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FIJI DEVELOPMENT BANK

**INSIDER TRADING & COUNTERING THE
FINANCING OF TERRORISM POLICY**

DOCUMENT CONTROL

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1. INTRODUCTION

The purpose of this Insider Trading Policy is to promote compliance and take an active role in the prevention of insider trading violations by the Banks directors, employees and other related individuals. The policy restricts the unauthorized disclosure of any material non-public information and misuse of such information in processes of the Bank such as tenders, expression of interests. The policy also provides guidelines under conflicts of interest and connected lending.

2. APPLICABILITY OF POLICY

The policy applies to all directors and employees of the Bank, or consultants or contractors to the Bank and its subsidiaries as well as family members of such persons and others, related persons, in each case where such persons have or may have access to confidential, material information regarding the Bank and its processes. The policy is to be delivered to all new employees and consultants upon the commencement of their relationship with the Bank.

This policy applies to:

- the tender process and private sale of items;
- connected lending to staff and related interests;
- entities/people with political influence;
- conflicts of interest;
- tipping.

Any person found to be in breach of this policy and its guidelines will be faced with disciplinary action which may also lead to suspension or termination as per *Part 5 – Section 33 of the Employment Relations Promulgation 2007*.

3. POLICY

If a director or any employee of the Bank or consultants or contractors of the Bank has material, non-public information relating to the Bank, it is the Bank's policy that neither that person nor any related person (as defined below) may tender for the purchase of any bill of sale or private sale items of the Bank or engage in any other action to take advantage of, or pass on to others, that information. This policy applies to material, non-public information relating to the Bank's transactions, funds and business activities with its customers and suppliers or related accounts, tenders or expression of interest advertisements by the Bank, obtained in the course of employment by or association with the Bank.

4. DEFINITIONS

4.1. Who is an Insider?

Any person who possesses material and non-public information that is not generally available and would reasonably be expected to have material effect on information

pertaining to tenders, policies and financial reports of the Bank as well as access to funds under their discretionary authority. Insider for the Bank can be:

- Any institution affiliated parties such as directors of the Bank;
- All employees of the Bank;
- Any immediate family members (including spouse & children) or persons listed above and other unrelated persons, if they live or are supported by the persons listed above.

Independent contractors and those persons in a special relationship with the Bank, for example, the Banks auditors, consultants or attorneys. The definition of insider is matter specific, that is, an individual is an insider with respect to each material, non-public item of which he or she is aware.

4.2. What is “Material and Non-Public” Information?

- a. Information is material and non-public if it has not been disclosed to the public be it positive or negative information while its disclosure is likely to affect the Bank, its customers and suppliers.
- b. At all times information relating to the financial condition of the Bank or the client should be presumed to be material and non-public information.
- c. The materiality of information also depends upon the circumstances. Information is considered material if there is substantial likelihood that an insider would consider it important in making a decision to purchase/sell items on tender or private sale or where the information would have significant effect on others purchasing items on tender or private sale.
- d. The following are general categories of information that should always be considered material and non-public:
 - Unpublished financial results;
 - Significant changes in corporate objectives;
 - Implementing Guidelines and Policies of products;
 - Executive or termination of significant license agreement or other contracts with customers, suppliers, employees and directors;
 - All pertinent information on sale of assets through tenders and private sale called by the Bank;
 - Significant acquisition or disposition of assets;
 - Defaults under agreements or actions by creditors, customers, suppliers, employees; or directors relating to the Bank’s credit standing;
 - Major changes in previously disclosed financial information;
 - Formation of a joint venture or merger;
 - Information about current or proposed significant changes in operations to business plans (such as marketing and price plans) or about significant financial restructuring;
 - Extraordinary borrowing or financial liquidity problems;
 - Client information;

- Significant disputes, claims or litigation developments or government investigations.

It should be assumed that any confidential information any staff, management or director possess about the Bank or its customers is material.

- e. In order for information to be considered public, it must be widely disseminated in a manner making it generally available to the public through public announcement.

4.3. Who is a “Related Person”?

For the purpose of this policy, a Related Person includes those person who are related to the Insider and fall under the following categories specified below:

- a. Spouse, children and anyone else living in the insider’s household, brothers, sisters and parents of the insider and brother-in-law and sister-in-law of the spouse.
- b. Companies, associated or holding, partnerships or other entities in which the insider or his/her relations as defined in (a) above are the directors, trustees, executors or shareholders.
- c. Tikina, village or provincial councils or other entities in which the insider or his/her relations as defined in (a) above have shares or are actively involved in the management of the above councils.

