



## ARMSCOR'S FRAUD PREVENTION PROCEDURE

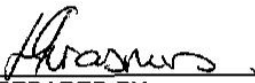
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**SUMMARY:** THIS DOCUMENT DESCRIBES THE PROCEDURE FOR PREVENTING FRAUD IN ARMSCOR


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**DATE OF APPROVAL OF THIS ISSUE :**      **08 JUNE 2009**


**APPROVAL PAGE**

  
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2009/06/04  
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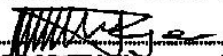
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2009/06/04  
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**SUBMISSION APPROVED  
BY THE MANAGEMENT BOARD**

ON 08 JUNE 2009  
TO BE APPROVED BY MANAGEMENT BOARD

  
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SECRETARY — ARMSCOR

## AMENDMENT HISTORY

| Doc Issue | Date       | Amendments | Doc change proposal No. | CM Conformance |          |
|-----------|------------|------------|-------------------------|----------------|----------|
|           |            |            |                         | Name           | Initials |
| 001       | 2006-10-09 | RELEASE    | ---                     | PHIRI          | MO       |
| 002       | 2009-06-08 | Update     | 000389                  | PHIRI          | MO       |
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## 1.1 SCOPE

The Fraud Prevention Procedure describes the relevant processes, procedures and responsibilities with regard to fraud prevention in Armscor.

## 1.2 BACKGROUND

Fraud prevention is a national drive which is receiving priority attention in all governmental institutions. The Public Finance Management Act and the Prevention and Combating of Corrupt Activities Act were established to govern the activities of governmental institutions and to curb the unacceptably high incident rate of corrupt activities.

As a responsible public entity Armscor supports this national initiative and takes the necessary actions to ensure that fraudulent activities, if not eradicated completely, are restricted to the minimum.

The mechanism for managing fraud prevention is embedded in internal controls, which are captured in Armscor's management documentation (i.e. Policies, Practices, Procedures, etc.).

## 2. DOCUMENTS

### 2.1 Applicable documents:

- A-Pol-7012 Armscor's Fraud Prevention Policy
- A-Prac-4010: Practice on Strategic Management
- A-Proc-4030: Procedure for Armscor's Strategic Management Process
- A-CORP-001: Directives relating to decision-making powers
- 06000-CORP-001: Directives relating to decision-making powers in Armscor Business (Pty) Ltd
- A-PRAC-2023: Disciplinary Practice

### 2.2 Reference Documents:

- 2.2.1 Act No 1 of 1999 Public Finance Management Act, as amended by Act No 29 of 1999.
- 2.2.2  Treasury Regulations for departments, trading entities, constitutional and public entities, issued in terms of the Public Finance Management Act, 1999. May 2002.
- 2.2.3  National Treasury Guideline Framework for Corporate Planning and Shareholder's Compact applicable to Schedule 2, 3B and 3D Public entities. September 2001
- 2.2.4  Protocol on Corporate governance in the Public Sector
- 2.2.5 Act No 12 of 2004 Prevention and Combating of Corrupt Activities Act
- 2.2.6  King II Report on Corporate Governance for South Africa – 2002
- 2.2.7  National Treasury Guideline Framework for Corporate Planning and Shareholder's Compact applicable to Schedule 2, 3B and 3D Public entities. September 2001
- 2.2.8 CFO No 1/2002 Joint Defence Publication. Policy Statement, Standards, Process and Procedures for Risk Management in the DOD

## **3 DEFINITIONS**

### **3.1 Definitions / terminology**

#### **3.1.1 Armscor**

Armscor refers to the Armscor Group, including all off-site offices, Armscor Business (Pty) Ltd and all its business units, as well as all other subsidiary companies of Armscor Ltd.

#### **3.1.2 Chief Risk Officer**

The General Manager: Finance and Infrastructure is also the appointed Chief Financial Officer and the Chief Risk Officer.

#### **3.1.3 Corruption**

Corruption in its wider meaning, and as referred to in this document, includes any conduct or behaviour where a person accepts, agrees or offers any gratification for him/her or for another person where the purpose is to act dishonestly or illegally. Such behaviour also includes the misuse of material or information, abuse of a position of authority or a breach of trust or violation of duty.

#### **3.1.4 Fraud**

In South Africa, the Common Law offence of fraud is defined as “the unlawful and intentional making of a misrepresentation which causes actual and or potential prejudice to another”. The term “fraud” is also used in a wider sense by the general public. In this regard, the term is used in this document in its widest possible meaning and is intended to include all aspects of economic crime and acts of dishonesty. In other words, fraud can be described as any conduct or behaviour of which a dishonest representation and/or appropriation forms an element.

### **3.2 Different categories of corrupt activities as contained in the Prevention and Combating of Corrupt Activities Act**

Annexure A reflects an extract from the Prevention and Combating of Corrupt Activities Act on the different categories of corrupt activities which are applicable to Armscor.

## **4 RESPONSIBILITIES**

### **4.1 Process owner**

The Chief Risk Officer is the appointed process owner.

### **4.2 Communication**

The Chief Risk Officer is responsible for all communication aspects in respect of risk management.

### **4.3 Implementation**

The Chief Risk Officer, through the participation of all the General Managers, is responsible for the implementation of this Procedure.

### **4.4 Review**

The Chief Risk Officer will convene the appropriate review group on a biennial basis or whenever necessary to ensure the validity and applicability of this Procedure.

### **4.5 Data management**

Data records are kept at the applicable registries and / or managed in accordance with approved Armscor processes and procedures.

