaint**

2.8.1 Complaining parties are requested and encouraged to be as factual and as detailed as possible. Follow up contacts are frequently necessary to obtain more information regarding the complaint.

2.9 **The Investigation process**

2.9.1 Upon receipt of a signed complaint, the Division will send a letter to the complainant acknowledging receipt of the complaint.

2.9.2 The Division will conduct a preliminary inquiry by telephone, by mail, meeting or interview to clarify specific issues.

2.9.3 Depending on the nature and seriousness of the allegation, the Division will work in close collaboration with relevant departments concerned, to gather information and collect evidence, without however disclosing confidential information regarding the allegation.

2.9.4 After collecting all relevant information, the Division will evaluate the legitimacy of the complaint and determine whether it offers information that supports the alleged misconduct, violation of law, rules and regulations and ethics and warrants a further investigation.

2.9.5 The Division will contact the accused employee/s, inform him/them of the allegation and what section of the law, regulations, rules or Code of Ethics has been infringed and give him/them an opportunity to explain and provide a written statement.

2.9.6 The Division will also hear witnesses, examine physical evidence, review reports or records and thoroughly document the facts surrounding the alleged incident/violation.

2.9.7 The Division will comply with legal procedures for gaining entry to premises where necessary, collecting and preserving evidence, recording all

evidence that has been received, ensuring that evidence is secured and adequately supported, making secure all of the evidence that has been collected and where appropriate contacting and handing over the investigation to law enforcement agencies.

3. **Report to the Board**

3.1 The Division will prepare a final report of each investigation for submission to the Board. This report will include a factual narrative arranged in chronological order. It will contain a description of any action taken by the Division to gather information and collect evidence. The report will include the Division's recommendation as to whether the allegation can be proved in a Court of Law and the action to be taken, for example suspension of the officer, referral of the matter to Human Resources Department or to the Police or to ICAC for further investigation and prosecution.

3.2 Where the Division proposes to put an end to an investigation due to lack of evidence, the Board and the Director-General may require the Division to probe further and continue the investigation.

3.3 Where the outcome of the investigation reveals a misconduct as outlined in the Human Resources Management Manual, MRA disciplinary procedures will be recommended.

3.4 Where the outcome of the investigation indicates financial impropriety or fraudulent action, the Board may refer the matter to the Police for investigation.

3.5 Where the outcome of the investigation indicates a case of corruption, and if there is 'prima facie' evidence of such offence, the matter may be referred to ICAC and/or the Police.

3.6 Where the outcome of the investigation indicates a suspected case of money laundering and terrorist financing, the Board may refer the case either to FIU, ICAC, or the Police, as the case may be.

3.7 In all the cases outlined in 3.3 – 3.6, in addition, disciplinary action in

accordance with the Human Resources Management Manual may be initiated, after referral to the Board.

4. **Privacy and confidentiality**

4.1 As far as possible, the Division will make every effort to handle complaints in a discreet manner and always endeavour to keep confidential all information obtained in the course of a complaint, including the identity of any individual involved in the enquiry process.

5. **Records of complaints and reports of resulting action**

5.1 The Division will maintain a file of all complaints/allegations reported, tracking their receipt, investigation, evaluation and resolution if any, and of the related reports issued in connection therewith. Copies of all such materials will be retained for at least five (5) years from the date on which the related complaint or allegation was made.

6. **Legal Counsel and other experts**

6.1 In discharging its responsibilities, the Division may request assistance from the Legal Department, the Internal Audit Division or other Departments of the MRA. The Division may need to have recourse to other experts with the approval of the Board to assist in the investigation of the complaint.

7. **Protection of reporting individual**

7.1 No officer/employee will be discharged, demoted, suspended, threatened, harassed or in any other manner be discriminated or retaliated against by reason of him or her having reported a complaint in good faith.

8. **Withdrawing a complaint**

8.1 Any person may voluntarily withdraw a signed complaint at any point during the investigatory process. Complaint withdrawal is appropriate in situations where additional information is obtained which causes the complainant

to realise that the employees' actions were in order and proper. However, the Division may proceed with the investigation if circumstances so warrant notwithstanding the withdrawal of the complaint.

9. **Declaration of Assets**

9.1 The Division has set up appropriate guidelines (as at **Annex III** of this manual) on how it proposes to process and verify declaration of assets submitted by officers and employees of the MRA. After processing and verifying declaration of assets, the Division may, in the light of its findings, decide to embark on an investigation into a particular case/s.