5. GUIDELINES

5.1. Purchase of items on Tender or Private Sale

Insiders must always declare their conflict of interest if in case the circumstance arises. Insiders or related persons **SHALL NOT**:

- a. Tender for or purchase any items advertised by the Bank.
- b. Subscribe to expression of interest advertisement or other business of the Bank.
- c. Get a related person to subscribe to tenders or sale of assets of customers to which they have inside information.
- d. Liaise as an interested participant or on behalf of an interested participant.

5.2. Connected Lending to Insiders (Staff) and Related Persons

The current lending policies as laid out in the Bank’s lending manual shall apply to all loan applications received from staff for commercial and investment purposes and related persons. The following additional control procedures specified below shall apply:

- a. All loan applications must follow the procedures and requirements laid down in the existing policy guidelines.
- b. The terms and conditions will be guided by the policy guideline of the product.
- c. The project should be viable on its own.
- d. Loan applications are to be processed by an officer one level above the applying officer.

- e. Appraisal procedures, loan documentation, securities preparation and disbursements are to follow the standard procedures as stated in the Bank's lending manual.
- f. The approving authority on all loan applications and all decisions will be made by EXCO.
- g. Staff are to declare their interests on all loan applications from related interests using the declaration form attached as **attachment 1**. The declaration form will record the interest of staff on the customer's loan application.

5.3. Lending to Entities/ People with Political Influence

The following guidelines are to be followed when considering loan applications of entities/people with political influence:

- a. The Bank's existing policy guidelines apply and processes are to be followed for all loan applications.
- b. The terms and conditions of the loan will be guided by the policy guidelines of the product.
- c. The project should be viable on its own.
- d. The EXCO will have the approving and controlling authority of all loan application up to its discretion level.
- e. All applications will be appraised through GMRS who would then make recommendations to EXCO and Board.

5.4. Conflict of Interests

Conflicts of interest can do a lot of damage to the Bank's reputation. All *insiders* must follow the following guidelines to reasonably manage any conflicts of interest and must always put the interest of the Bank, its customers and suppliers before their own.

- a. The Board

The board must be conscious of its obligations to ensure that directors avoid conflicts of interest (both real and apparent) between their duty to the Bank and their own interest. The Board of directors guided by the code of conduct holds responsibility for the supervision of Management at policy level and the general direction of the Bank and must ensure its dependence from operational matters.

- b. Employees

The Bank employees are not permitted to participate in activities which involve a conflict with their duties and responsibilities or which are prejudicial to the Banks business.

- c. People/Entities with Political Influence

These entities are not permitted to use their political influence to vary lending policy guidelines of the Bank for their own interest.

The table below provides the guidelines to be considered during conflicts of interest for the Bank’s Board and its employees.

Insider	Conflicts of Interest Procedure
The Board	<p>Directors should:</p> <ul style="list-style-type: none"> • Not inappropriately use information obtained by them as a director of the Bank for personal financial gain, or to obtain financial benefit for any other person or business. • Fully disclose any private or other business interest and any other matters which may lead to a conflict of interest in accordance with the policies that the directors may come across from time to time. • Disclose any actual or potential conflict of interest upon appointment and are required to keep regular disclosures to the Board.
	<p>Loan Application(s)</p> <p>The following procedures are to be followed when considering loan applications of the Bank directors or a related party(ies) or friends or family or acquaintance(s):</p> <ol style="list-style-type: none"> a. Any Board member who has a loan account or related account or in the Bank prior to the appointment as Board member shall: <ol style="list-style-type: none"> 1. Declare his/her interest in writing to the Chairman of the Board. 2. Make all effort to refinance the account elsewhere within a reasonable period. 3. Shall not use his/her position as a board director to interfere with the normal management of his/her related accounts whilst it remains a customer of the Bank. b. A Board member must disclose to all Board members: <ol style="list-style-type: none"> 1. Any material personal interest they may have in a matter which relates to the day to day affairs of the Bank or is being considered by the Board; 2. Any other interest which the Board member believes is appropriate to disclose in order to avoid conflict of interest. c. All incoming directors shall not be given access to the Bank’s loan facility during the term of his/her directorship. d. Unless the Board resolves otherwise, the directors may not participate in the boardroom discussion or vote on matters which they face a conflict. e. Any Board member(s) who is a <i>related person</i>¹ with regard to the application shall not take part in the discussion and approval process while the matter is being considered nor

¹ Related person – means any Director, any nominee for an Executive position in the Bank, or any of their immediate family members.