### **4.6 Responsibilities for fraud and corruption risk management**

The following section outlines the fraud and corruption risk management responsibilities associated with different roles within Armscor.

#### **4.6.1 Accounting Authority**

The Armscor Board of Directors bears the ultimate responsibility for fraud and corruption risk management within Armscor. This includes the coordination of risk assessments, overseeing the investigation of suspected fraud and corruption, and facilitation of the reporting on such instances.

#### **4.6.2 Audit & Risk Committee**

The role of the Audit & Risk Committee is to oversee Armscor's approach to fraud prevention, fraud detection strategies and response to fraud and corruption incidents reported by employees or other external parties.

#### **4.6.3 Management**

Management is to be committed to eradicating fraud and corruption and ensuring that Armscor strives to be perceived as ethical in all its dealings with the public and other interested parties. In this regard, management, under the guidance of the Chief Risk Officer, will ensure that it does not become complacent in dealing with fraud and corruption and that it will ensure Armscor's overall fraud prevention measures is reviewed and updated regularly. Management will furthermore ensure that all employees and stakeholders are made aware of its overall fraud prevention strategies through various initiatives of awareness and training.

#### **4.6.4 Employees**

All employees are expected to comply with this procedure and abide by the Code of Conduct of Armscor. The highest standards of ethics are required by employees when fulfilling their duties.

## **5 PROCEDURE**

### **5.1 Introduction**

Fraud prevention is the cumulative effect of both preventative and detection systems incorporated by management. Detection of fraud can, furthermore, only lead to prevention thereof if the response thereto acts as deterrent.

Arm Scor's approach towards fraud prevention is based on the principles mentioned and described hereafter.

### **5.2 Fraud Prevention Principles**

Arm Scor fraud prevention is based on the following principles:

- Control measures to prevent fraud
- Fraud detection and subsequent investigation
- Maintenance of implemented fraud prevention measures
- Whistle blowing procedures

### **5.3 Control measures to prevent fraud:**

#### **5.3.1 Internal controls**

Internal controls are the first line of defence against fraud and corruption. While internal controls may not fully protect Arm Scor against fraud and corruption, they are essential elements in the overall Fraud Prevention Strategy.

All areas of operations require internal controls, for example:

- Physical controls (securing of assets);
- Authorisation controls (approval of expenditure);
- Supervisory controls (supervising day-to-day issues);
- Monthly and annual financial statements;
- Reconciliation of bank statements, monthly; and
- Reconciliation of suspense accounts, monthly.

#### **5.3.2 Arm Scor's fraud prevention measures**

Arm Scor's Fraud prevention measures are embedded in all management documents (i.e. Policies, Practices and Procedures). These documents are

listed in Armscor's Implemented Fraud Prevention Measures document (Annexure A).

Armscor's Implemented Fraud Prevention Measures document is a consolidated document and is to be used by all those applicable, at Departmental and Corporate level, to ensure that fraud prevention is adequately addressed in Armscor's management documentation.

### **5.3.3 Employment screening**

- **Pre-employment screening**

Pre-employment screening will be carried out for all appointments, and evidence of such screening will be maintained by the HR Department.

- **Ongoing security screening**

All employees will be screened on an ongoing basis depending on the level of security clearance required.

### **5.3.4 Disclosure of interests**

All employees of Armscor are required to disclose their specific business interests on an annual basis. This register will be kept with the Human Resources Department and will be available to line management for information.

### **5.3.5 An ethical culture**

Armscor is required to conduct itself in an ethical and moral way. Armscor therefore has a formal value system and it believes that its values constitute the building blocks of the manner in which it conducts its business. All employees are expected to abide by the Code of Conduct for Armscor.

### **5.3.6 Internal Audit**

Internal Audit assists management in maintaining effective controls by evaluating those controls to determine their effectiveness and efficiency and by developing recommendations for enhancement or improvement. Internal Audit furthermore assists management in achieving the objectives of the organisation as contained in the Risk Management Plan and the Implemented Fraud Prevention Measures by evaluating and developing recommendations for the enhancement or improvement of processes.

A robust Internal Audit plan, which focuses on the prevalent high Fraud and Corruption risks, serves as an effective preventative measure. The Internal Audit Division will compile such a plan on an annual basis.

## **5.4 Fraud detection**

Refer to the flow chart in paragraph 6.1: Fraud investigation process

#### 5.4.1 Detection of fraud or corruption

- **Internal audit**

Similar to the prevention strategies, fraud may be detected through the execution of the Internal Audit plan which focuses on the prevalent high Fraud and Corruption risks.

- **External audit**

Although the primary responsibility of external auditors is not the detection of fraud, Armscor recognises that the external audit function is an important control in the detection of fraud.

- **Line management and employees**

Line management and employees may detect fraud in the execution of their daily activities. Armscor recognises that its employees, as its primary asset, are an invaluable tool in the detection of fraud in the organisation.

- **Reporting fraud and corruption – Whistle blowing**

Armscor created an anti-fraud hotline allowing employees and/or outside people to report any suspicion of fraud or corruption. If an employee or any other party becomes aware of a suspected fraud, corruption or any irregularity or unethical behaviour, such issues should be reported. Any suspicion of fraud and corruption will be treated seriously and will be reviewed, analysed, and if warranted, investigated. (Refer to par 5.6)

#### 5.4.2 Preliminary investigation

In the event that fraud or corruption is detected or suspected, preliminary investigations will be initiated. Anonymous reports may warrant a preliminary investigation before any decision to implement an independent investigation is taken.