9.2 The Division, in the case of an investigation with regard to declaration of assets may call, in compliance with section 14(4) of the MRA Act 2004, an officer or employee of the MRA to furnish additional information and provide access to bank statements and other relevant documents to clarify ambiguities.

9.3 The Division is statutorily bound to report to the Board all cases where, pursuant to section 14(4), an officer refuses to give information orally or in writing or gives false information.

9.4 The Division will also recommend as to whether in the above cases, according to legal advice obtained, it can be proved in a Court of law that an offence has been committed under section 25(b) or (c) of the Act.

PART TWO

RESPONSIBILITIES, DUTIES AND OBLIGATIONS OF OFFICERS OF INTERNAL AFFAIRS DIVISION

1. Responsibilities and accountabilities

1.1 Pursuant to section 3(5)(i) to (iii) of the MRA Act 2004, it is the responsibility of Internal Affairs Division to deal with allegations of malpractice and other complaints and to process and verify declarations of assets.

1.2 The functions of the Division include managing enquiries referred by the MRA Board or the Director General into suspected cases of fraud and corruption, malpractices and other complaints.

1.3 Pursuant to section 12(2) of the MRA Act 2004, the Head of the Division is directly accountable for its functions and discharge of its statutory powers to the Board of the MRA. There is also an inter-dotted mechanism of reporting to the Director-General.

2. Guiding principles

2.1 The Division is committed to the detection, investigation, elimination and prevention of internal fraud or other malpractice.

2.2 The Division is duty bound to deal with all cases of malpractice be they minor or major frauds or non compliance with ethical conduct and standards.

2.3 The Division believes that whatever action is taken, it must be appropriate, balanced, fair and transparent.

3. Expected qualities

3.1 Officers of the Division must be of proven integrity, professionalism and must demonstrate some specific qualities in performing their duties. In the discharge of those duties, they must demonstrate –

- (a) utmost confidentiality and discretion;
- (b) due care and diligence;
- (c) ability to confront difficult situations;
- (d) objectivity and independence; and
- (e) other qualities consonant with those of an officer in such a position.

3.2 **Confidentiality and discretion**

3.2.1 No Internal Affairs personnel is authorized to disclose to any third party, except those who have a legitimate need to know:

- (a) any information relating to the declaration of assets of MRA officers and employees;
- (b) the nature and contents of allegations or complaints received;
- (c) enquiries and interviews conducted;
- (d) the results of investigations or any documentary evidence or records related thereto.

3.3 **Due care and diligence**

3.3.1 Officers of the Division must always exercise due care and diligence in the performance of their duties.

3.3.2 They must conduct their enquiries in a professional, comprehensive and sensitive manner with the objective of bringing a fair resolution.

3.4 **Ability to confront difficult situations**

3.4.1 They will have to confront difficult situations and must be in a position to work at odd hours and be very flexible with hours of departure and arrival.

3.4.2 They would in the course of their duties need to go for field visits, undertake covert and overt operations.

3.4.3 They must be ready to work under pressure and face threats, defiance and reluctance from those whose unprofessional behaviour are being investigated.

3.4.4 They must have the ability to keep an eye for details, show flair and scepticism and decision making abilities in intricate situations.

3.4.5 More importantly, they need to cultivate the ability to stay calm but alert.

3.5 **Objectivity and independence**

3.5.1 The other important traits an officer of the Division must possess are: objectivity and independence of mind.

3.5.2 Officers of the Division should not allow political, family and other vested interests to impair their judgments.

3.6 **Others**

3.6.1 They should possess good communication skills, clear reasoning and the ability to deal with people.

3.6.2 They must have the ability to learn rapidly and have a good knowledge of relevant laws, investigative techniques and the willingness to learn.

3.6.3 They must exercise diplomacy, creativity and flexibility, when interviewing people. They must also be courteous and welcoming.

4. **Disclosure**

4.1 Officers of the Division are duty bound to disclose to the Director in a timely fashion any actual or potential conflict of interest he or she may have in an investigation in which he or she is to participate.

PART THREE

PROCESSING OF COMPLAINTS BY INTERNAL AFFAIRS DIVISION

1. Sources of Complaints/Allegations

1.1 Complaints or allegations may originate from any of the following sources:

- (a) A hot line for the Internal Affairs Division;
- (b) The MRA website;
- (c) Letters (anonymous or signed);
- (d) Phone calls;
- (e) Whistle blowers;
- (f) Complainants calling in person;
- (g) Referral from other public or private bodies including ICAC, FIU, ADSU, Police, etc;
- (h) Referral from the Chairperson, MRA Board, Director-General, Directors of other Departments and Divisions;
- (i) Internally generated (through processing of and verification of declaration of assets);
- (j) Press cuttings.