Insider	Conflicts of Interest Procedure
	<p>vote on the matter. However, such a director(s) shall be counted in determining the presence of a quorum at a meeting when it sits to deliberate on the application.</p> <p>Any Board Member, who has a loan account or related loan account in the Bank, shall be mindful of the responsibility for compliance with the Code of Corporate Governance and all regulatory and supervisory requirements to discharge the Board’s responsibilities with fairness, transparency, integrity, disclosure and accountability.</p>
Employees	<p>The Bank employees are expected to:</p> <ul style="list-style-type: none"> • Avoid conflict of interest. • Obtain consent from EXCO before accepting any form of membership, eg director, treasurer, etc of other Banks or non-bank organisations including religious and club organisations etc. • Seek approval from EXCO for any outside business interest including non-FDB work (paid or unpaid), business ventures, directorship, partnership, agent, guarantor, investor or a direct or indirect financial interest which has potential to be in conflict with the Bank, its customers/suppliers and the insiders current position in the Bank where it could adversely affect their ability to carry out their duties responsibly. • Disclose any material interest they have with the Bank’s customers to their managers and not be involved with customer interaction where they have such an interest. • Obtain written approval from EXCO to do business with the Bank’s customers or suppliers or hold a direct or indirect financial interest in customers or suppliers they deal with in the course of the work at FDB. • Not amend any transaction to disguise, conceal or misrepresent the involvement of any party or the nature of the transaction. For example, to conceal money laundering or the involvement of other entities or individuals. • Ensure all transactions and commitments with customers, suppliers or third parties are properly recorded and transparent. • Use Bank assets and funds for proper Bank purposes and keep accurate records of all payments, receipts for transactions using the Banks funds. • Not request, offer or accept money, gifts, favours or entertainment, donations which might influence or appear to influence their business judgement and could conflict with the Bank. • Should not provide, maintain, compete for products & services or approve transactions on behalf of related persons in the course of work at FDB. • Disclose to EXCO any personal association with a third party that the <i>insider</i> is involved in through evaluation or negotiating for the Bank, whether for employment, as a customers or supplier or any other reason. <p>Staff Loan Policies & Procedures</p> <p>The terms and conditions for Staff loans and its implementing policies and procedures are stated in Section 8 of the General Instructions Manual. It is also available in Volume 2 of the Lending Manual.</p>

5.5. Tipping information to others

Tipping which involves an insider communicating either directly or indirectly material non-public information to any third party, not limited to just related persons when the insider knows or should reasonably know that the other person would or is likely to use that information to deal in or induce a third party to deal in business activities of the Bank.

Any insider found to be tipping material non-public information will face disciplinary actions.

6. ADDITIONAL GUIDELINES

All *insiders* must act in the best interest of the Bank and value the Bank's reputation. The following are general guidelines to be followed by all employees and directors of the Bank.

Insiders should:

- Undertake their duties with appropriate care and diligence in accordance with their legal obligations.
- Deal honestly with the Banks shareholders, customers, suppliers, competitors and any other third parties or business partners.
- Ensure that confidential information relating the Bank's customers, suppliers, the staff and the Bank's information is not disclosed by them deliberately or unintentionally to third parties without the consent of the Bank.
- Exercise their discretion authorities responsibly and within their limits, and are accountable for how they are used.
- Use all of the Banks systems and equipment appropriately for proper purposes. This includes emails, messaging, internet access and the BMS.
- Use the vehicle services and facilities provided to them by the Bank in accordance to the terms on which they are provided.
- Never inappropriately use their positions within the Bank or any information obtained through their work at FDB to further their own personal interest or help others to do so.
- Not request, offer or accept money, gifts, favours or entertainment, donations which would conflict with your duties at the Bank.
- Not give any form of donation or contribution from the Bank if it falls outside the ambit of the Bank's Donations Policy Guideline and Sponsorship Policy Guideline.

Depending on the type of breach in policy, **attachment 2** provides appropriate references to sections of the Crimes Act 2009.