Should the preliminary investigation not uncover any fraudulent or corruptive activities the process should be stopped and no further action should take place.

#### 5.4.3 Independent investigation

Any reports of incidents of fraud and / or corruption will be confirmed by an independent investigation. Investigations will be undertaken by appropriately qualified and experienced persons who are independent of the department / section where investigations are required.

Any investigation initiated must be concluded by the issue of a report by the person/s appointed to conduct such investigations. Such reports will only be disseminated to those persons required to have access thereto in order to

implement whatever action is deemed appropriate as a result of the investigation.

Any investigation into improper conduct within Armscor will be subject to an appropriate level of supervision, having regard to the seriousness of the matter under investigation.

#### **5.4.4 Reporting to the CEO and / or Audit and Risk Committee**

The Chief Risk Officer will be responsible for reporting fraud to the Chief Executive Officer and the Audit and Risk Committee relating to, but not limited to:

- An employee of Armscor;
- A client of Armscor;
- A supplier to Armscor.

Any decision not to refer an allegation of fraud to the police for investigation (where there is sufficient evidence to justify making such a report) will be referred to the Audit & Risk Committee, together with the reasons for the decision.

Reporting fraud to the police for investigation will be subject to the requirements as set out in all applicable acts.

#### **5.4.5 Refer instance to SAPS for investigation**

Should investigations uncover evidence of fraud or corruption in respect of an allegation or series of allegations, Armscor will review the facts at hand to determine whether the matter is one that ought to be reported to the relevant law enforcement agency for investigation and possible prosecution. Such reports must be submitted to the South African Police Service in accordance with the requirements of all applicable acts. Armscor will give its full co-operation to any such law enforcement agency including the provision of reports compiled in respect of investigations conducted.

#### **5.4.6 Disciplinary actions**

All disciplinary proceedings will take place in accordance with the procedures as set out in the disciplinary practice.

#### **5.4.7 Confirm and execute disciplinary hearing recommendation**

The ultimate outcome of disciplinary proceedings may result in recommendations from written warnings to termination of service, as guided by the Disciplinary Practice (A-PRAC-.2023).

#### **5.4.8 Recovery actions**

Where there is clear evidence of fraud or corruption and there has been a financial loss to Armscor, recovery action, criminal, civil or administrative, may be instituted to recover any such losses, if considered financially beneficial, and as guided by the Disciplinary Practice (A-PRAC-.2023).

In respect of civil recoveries, costs involved will be determined to ensure that the cost of recovery is financially beneficial.

#### **5.4.9 Institute corrective action**

Guidance regarding corrective actions is described in the Disciplinary Procedure (A-PRAC-2023).

#### **5.4.10 Institute dismissal actions**

Human Resources Department and Security Division will execute the dismissal activities.

### **5.5 Procedure for the maintenance of Armscor's implemented fraud prevention measures**

Refer to the flow chart in paragraph 6.2: Maintenance procedure of Armscor's implemented fraud prevention measures.

#### **5.5.1 Review of the effectiveness of applicable Armscor management documents**

Armscor's Fraud prevention measures are embedded in all management documents (i.e. Policies, Practices and Procedures). These documents are listed in Armscor's Implemented Fraud Prevention Measures document. Armscor will conduct a review of the management documents on a regular basis to determine the effectiveness thereof.

#### **5.5.2 Test applicable management documents against the Prevention and Combating of Corrupt Activities Act, identify shortcomings in existing management documents and identify other possible areas of fraud**

The documents listed in Armscor's Implemented Fraud Prevention Measures are tested against the various categories as listed in Annexure A to ensure that these categories are adequately addressed in the management documents. The listed documents are also scanned for other possible shortcomings. During this activity other possible areas of fraud that are not covered by existing management documents are also identified.

### **5.5.3 Describe possible areas of fraud / non-compliance with the Prevention and Combating of Corrupt Activities Act**

The purpose of this activity is to understand the problems in the identified possible areas of fraud, shortcomings in existing management documentation and non-compliance with the Prevention and Combating of Corrupt Activities Act in order to establish / amend processes and procedures to counter the problem adequately.

### **5.5.4 Identify applicable process**

Possible areas of fraud, shortcomings in existing management documentation and non-compliance with the Prevention and Combating of Corrupt Activities Act could only occur in a process – formal or informal.

If no formal process and procedure exist, the steps described in paragraphs 5.5.5 and 5.5.6 should be followed.

If a formal process and procedure exist, the activities described in paragraph 5.5.7 should be followed.

### **5.5.5 Identify process owner**

A process owner must be identified. The process owner is the business process owner and he/she will then be responsible for drawing up an appropriate procedure document.

### **5.5.6 Establish process and procedure document**

The appropriate review group is convened to define the contents of the procedure document. Special attention should be given to addressing the identified possible area(s) of fraud, shortcomings in existing management documentation and/or the non-compliance with the Prevention and Combating of Corrupt Activities Act, as well as controls to prevent/detect future occurrences.

### **5.5.7 Update process / procedure to ensure compliance / eliminate possible area of fraud**

The process owner must convene the appropriate review group to amend the procedure document in order to adequately address the identified possible area(s) of fraud and/or the non-compliance with the Prevention and Combating of Corrupt Activities Act.

### **5.5.8 Implement Procedure**

The new/updated Procedure must be implemented after Management Board approval.

### **5.5.9 Update the Fraud Prevention Measures document**

Arm Scor's Fraud Prevention Measures document must be updated accordingly and be submitted to the Management Board for approval and to the Audit and Risk Management Committee as well as the Board of Directors for notification.