2. Filing of complaints/allegations

2.1 The Officer in Charge of the Registry of the Internal Affairs Division will be responsible to ensure that all the complaints/allegations from whatever sources are properly registered and submitted immediately to the Director.

2.2 The Director will then submit the files to a Technical Officer of the Division who will be assigned the task of screening the complaints/allegations and sort them as per the following categories:

- (a) Whether they are urgent and warrant prompt action;
- (b) Whether they are highly sensitive and require restricted access;
- (c) Whether they are out of the purview of the MRA or of the Internal Affairs Division;
- (d) Whether they are too vague, frivolous and malicious or completely vexatious or unfounded.

2.3 The Officer in Charge of the Registry should at all times be aware of the movement of files within the Division and make a record of those movements, even when they are sent to the Director-General or to the Chairman. No photocopies of correspondence will be allowed, except if these are properly filed and submitted to the case officers for follow-up action.

2.4 Generally, the Officer in Charge of the Registry will keep a record of all incoming and outgoing correspondences and in particular:

- (a) all complaints/allegations reported and date of receipt;
- (b) the Preliminary Report;
- (c) the Investigation Report and other related Reports;
- (d) the decision(s) of the Board thereon.

3. **Examination of complaints/allegations**

3.1 The Director will assign a complaint/allegation to an officer/s under the supervision of a Team Leader. The case officer/s will be responsible to:

- (a) ensure that there is a case number to the file and record the file in the Registry against his name;
- (b) examine and analyse the allegation/complaint;
- (c) gather information about the allegation/complaint through pre-intake interviews, internal or external enquiries.

4. **Pre-intake interviews**

4.1 To gather information, the Division may need to call the complainant for a

meeting or an interview. This pre-intake interview may be held on the 10th floor at Eham Court or at the area of operation of the complainant. As far as possible, those interviewed will be encouraged to confirm their submissions in writing. A brief of all pre-intake interviews will be prepared by the case officer/officers and placed into file.

4.2 Besides pre-intake interviews, the Division may need to call for information, documents or files from other Departments of the MRA without disclosing the facts of any allegation or investigation to be undertaken.

4.3 A request for information, documents or files will be made in writing to the respective Directors of the Department and/or Division and placed in file.

4.4 Any employee who is required to call on the Director of Internal Affairs or any Internal Affairs Officer in connection with a complaint will be informed in writing through his Head of Division/Department of the date on which and time at which his or her presence is required.

5. **Preliminary investigation**

5.1 At preliminary stage, only intelligence are gathered by the case officer/s with a view to testing the veracity of the complaint/allegation.

5.2 Information are, as far as possible, collected from the relevant public database, e.g. the Registrar General, the Registrar of Companies, the National Transport Authority, the Police and the Internal Directorates of the MRA.

5.3 Both overt and covert operations are conducted to gather intelligence.

5.4 As far as possible, case officers will conduct investigations so that relevant, reliable and material evidence are gathered to a standard as required by a Court of Law.

5.5 Case officers will perform their duties having regard to the legal and constitutional rights of employees during the course of an investigation or enquiry.

5.6 A preliminary/interim report highlighting the findings and recommendations for a further investigation is then submitted to the Director.

5.7 The preliminary/interim report could also include a classification of the complaint/allegation according to the gravity of the alleged offence as follows:

5.7.1 **Category I complaints**

5.7.1.1 Category I complaints are complaints which, if substantiated, constitute a violation greater than minor demeanour and could result in charges and/or disciplinary sanction including termination of employment. Some examples of Category I complaints are:

- (i) False and wilful concealment of material information in relation to Declaration of Assets;
- (ii) Collusion with taxpayers to defraud revenue;
- (iii) Giving or accepting a bribe;
- (iv) Wilfully under-assessing tax returns;
- (v) Collusion with importers and others to under value or mis-classify imports;
- (vi) Assisting in money laundering, drug trafficking and counterfeit goods;
- (vii) Stamping or clearing 'fraudulent goods'.

5.7.2 **Category II complaints**

5.7.2.1 Category II complaints include offences which are relatively minor in nature. Some examples could be:

- (i) Indulging in gambling whilst at work;
- (ii) Drinking alcohol during work;
- (iii) Abusive talks and unprofessional attitude with colleagues or members of the public;
- (iv) Unauthorised use or abuse of car and other facilities.