However, *Insiders* can:

- Only accept or give gifts, donations if stated and applicable to the respective policies and process.
- Only entertain customers and business associates with lunches, dinners or other events (such as charity fundraising) if the nature and value of the entertainment is reasonable in light of the nature and value of business relationship with the Bank and the seniority of the party attending.
- Obtain proper approval from EXCO and properly record any donations, sponsorships, charitable contributions, gifts and entertainment accepted from, or given to a third party on behalf of the Bank.

6.1. Additional guidelines – Insider Trading Policy

The following are additional guidelines to be noted. Insiders must:

- Not compete with customers or suppliers. For example, showing personal interest of tendered products or advertisements on expressions of interest.
- Not communicate inside information to anybody who works for the Bank except in accordance with the rules and policies of the relevant business unit or as specifically directed by Compliance.
- Not allow inside information to be given to a person whom they know is likely to participate in insider trading.
- Not misuse their discretion authority to authorize transactions for their own interest or other related people.
- Avoid and report all conflict of interests. For example, an insider has a conflicting interest in a transaction if he/she appears on both sides of the transaction or derives any personal benefit from it in the sense of self-dealing.
- Declare his/her interest in writing to EXCO and obtain approval for conflicting outside employment, directorship and business or if he/she decides to show an interest in the Banks business activities and abstain from participating in the handling/approval of that activity.

6.2. Additional guidelines – The Insider Loans Policy

The following are additional guidelines to be noted when considering loans to insiders:

- A prohibition on loans to insiders unless a loan is non-preferential and does not represent higher than normal risk of repayment or other unfavorable features.
- Prior Board approval for large loans to insiders.
- The limit on lending to individual insiders and to insiders in aggregate. (This currently exists where the limit of loan is dependent on the insider's annual salary).
- Insiders report and disclosure of certain financial information related to outside business, membership of clubs, directorship, partnership and indebtedness to other banks.
- For loans to Board members and entities/persons with political influence the normal loan conditions including guidelines on interest rate, repayment terms and credit evaluations criteria applicable to outside borrowers apply.

7. ADDITIONAL GUIDELINES – TERRORIST FINANCING

7.1. What is Terrorist Financing?

According to Article 2 of the International Convention for the Suppression of the Financing of Terrorism, a person commits the crime of financing of terrorism if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects

funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out an offense within the scope of the Convention: (a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or (b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organisation to do or to abstain from doing any act.

7.2. Scope of this Policy

This anti-money laundering and counter-terrorism financing policy applies to all sections of FDB operations including staff, its governing bodies and every other person working for the Bank in order to protect the Bank, and its reputation, from being misused for money laundering and/or terrorism financing by ensuring that they discharge their responsibilities in a manner that enables the full implementation of this Policy.

The policy also relates to all the duties, roles and responsibilities of all staff and defines and prescribes duties, roles and responsibilities in respect of:

- i. Preventing, detecting and reporting confirmed, suspected, detected or prevented money laundering
- ii. Identifying and verifying FDB customers, clients/parties and donors
- iii. Record keeping
- iv. Capacity building on money laundering and terrorism financing prevention, detection, monitoring and reporting
- v. Monitoring of activities, policies, procedures and plans

FDB anti-money laundering and counter-terrorism financing policy covers several unlawful activities including but not limited to:-

- | | |
|--|---|
| a. Participation in an organized criminal group and racketeering | h. Corruption and bribery |
| b. Terrorism, including terrorist financing | i. Fraud |
| c. Trafficking in human beings and migrant smuggling | j. Counterfeiting currency |
| d. Sexual exploitation, including sexual exploitation of children | k. Counterfeiting and piracy of products |
| e. Illicit trafficking in narcotic drugs and psychotropic substances | l. Environmental crime |
| f. Illicit arms trafficking | m. Murder, grievous bodily injury |
| g. Illicit trafficking in stolen and other goods | n. Kidnapping, illegal restraint and hostage-taking |
| | o. Robbery or theft |
| | p. Smuggling |
| | q. Extortion |
| | r. Forgery |
| | s. Piracy |

- t. Insider trading and market manipulation.