## **5.6 WHISTLE BLOWING PROCEDURE**

### **5.6.1 Background**

In order to enhance good governance and transparency, Arm Scor's Whistle-blowing Procedure aims to provide a channel for any person (employees / contractors / clients / external parties) to raise concerns and report on fraud, corruption (monetary bribes, kickbacks, gifts, etc), theft, financial malpractice or any other unlawful or irregular conduct occurring in the company.

This reporting channel should ensure that reports are reviewed, investigated and reported on in an appropriate manner. Feedback should be in the form of comprehensive reports, advising on the course of action, and facilitating appropriate resolution.

Confidentiality/anonymity should be guaranteed for any person or party that reports any information relating to misconduct. All parties will have access to a 24-hour centre that is equipped to receive information by post or e-mail. Individuals who have reported matters in good faith are protected and cannot lose their positions or suffer any form of harassment. Such protection applies equally where the person who reports misconduct is mistaken as to the facts, but it does not apply to anyone who reports on issues that they know are not true.

No action/steps, whether direct or indirect, may be taken against a whistle-blower. Should action (including discrimination, revenge, and harassment) have been taken against a whistle-blower, Arm Scor should publicly inform personnel of the action the company intends taking against the employee who has engaged in such action.

### **5.6.2 Scope**

Whistle-blowing is not about informing in a negative, anonymous sense. It is about expressing concern regarding malpractice within an organisation. Whistle-blowing is instituted to facilitate the disclosure and investigation of matters of serious wrongdoing in or by Arm Scor, and by protecting employees who make disclosures of information about serious misconduct in Arm Scor.

### **5.6.3 Whistle-Blowing activities**

#### **5.6.3.1 Whistle-blowing Principles**

Arm Scor's whistle-blowing is based on the following principles:

- Confidentiality
- Prohibition of retaliation
- Seriousness of false allegations
- Reporting of concerns
- What to report

#### **5.6.3.2 Confidentiality**

The Chief Risk Officer will take all the necessary steps to protect an individual's identity and person. It must be assured that the information given will be treated in a confidential manner. An individual's identity may only be revealed if:

- such person agrees to be identified,
- identification is necessary to allow Arm Scor or the appropriate law enforcement officials to investigate or respond effectively to the disclosure.

#### **5.6.3.3 Prohibition of Retaliation**

The Chief Risk Officer will take all the necessary steps to protect the whistle-blower against retaliation. Arm Scor undertakes to initiate disciplinary action against persons who engage in retaliation.

#### **5.6.3.4 Seriousness of false allegations**

The protection conferred by the Protected Disclosures Act does not apply where the person who makes a disclosure of information makes an allegation while knowing that such allegation is malicious, vexatious or false, or otherwise acts in bad faith.

In such cases Arm Scor undertakes to initiate disciplinary action against persons who maliciously institute false allegations.

#### **5.6.3.5 Reporting of concerns**

Arm Scor shall make available an anti-fraud hotline to potential whistle-blowers and complainants. The available facilities shall include secured telephone and fax lines, a secured e-mail address as well as a postal address. The facilities shall be operated by the office of Arm Scor Security

Division and shall entail round-the-clock confidential service available 24 hours a day and 365 days a year. Complaints will preferably be in English.

All employees are urged to make the disclosure to his/her immediate manager first, so as to give the manager the opportunity to address the matter internally and to take the corrective and preventative measures necessary.

Employees shall report allegations or concerns in writing to their immediate supervisor. Where employees feel uncomfortable discussing the matter with the immediate supervisor, or foresee a potential conflict of interest, or for any other reason are reluctant to disclose to an immediate supervisor, such person may, at his/her option, address the matter to a higher-level supervisor in Armscor. Personnel who are unsure whether to whistle-blow or not, or who seek advice on the factual nature of the disclosure or concerns for protection, are free to approach Legal Services Division for advice and assistance.

If an employee has reasonable grounds to believe that a member of the Management Board or Board of Directors could be involved in the serious wrongdoing, he/she may make the disclosure to another appropriate authority, including the Public Protector and/or the Auditor-General.

Allegations are better raised in writing. The background and history of the concern (names, dates and places) and the reason for the concern should be covered in the allegation. It should be noted that whistle-blowers and complainants are reporting parties. They are neither investigators nor fact-finders and therefore they do not determine what or whether corrective measures are necessary.

On receipt of an allegation from an Armscor employee, the Senior Manager: Security Division registers the allegation and, where the identity of the employee is known, acknowledges receipt of the allegation and if possible explains the actions to be taken and gives an indication of when such actions are to be taken. The action taken by Armscor will depend on the nature of the concern. It may be investigated internally or be referred to the Audit & Risk Committee and / or SAPS. In cases where the Chief Risk Officer is involved in an allegation, allegations may be directed directly to the CEO. If the CEO is suspected of fraud, theft, corruption or dishonesty, it should be reported directly to the Audit & Risk Committee. The employee making a disclosure should expect official correspondence within three months as to the preliminary evaluation of the disclosure by the Senior Manager: Security Division.

A preliminary evaluation will determine whether there are grounds for a more detailed investigation. This assessment shall be based on information and documentary evidence provided, and on whether the disclosure has been made on reliable information and in good faith. If and when evaluation reveals credible information that supports the allegation, a full investigation will be launched. Progress with investigations will be handled in a confidential manner and will not be disclosed to or discussed with any

persons other than those who have a legitimate right to such information. This is important in order to avoid damaging the reputation of suspected persons who are then found innocent of wrongful conduct.