5.7.3 **Uncategorised complaints**

5.7.3.1 If the case officer/s find that complaint/allegation is not substantiated he/they will submit his/their recommendations for review to the Director and categorise as to whether he/they believe that there is:

- (a) insufficient evidence;
- (b) the allegation is unfounded or vexatious;
- (c) there is misconception on the part of the complainant.

6. **Further or no investigation**

6.1 The Director reviews the Interim Report and decides:

- (i) If the interim report points towards sufficient substance in the case under investigation, he/she may direct that the case be further investigated;
- (ii) If, however, the interim report depicts almost no substance, he/she may advise that the case be set aside or be closed and report the matter to the Board.

6.2 **Further investigation**

6.2.1 If the Director directs further investigation, the case is referred to an Investigation Team which will review in detail the preliminary investigation, and come up with an investigation plan.

7. **The investigation plan**

7.1 The Investigation Plan may comprise:

- (i) Planning;
- (ii) Line of action;
- (iii) Further intelligence gathering through either covert and overt operations;

- (iv) Further request for information/documents;
- (v) Further searches at public data bases, whenever possible;
- (vi) Identification of potential witnesses and suspects;
- (vii) Identification of direct and circumstantial evidence;
- (viii) Meetings and interviews with various employees at the MRA or individuals outside the MRA;
- (ix) Collection of documentary evidence from the MRA and outside;
- (x) Reviewing of files, records;
- (xi) Examination of related files;
- (xii) Field intelligence;
- (xiii) Interview of witnesses;
- (xiv) Interrogation of suspects;
- (xv) Handling and filing of exhibits;
- (xvi) Reporting.

7.2 The plan has to be discussed and approved by the Director and all investigations must be carried out within the legal framework, and parameters of the MRA.

7.3 Meetings and interviews can be held with complainants, suspects or witnesses or any relevant person but the interview procedures below must be followed.

8. **The interview procedures**

- (i) All interviews are to be conducted at a reasonable hour and when it is most convenient for the person who is to be interviewed;
- (ii) All interviews are to be conducted with at least two interviewers present;

- (iii) All interviews are to be conducted during a reasonable period of time;
- (iv) The person/s interviewed shall not be subject to offensive language;
- (iv) The person/s may be accompanied by a representative of his/her choice who is conversant with the incident giving rise to the complaint/incident;
- (v) The interview can be in the form of a question and answer session and may be recorded;
- (vi) If the person to be interviewed decides not to attend or respond to the interview, the matter will have to be highlighted in the investigation report for the attention and consideration of the MRA Board.

9. **Confidentiality of interviews**

9.1 The contents of interviews will not be divulged to any party external to the Division except as required by law in the context of a disciplinary action or prosecution.

10. **The investigation report**

10.1 The Investigation Team will submit an Interim Investigation Report outlining inter alia:

- The history of the complaint/allegation
- The facts gathered
- The investigation carried out
- The persons interviewed in chronological order
- The statements received whether corroborated by witnesses and by whom
- The body of evidence
- The legal implications
- Recommendations as to:

- (i) Whether there must be recourse to Police powers (e.g. search warrants etc);
- (ii) Need for access to third party records (banks, other financial institution etc);
- (iii) Need for forensic analysis of documents etc.

10.2 The Interim Investigation report will be submitted to the Director and fully discussed with the Investigation Team. If required, the opinion of officers of the Legal, Human Resource and Training Departments will be sought on specific issues.

11. **Submission of Report to the Chairman and Director General**

11.1 The Director will submit the Draft Investigation Report to the Chairman and Director General together with recommendations as to whether:

- (i) The case is riddled with contradictory evidence, evidence of bias, self-interest on the part of the complainant or again past untruthfulness or high improbable or illogical statements which make the continued investigation unproductive and a waste of time and resources;
- (ii) There is enough proof that an act of minor misconduct, serious misconduct or gross misconduct has been committed according to the terms of the HR Manual and consequently disciplinary arrangements such as the setting up of a Disciplinary Committee may then be initiated;
- (iii) There has been a violation to the Code of Conduct and Ethics and the recommended disciplinary action;
- (iv) There has been a violation of MRA Act and the laws and regulations administered under the Act and the recommended course of action and
- (v) There is 'prima facie' evidence that a criminal offence has been committed and the matter need to be referred to the Commissioner of Police, ICAC or the DPP and whether Internal Affairs has enough substance to stand as witness if the DPP decides to prosecute the case.