8. COMPLIANCE WITH POLICY

- 8.1. To ensure that the Board member's, management and staff are aware of and comply with the Bank's Insider Trading and Loans Policy, all personnel stated above shall be asked to read the policy.
- 8.2. The Bank will investigate any circumstances that come to attention indicating that any Board member or employee has engaged, or is likely to engage, in conduct that violates the policies and procedures set forth in the policy.
- 8.3. The Whistle Blower Policy can be used by employees to report activities by *Insiders* which they reasonably consider to be illegal, dishonest or in violation of this Policy. (*The Whistle Blower Policy is contained in the Bank's General Instruction Manual; Section 7.4*).
- 8.4. Any Board member or employee found to be in contravention of this policy or his/her statutory duty to protect the confidentiality of information of the Bank and its clients will be subject to disciplinary action that could include suspension, termination of employment or imprisonment as per the Crimes Decree act depending on the seriousness of the case. Some sections to be noted under the Crimes Decree applicable under the Insider Trading Policy is stated under **Attachment 2**.
- 8.5. The policy is to be incorporated under the Code of Conduct of the General Instructions Manual.
- 8.6. The Audit Committee is responsible for monitoring the implementation of this policy.

Attachment 1: Staff Undertaking and Declaration on Loan Applications from Related Interests

STAFF UNDERTAKING AND DECLARATION ON LOAN APPLICATIONS FROM RELATED INTERESTS

FILE NO:

CUSTOMERS NAME:

I, of the Branch/Center of the Fiji Development Bank, do solemnly and sincerely declare:

1. THAT I am an employee of the Fiji Development Bank.
2. THAT I have related interest* in the above described loan application.
3. THAT because of my interest I will refrain from taking part in the assessment and/or decision making process in respect of the loan proposal.
4. I further undertake and declare that I will not in any way participate and/or manage the said loan portfolio nor shall I be involved in any dealings arising out of the said loan.

DATED at this day of, 20....

.....
DECLARANT

.....
WITNESS

Notes

1. **Definition of Related Interests***:
The term “Related Interests” means loans provided to staff member’s family or associate persons and companies who fall under the three categories stated below: includes those persons who are related to the Insider and fall under the following categories specified below:
 - a. Spouse, children and anyone else living in the insider’s household, brothers, sisters and parents of the insider and brother-in-law and sister-in-law of the spouse.
 - b. Companies, associated or holding, partnerships or other entities in which the insider or his/her relations as defined in (a) above are the directors, trustees, executors or shareholders.
 - c. Tikina, village or provincial councils or other entities in which the insider or his/her relations as defined in (a) above have shares or are actively involved in the management of the above councils.
2. Declaration form is to be for Office Use Only and is to be completed by each officer of the Bank who has interest in the application as per 1 above.
3. The declaration form is to be retained on the top left side of the file as a permanent record.
4. Any staff who wilfully fails to declare his interest on customer’s loan application and participates in the assessment of loan and portfolio management will be subjected to disciplinary action.

Attachment 2: References to Crimes Act 2009

PART 11 — OFFENCES AGAINST THE ADMINISTRATION OF LAWFUL AUTHORITY

Division 1 — Corruption and the Abuse of Office

SUB-DIVISION A — BRIBERY AND RELATED OFFENCES

Definitions

133.—(1) In this Division—

“benefit” includes any advantage including political gain and is not limited to property.

(2) For the purposes of this Division, a person is taken to have obtained a benefit for another person if the first-mentioned person induces a third person to do something that results in the other person obtaining the benefit.

(3) The definition of obtaining in section 288 does not apply to this Division.

Bribery of public officials

134.—(1) A person commits an indictable offence (which is triable summarily) if—

- (a) the person without lawful authority or reasonable excuse—
 - (i) provides a benefit to another person; or
 - (ii) causes a benefit to be provided to another person; or
 - (iii) offers to provide, or promises to provide, a benefit to another person; or
 - (iv) causes an offer of the provision of a benefit, or a promise of the provision of a benefit, to be made to another person; and
- (b) the person does so with the intention of influencing a public official (who may be the other person) in the exercise of the officer’s duties as a public official.

Penalty — Imprisonment for 10 years.

(2) In a prosecution for an offence against sub-section (1), it is not necessary to prove that the defendant knew—

- (a) that the official was a public official; or
- (b) that the duties were duties of a public official.