Parties external to Armscor shall be free to use the hotline to register complaints and make allegations in strict confidence. All external allegations received through the hotline or through other channels provided for shall be registered and screened by the Senior Manager: Security Division. The same process will be followed as set out in the above paragraph.

#### **5.6.4 What to report:**

##### **5.6.4.1 What should one report?**

- Failure to comply with any legal obligation.
- Danger to the health and/or safety of employees and contractors.
- Criminal offences, including fraud, theft and corruption.
- Accounting, financial reporting, auditing and tender irregularities.
- Deliberate concealment relating to any of the above.

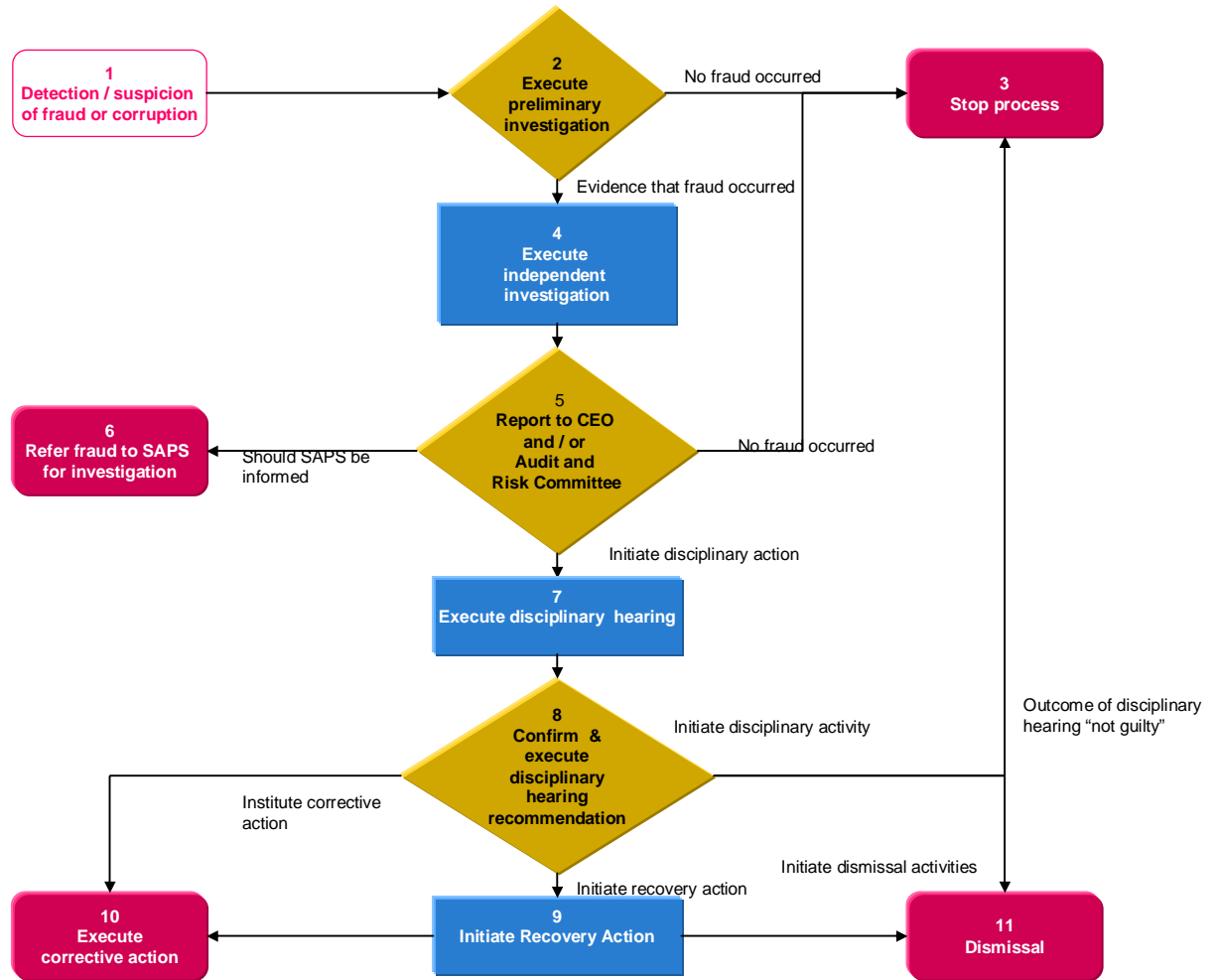
##### **5.6.4.2 Checklist before you report:**

- Do you have sufficient information to describe the nature of your concern in fairly specific terms?
- Are you able to measure the loss or threat, if any?
- What evidence gives rise to your concerns?
- Which witnesses will be prepared to make themselves available for questioning during an investigation?
- Which part of Armscor is affected or involved?
  - Acquisition (e.g. favouritism)
  - Finance (e.g. claims, tenders, audit)
  - Tenders, BBBEE (irregularity, favouritism)
  - Infrastructure (e.g. private use of company equipment)
  - Human Resources (e.g. discrimination), ect.
- Specify the names and/or titles of persons who are responsible for the incident or event that is of concern to you.

- Describe the nature of the above-mentioned persons' involvement in the incident or event that is of concern to you.
- If the abovementioned persons work for an organisation other than Armscor, specify these organisations.
- Over what period or on which dates did the events take place?
- Have you tried to convey your concerns through normal business communication channels? If the answer is no, what precludes you from doing so?