12. **Examination of Draft Investigation Report and Recommendations**

12.1 The Chairman, the Director General together with the Director Internal Affairs will meet to discuss the draft report, evaluate the evidence and look into the recommendations made. Again further legal opinion may be sought as well as advice on HR issues.

12.2 Generally, with regard to minor offences (Category II complaints), the Chairman may decide to initiate disciplinary action as outlined in the HR Manual and request that a final investigation and action report be submitted to the MRA Board.

12.3 With regard to major offences (Category I complaints), an investigation report will be submitted and the approval of the Board will be sought either for (i) dismissal of the offender after all the disciplinary proceedings as per the HR Management Manual have been conducted or (ii) to request for further investigation by ICAC, FIU or the Police.

13. **Report to the Board**

13.1 The Division will prepare a final report to the Board as outlined in Part One of the Manual of Procedures for dealing with allegations of malpractice and other complaints.

14. **Communication of results of investigation to complainant/s**

14.1 The Division is duty bound to keep secret its investigations and as such the complainant will not be kept informed of the progress of the investigation. However, the Board may approve the release of the investigation report or extracts thereof as it may deem expedient in the interest of transparency.

PREVENTION OF CORRUPTION ACT 2002

Definition of “act of corruption” (see paragraph 1.4)

In the Prevention of Corruption Act 2002, we find the following definitions in relation to an “act of corruption” –

“act of corruption” -

- (a) means an act which constitutes a corruption offence; and
- (b) includes –
 - (i) any conduct whereby, in return for a gratification, a person does or neglects from doing an act in contravention of his public duties;
 - (ii) the offer, promise, soliciting or receipt of a gratification as an inducement or reward to a person to do or not to do any act, with a corrupt intention;
 - (iii) the abuse of a public or private office for private gain;
 - (iv) an agreement between 2 or more persons to act or refrain from acting in violation of a person's duties in the private or public sector for profit or gain;
 - (v) any conduct whereby a person accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification for inducing a public official, by corrupt or illegal means, or by the exercise of personal influence, to do or abstain from doing an act in the exercise of his duties to show favour or disfavour to any person.

“corruption offence” means an offence under Part II or under such other enactment as the Prime Minister may prescribe. [Note: the offences appear under the following heads in Part II: (1) Bribery by public officials; (2) Bribery of public official; (3) Taking gratification to screen offender from punishment; (4) Public official using his office for gratification; (5) Bribery of or by a public official to influence the decision of a public body; (6) Influencing public official; (7) “Trafic d’influence”; (8) Public official taking gratification; (9) Bribery for procuring contracts; (10) Conflict of interests; (11) Treating of public official; (12) Receiving gift for a corrupt purpose; (13) Corruption of agent; (14) Corruption to provoke a serious offence

MRA officers and employees are strongly recommended to secure a full copy of these offences and be conversant with them.

"gratification" –

- (a) means a gift, reward, discount, premium or other advantage, other than lawful remuneration; and
- (b) includes -
 - (i) a loan, fee or commission consisting of money or of any valuable security or of other property or interest in property of any description;
 - (ii) the offer of an office, employment or other contract;
 - (iii) the payment, release or discharge of a loan, obligation or other liability; and
 - (iv) the payment of inadequate consideration for goods or services;
- (c) the offer or promise, whether conditional or unconditional, of a gratification;

"public official" –

- (a) means a Minister, a member of the National Assembly, a public officer, a local government officer, an employee or member of a local authority, a member of a Commission set up under the Constitution, an employee or member of a statutory corporation, or an employee or director of any Government company; and
- (b) includes a Judge, an arbitrator, an assessor or a member of a jury;

GUIDELINES FOR PROCESSING AND VERIFYING OF DECLARATION OF ASSETS
(see paragraph 9.1)

1. LEGAL OBLIGATION TO SUBMIT DECLARATION OF ASSETS

1.1 Section 14 of MRA Act 2004: Declaration of assets

(1) Every person shall, at the time of making an application to be recruited by the Authority, or within one month preceding his transfer to the Authority, as the case may be, lodge-

(a) in the case of the Director-General, with the Chairperson, a declaration of assets by way of an affidavit in the form specified in the Second Schedule [to the Act];

(b) in the case of an officer, with the Director-General, a declaration of assets by way of an affidavit in the form specified in the Second Schedule [to the Act]; or

(c) in the case of any other employee, with the Director-General, a declaration of assets in the form specified in the Third Schedule [to the Act],

in relation to himself, his spouse, his minor children and grandchildren, and subject to subsection (2), children of age.