Receiving a bribe

135.—(1) A public official commits an indictable offence (which is triable summarily) if—

- (a) the public official without lawful authority or reasonable excuse—
 - (i) asks for a benefit for himself, herself or another person; or
 - (ii) receives or obtains a benefit for himself, herself or another person; or
 - (iii) agrees to receive or obtain a benefit for himself, herself or another person; and
- (b) the public official does so with the intention—
 - (i) that the exercise of the official’s duties as a public official will be influenced; or
 - (ii) of inducing, fostering or sustaining a belief that the exercise of the official’s duties as a public official will be influenced.

Penalty — Imprisonment for 10 years.

Corrupting benefits given to, or received by, a public official

136.—(1) A person commits a summary offence if—

- (a) the person without lawful authority or reasonable excuse—
 - (i) provides a benefit to another person; or
 - (ii) causes a benefit to be provided to another person; or
 - (iii) offers to provide, or promises to provide, a benefit to another person; or
 - (iv) causes an offer of the provision of a benefit, or a promise of the provision of a benefit, to be made to another person; and
- (b) the receipt, or expectation of the receipt, of the benefit would tend to influence a public official (who may be the other person) in the exercise of the official’s duties as a public official.

Penalty — Imprisonment for 10 years.

(2) In a prosecution for an offence against sub-section (1), it is not necessary to prove that the defendant knew—

- (a) that the official was a public official; or
- (b) that the duties were duties as a public official.

Receiving a corrupting benefit

137.—(1) A public official commits a summary offence if—

- (a) the official without lawful authority or reasonable excuse—
 - (i) asks for a benefit for himself, herself or another person; or
 - (ii) receives or obtains a benefit for himself, herself or another person; or
 - (iii) agrees to receive or obtain a benefit for himself, herself or another person; and
- (b) the receipt, or expectation of the receipt, of the benefit would tend to influence a public official (who may be the first-mentioned official) in the exercise of the official's duties as a public official.

Penalty — Imprisonment for 5 years.

Benefit in the nature of a reward

138. For the purposes of sections 136 and 137, it is immaterial whether the benefit is in the nature of a reward.

Abuse of office

139. A person commits an indictable offence which is triable summarily if, being employed in the public service, the person does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another.

Penalty—10 years imprisonment

If the act is done or directed to be done for gain – Penalty -17 years imprisonment.

Corrupt practices

149. If—

- (a) any agent without lawful authority or reasonable excuse accepts or obtains (or agrees to accept or attempts to obtain) from any person, for the benefit of the agent or any other person, any gift or consideration as an inducement or reward for doing or forbearing to do (or for having done or forborne to do) any act in relation to his principal's affairs or business or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or
- (b) any person without lawful authority or reasonable excuse gives, or agrees to give or offers any gift or consideration to any agent as an inducement or reward for doing or forbearing to do (or for having done or forborne to do), any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or
- (c) any person knowingly gives to any agent, or if any agent knowingly uses with intent to deceive his or her principal, any receipt or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which to his or her knowledge is intended to mislead the principal—

he or she commits a summary offence.

Penalty — Imprisonment for two years or a fine of 20 penalty units, or both.

Falsification of documents etc.

- 160.—(1) A person commits a summary offence if —
- (a) the person dishonestly damages, destroys, alters, conceals or falsifies a document; and
 - (b) the document is—
 - (i) kept, retained or issued for the purposes of any law; or
 - (ii) made by a government entity or a person in the capacity of a public official; or
 - (iii) held by a government entity or a person in the capacity of a public official; and
 - (c) the first-mentioned person does so with the intention of:
 - (i) obtaining a gain; or
 - (ii) causing a loss.

Penalty — Imprisonment for 7 years.

- (2) Absolute liability applies to the paragraph (1)(b) element of the offence.

- (3) A person commits a summary offence if—
- (a) the person dishonestly damages, destroys, alters, conceals or falsifies a document; and
 - (b) the person does so with the intention of:
 - (i) obtaining a gain from another person; or
 - (ii) causing a loss to another person; and
 - (c) the other person is a government entity.

Penalty: Imprisonment for 7 years.

- (4) In a prosecution for an offence against sub-section (3), it is not necessary to prove that the defendant knew that the other person was a government entity.

Division 4 — Other Offences Involving Fraudulent Conduct

General dishonesty - Obtaining a gain

323. A person commits a summary offence if he or she does anything with the intention of dishonestly obtaining a gain from another person.

Penalty — Imprisonment for 5 years.

General dishonesty - Causing a loss

- 324.—(1) A person commits a summary offence if he or she does anything with the intention of dishonestly causing a loss to another person.