## 6. FLOW CHARTS

### 6.1 Fraud investigation process



### 6.1.1 ACTIVITY TABLE: FRAUD INVESTIGATION PROCESS

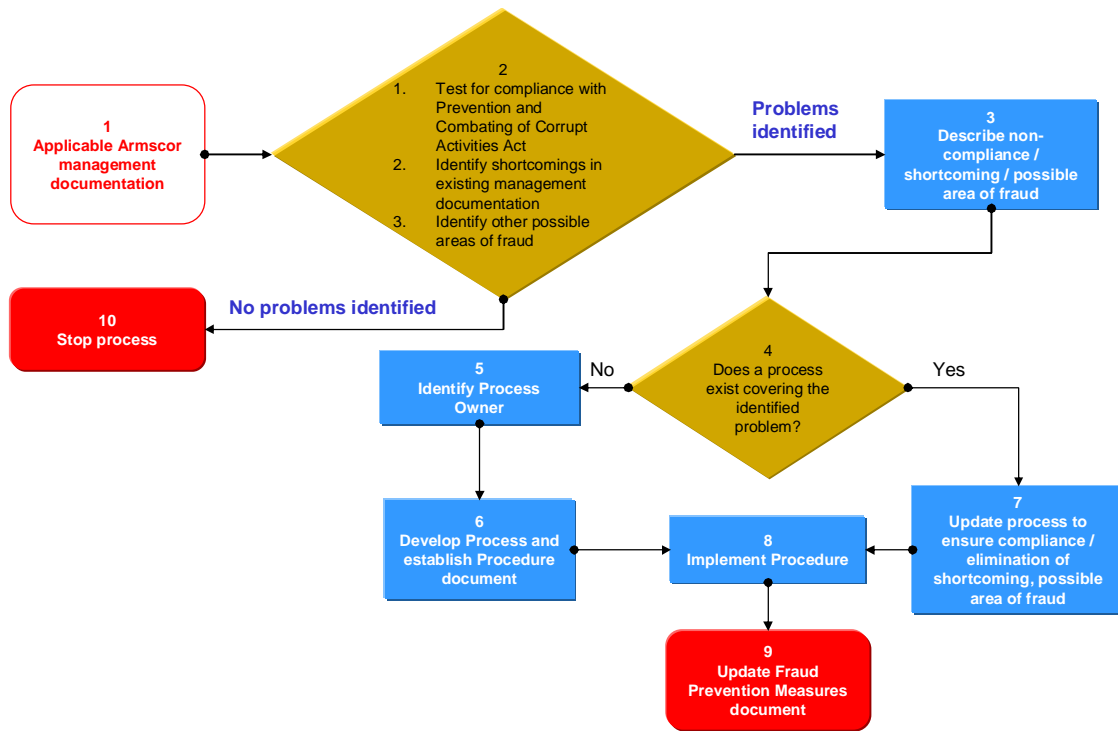
| No. | Activity  | Responsible<br>( R )<br>Authority<br>( A )  | Output  | Distribution  | Applicable documents | Records                                      |
|-----|---|---|---|---|----------------------|--|
| 1.  | Detection / suspicion of fraud or corruption    | Internal Audit /<br>External Audit /<br>Whistle blowing (R)<br><br>Applicable Line<br>Manager (A) | Communication to:   | Chief Risk Officer /<br>Applicable General<br>Manager |                      | Recorded message /<br>memo / audit finding   |
| 2.  | Execute preliminary investigation               | Applicable Line<br>Manager (A) & (R)  | Preliminary report<br>Decision to execute<br>independent<br>investigation / stop<br>process | Chief Risk Officer /<br>Applicable General<br>Manager |                      | Preliminary report                           |
| 3.  | Stop process                                    | Applicable Line<br>Manager (A) & (R)  |   |   |                      |  |
| 4.  | Execute independent investigation               | Applicable Line<br>Manager (A)<br>Independent<br>investigation team (R)                           | Findings report   | Line Manager /<br>Chief Risk Officer                  |                      | Findings report                              |
| 5.  | Report to CEO and / or Audit and Risk Committee |   | Decision:<br>• Stop process?<br>• Initiate<br>disciplinary<br>process?<br>• Inform SAPS?    | CEO<br>Audit and Risk<br>Committee                    |                      | Report findings                              |
| 6.  | Refer Fraud to SAPS for investigation           | CEO (A)<br>Chief Risk Officer (R)   | Case number from<br>SAPS  | SAPS  |                      | Case number and<br>relevant<br>documentation |

| No. | Activity  | Responsible<br>( R )<br>Authority<br>( A )   | Output  | Distribution                              | Applicable<br>documents     | Records  |
|-----|---|--|---|---|-----------------------------|--|
| 7   | Execute disciplinary hearing                            | Chairperson of the disciplinary hearing (R)<br>GM: Human Resources (A)                   | Disciplinary hearing report   | Line Manager / Applicable General Manager | A-PRAC-2023                 | Disciplinary hearing report (including recommendations)    |
| 8.  | Confirm and execute disciplinary hearing recommendation | BOD / Audit and Risk Management Committee / CEO (A)<br><br>BOD / CEO / Applicable GM (R) | Decision:<br>• Stop process on not guilty verdict?<br>• Institute corrective action?<br>• Initiate recovery action?<br>• Initiate dismissal activity? | BOD / Audit and Risk Committee / CEO      | Disciplinary hearing report | Official letter confirming verdict and action to be taken. |
| 9.  | Initiate recovery action                                | Applicable Line Manager (A)<br>HR / Salary Office / Pension Fund Manager (R)             | Recovery: Funds / Assets  |   |                             | Memorandum re: recovery action                             |
| 10. | Execute corrective action                               | GM: Human Resources (A)<br>Applicable Line Manager (R)                                   | Progress Report   | HR / Applicable GM                        |                             | Progress Report  |
| 11  | Dismissal   | GM: Human Resources (A)<br>Applicable Line Manager (R)                                   | Dismissal   |   | A-PRAC-2023                 | Letter of dismissal  |