(2) The declaration shall, in relation to children of age, specify any property sold, transferred or donated to each one of them in any form or manner whatsoever including income or benefits from any account, partnership or trust.

(3) Every officer referred to in subsection (1) shall make a fresh declaration of assets by means of an affidavit or declaration, as the case may be, every 3 years, and also on the expiry or termination of his employment on any ground.

1.2 Section 25 of MRA Act 2004: Offences

(1) Any person who-

(a)

(b) refuses to give information orally or in writing, or gives any false or misleading information, to an officer entitled to require such information under section 14(4);

(c) makes a false declaration under section 14(1) or (3);

(d)

(e)

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

2. ROLE OF INTERNAL AFFAIRS DIVISION

- 2.1 Pursuant to section 3(5)(a)(ii) of the MRA Act 2004, “the Internal Affairs Division shall be responsible for processing and verifying the declaration of assets made by an officer or employee or prospective officer or employee”.
- 2.2 By virtue of section 14(4) of the MRA Act 2004, the Head of Internal Affairs Division, or any officer deputed by him, may for the purposes of verifying any declaration lodged under this section, call for an oral or written information from an officer or employee or a prospective officer or employee.

3. PROCESSING DECLARATION OF ASSETS

- 3.1 All declaration of assets are received by the Internal Affairs Division and classified according to:
- (i) the grade
 - (ii) the department/division of each officer or employee.
- 3.1.2 A file is opened for each DOA and a reference will be allocated to each file.
- 3.1.3 A folder is opened and the relevant entries are input as declared in the relevant form in a database established for that purpose.
- 3.1.4 A preliminary arithmetic and logical audit for every declaration is undertaken to ascertain the accuracy of the valuation of the assets declared compared to the accuracy of the financial sources declared.
- 3.1.5 The declaration of assets will then be screened and rated as (i) *high-risk* or (ii) *medium-risk* or (iii) *low-risk cases*.
- 3.1.6 All high-risk cases will be given priority of treatment

4. VERIFYING DECLARATION OF ASSETS

- 4.1 Verification will be conducted as follows:
- 4.1.1 Background information will be collected from public database, namely
- (a) The Registrar General's Office,
 - (b) The Registrar of Companies,
 - (c) The National Transport Authority,
 - (d) The Central Depository and Settlement Company of the Stock Exchange,
 - (e) Customs Department,
 - (f) Medium and Small Taxpayer Department,
 - (g) Municipal Councils/District Councils.

- 4.1.2 If applicable, request for information will be sent to other relevant institutions, (e.g banking institution, trust fund, life insurance company and so on) and in cases where the consent of the declarant is required, Internal Affairs will request for such consent from declarant.
- 4.1.3 Intelligence may also be gathered from direct and indirect sources (for example from informants, competitors, victims, intelligence and law enforcement bodies such as FIU and Police).
- 4.1.4 Information/documents gathered will be appropriately classified and filed both manually and electronically.
- 4.1.5 Information/documents gathered will be compared with relevant declaration of assets to identify variances.
- 4.1.6 To ascertain whether to classify these variances as *erroneous* or *deliberate*, the officer/employee will be called for an oral or written information by virtue of section 14(4) of the MRA Act 2004.
- 4.1.7 Both *direct* and *circumstantial evidence* will be identified, secured and properly handled.

5. INVESTIGATION

- 5.1 In the light of all information and intelligence obtained, the Director will determine whether there is need to embark on an investigation resulting from findings on any specific case.
- 5.2 The Director will discuss these findings with the Director General and the Chairman.
- 5.3 If the case is to be further investigated, then the investigation procedures as per the Manual will be followed.
- 5.4 Cases of investigation generated through the processing and verifying of assets will be separated from cases that are started in the wake of complaints/allegations.

6. REPORTING

- 6.1 In the event of a false declaration Internal Affairs will report the matter to the Board with a recommendation as to whether an offence has been committed in accordance with Section 25(c) of the MRA Act 2004 and the matter be referred to the DPP.
- 6.2 In the event of submission of false and misleading information, Internal Affairs will report the matter to the Board with a request to call for information under section 6(5) (d) of the MRA ACT 2004 from any competent public office to communicate information that may help establish the assets/liabilities of the employee concerned.
- 6.3 In the event of refusal either orally or in writing to give information the matter will be again referred to the Board for any action deemed fit under section 25(b) of the MRA Act 2004.

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