Penalty — Imprisonment for 5 years.

- (2) A person commits a summary offence if he or she—
- (a) dishonestly causes a loss, or dishonestly causes a risk of loss, to another person; and
 - (b) person knows or believes that the loss will occur or that there is a substantial risk of the loss occurring.

Penalty — Imprisonment for 5 years.

General dishonesty — Influencing a public official

- 325.—(1) A person commits a summary offence if he or she does anything with the intention of dishonestly influencing a public official in the exercise of the official's duties as a public official.

Penalty — Imprisonment for 5 years.

- (2) In a prosecution for an offence against sub-section (1), it is not necessary to prove that the defendant knew—
- (a) that the official was a public official; or
 - (b) that the duties were duties as a public official.

Obtaining financial advantage

- 326.—(1) A person commits a summary offence if he or she—
- (a) engages in conduct; and
 - (b) as a result of that conduct, obtains a financial advantage for himself or herself from another person; and
 - (c) knows or believes that he or she is not eligible to receive that financial advantage.

Penalty — Imprisonment for 10 years.

- (2) A person commits a summary offence if he or she—
- (a) engages in conduct; and
 - (b) as a result of that conduct, obtains a financial advantage for another person from a third person; and
 - (c) knows or believes that the other person is not eligible to receive that financial advantage.

Penalty—Imprisonment for 10 years.

(3) For the purposes of sub-section (2), a person is taken to have obtained a financial advantage for another person if the first-mentioned person induces the third person to do something that results in the other person obtaining the financial advantage.

Conspiracy to defraud - Obtaining a gain

327. A person commits a summary offence if he or she conspires with another person with the intention of dishonestly obtaining a gain from a third person.

Penalty Imprisonment for 10 years.

Conspiracy to defraud - Causing a loss

328.—(1) A person commits a summary offence if he or she conspires with another person with the intention of dishonestly causing a loss to a third person.

Penalty Imprisonment for 10 years.

- (2) A person commits a summary offence if he or she—
- (a) conspires with another person to dishonestly cause a loss, or to dishonestly cause a risk of loss, to a third person; and
 - (b) knows or believes that the loss will occur or that there is a substantial risk of the loss occurring.

Penalty — Imprisonment for 10 years.

Conspiracy to defraud — Influencing a public official

329.—(1) A person commits a summary offence if he or she conspires with another person with the intention of dishonestly influencing a public official in the exercise of the official's duties as a public official.

Penalty—Imprisonment for 10 years.

- (2) In a prosecution for an offence against sub-section (1), it is not necessary to prove that the defendant knew—
- (a) that the official was a public official; or
 - (b) that the duties were duties as a public official.

General provisions relating to conspiracy to defraud

- 330.—(1) For a person to be guilty of an offence of conspiracy to defraud—
- (a) the person must have entered into an agreement with one or more other persons; and
 - (b) the person and at least one other party to the agreement must have intended to do the thing pursuant to the agreement; and
 - (c) the person or at least one other party to the agreement must have committed an overt act pursuant to the agreement.

- (2) A person may be found guilty of an offence of conspiracy to defraud even if—
- (a) obtaining the gain, causing the loss, causing the risk of loss, or influencing the public official, as the case may be, is impossible; or
 - (b) the only other party to the agreement is a body corporate; or
 - (c) each other party to the agreement is a person who is not criminally responsible; or
 - (d) subject to sub-section (3), all other parties to the agreement have been acquitted of the offence.
- (3) A person cannot be found guilty of an offence of conspiracy to defraud if—
- (a) all other parties to the agreement have been acquitted of such an offence; and
 - (b) a finding of guilt would be inconsistent with their acquittal.
- (4) A person cannot be found guilty of an offence of conspiracy to defraud if, before the commission of an overt act pursuant to the agreement, the person—
- (a) withdrew from the agreement; and
 - (b) took all reasonable steps to prevent the doing of the thing.
- (5) A court may dismiss a charge of an offence against this section if the court thinks that the interests of justice require the court to do so.
- (6) Proceedings for an offence of conspiracy to defraud require the consent of the Director of Public Prosecutions, but before the necessary consent has been given, a person may be—
- (a) arrested for an offence against this section; or
 - (b) charged with an offence against this section; or
 - (c) remanded in custody or released on bail in connection with an offence against this section.

END