### 6.1.2 RECORDS TABLE: FRAUD INVESTIGATION PROCESS

| No. | Master record   | Responsibility                                    | Location                         | Period  | Disposal |
|-----|---|---|----------------------------------|---------|----------|
| 1   | Recorded message / memo / audit findings                  | Internal audit / external audit / whistle-blowing | Armscor's official filing system | 5 years | Archive  |
| 2   | Preliminary report  | Applicable Line Manager                           |                                  |         | Archive  |
| 4   | Findings report   | Independent investigation team                    |                                  |         | Archive  |
| 6   | Letter to SAPS  | Chief Risk Officer                                |                                  |         | Destroy  |
| 7   | Disciplinary hearing report (inkling recommendations)     | Chairperson of disciplinary hearing               |                                  |         | Archive  |
| 8   | Official letter confirming verdict and action to be taken | Applicable Line Manager                           |                                  |         | Archive  |
| 10  | Progress Report   | Applicable Line Manager                           |                                  |         | Destroy  |
| 11  | Letter of dismissal                                       | Applicable Line Manager                           |                                  |         | Destroy  |

## 6.2 Maintenance procedure of Armscor’s implemented fraud prevention measures



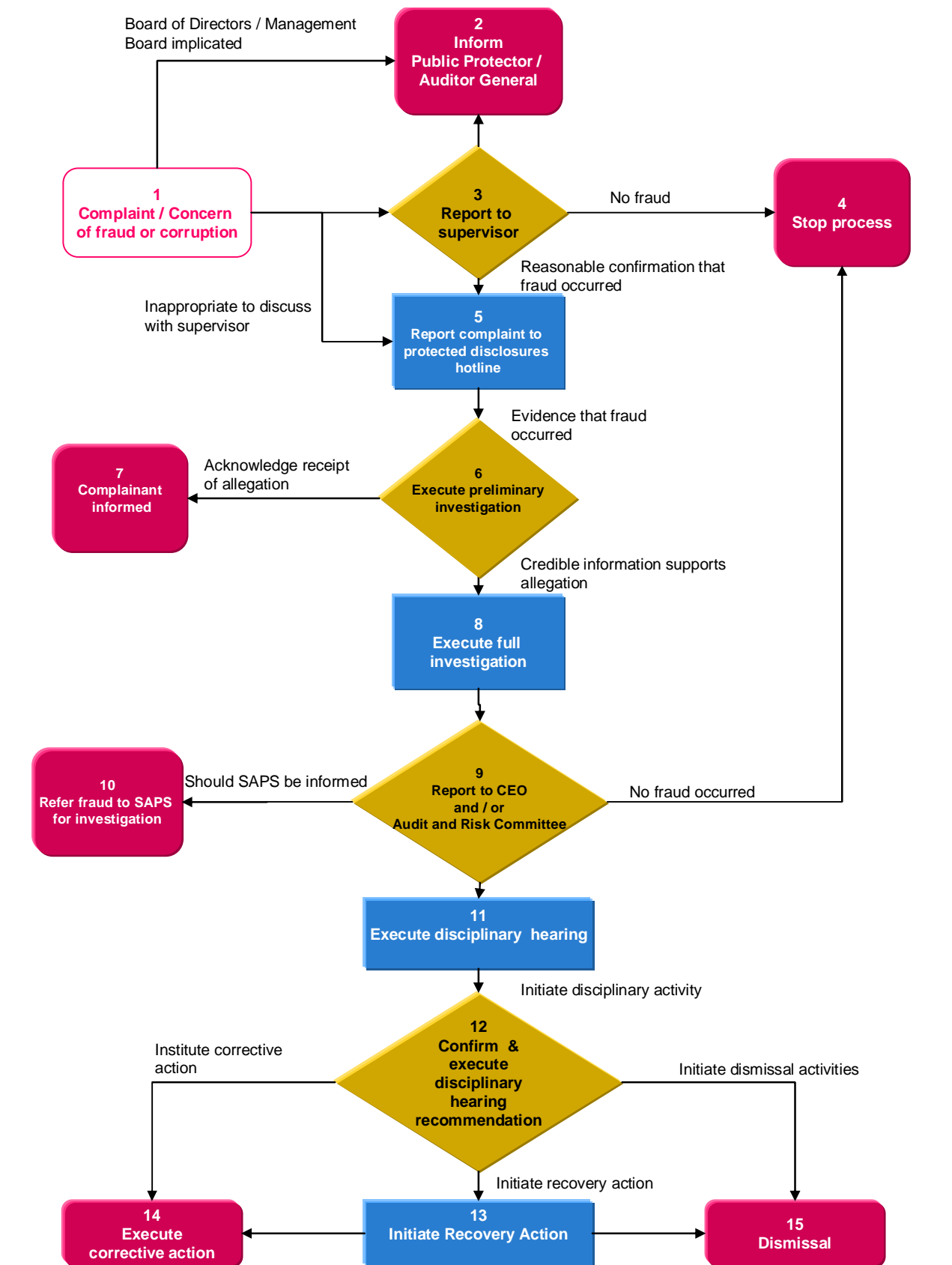
## 6.2.1 ACTIVITY TABLE: MAINTENANCE PROCEDURE OF ARMSCOR'S IMPLEMENTED FRAUD PREVENTION MEASURES

| No. | Activity   | Responsible<br>( R )<br>Authority<br>( A )            | Output  | Distribution                               | Applicable documents                                    | Records |
|-----|--|---|---|--|---|---------|
| 1.  | Identify: <ul style="list-style-type: none"> <li><input type="checkbox"/> Non-compliance with Prevention and Combating Corrupt Activities Act</li> <li><input type="checkbox"/> Shortcomings in existing management documentation</li> <li><input type="checkbox"/> Possible areas of fraud</li> </ul> | Chief Risk Officer /<br>Applicable General<br>Manager | All outputs are used to compile and update the Implemented Fraud Prevention Measures document | -  | A-POL-7012<br>A-PRAC-4010<br>A-PROC-4030<br>A-PROC-7038 | -       |
| 2.  | Describe aforementioned problems   |   |   |  |   |         |
| 3.  | Determine whether a process exists for the problem identified  |   |   |  |   |         |
| 4.  | Identify the process owner   |   |   |  |   |         |
| 5.  | Develop process and establish procedure  |   |   |  |   |         |
| 6.  | Update process to counter identified problem   |   |   |  |   |         |
| 7.  | Implement procedure  |   |   |  |   |         |
| 8.  | Update Fraud Prevention Measures document  |   | Implemented Fraud Prevention Measures document  | Chief Risk Officer /<br>Board of Directors | Implemented Fraud Prevention Measures document          |         |

**6.2.2 RECORDS TABLE: MAINTENANCE PROCEDURE OF ARMSCOR'S IMPLEMENTED FRAUD PREVENTION MEASURES**

| <b>No.</b> | <b>Master record</b>                           | <b>Responsibility</b>                                 | <b>Location</b>            | <b>Period</b> | <b>Disposal</b> |
|------------|--|---|----------------------------|---------------|-----------------|
| 1          | Implemented Fraud Prevention Measures document | Chief risk Officer /<br>Applicable General<br>Manager | Electronically on the CMRS | 5 Years       | Archive         |

### 6.3 Whistle-blowing procedure Flow diagram:



### 6.3.1 ACTIVITY TABLE: WHISTLE-BLOWING PROCEDURE

| No. | Activity  | Responsible<br>( R )<br>Authority<br>( A )                | Output  | Distribution                                     | Applicable documents | Records              |
|-----|---|---|---|--|----------------------|----------------------|
| 1.  | Complaint / concern of fraud or corruption        | Whistle-blower (R & A)                                    | Report on allegation  | Public Protector / Auditor General or Supervisor |                      | Report on allegation |
| 2.  | Inform Public Protector / Auditor General         | Whistle-blower  | Report on allegation / Recorded message   |  |                      |                      |
| 3.  | Report to Supervisor                              | Snr Mngr: Security Division (R & A)                       | Decision to: <ul style="list-style-type: none"> <li>• Continue?</li> <li>• Stop?</li> </ul>   | Whistleblower / Chief Risk Officer               |                      |                      |
| 4.  | Stop process                                      |   |   |  |                      |                      |
| 5.  | Report complaint to protected disclosures hotline | Snr Mngr: Security Division (R)<br>Chief Risk Officer (A) | Recorded complaint  |  |                      | Recorded complaint   |
| 6.  | Execute preliminary investigation                 | Snr Mngr: Security Division (A) & (R)                     | Preliminary report <ul style="list-style-type: none"> <li>• Decision to execute independent investigation / stop process</li> </ul> | Chief Risk Officer                               |                      | Preliminary report   |
| 7.  | Stop process                                      | Snr Mngr: Security Division (A) & (R)                     |   |  |                      |                      |

|     |   |   |   |  |                             |  |
|-----|---|---|---|--|-----------------------------|--|
| 8.  | Execute full investigation                              | Snr Mngr: Security Division<br>(A)<br>Independent investigation team (R)                    | Findings report   | Chief Risk Officer                           |                             | Findings report  |
| 9.  | Report to CEO and / or Audit and Risk Committee         | Chief Risk Officer  | Decision:<br>• Stop process?<br>• Initiate disciplinary process?<br>• Inform SAPS?  | CEO<br>Audit and Risk Committee              |                             | Findings report  |
| 10. | Refer Fraud to SAPS for investigation                   | CEO (A)<br>Chief Risk Officer (R)   | Case number from SAPS   | SAPS   |                             | Case number and relevant documentation                     |
| 11  | Execute disciplinary hearing                            | Chairperson of the disciplinary hearing (R)<br>GM: Human Resources (A)                      | Disciplinary hearing report   | Line Manager /<br>Applicable General Manager | A-PRAC-2023                 | Disciplinary hearing report (including recommendations)    |
| 12  | Confirm and execute disciplinary hearing recommendation | BoD / Audit and Risk Management Committee / CEO (A)<br><br>BoD / CEO /<br>Applicable GM (R) | Decision:<br>• Stop process on not guilty verdict?<br>• Institute corrective action?<br>• Initiate recovery action?<br>• Initiate dismissal activity? | BoD / Audit and Risk Committee / CEO         | Disciplinary hearing report | Official letter confirming verdict and action to be taken. |
| 13  | Initiate recovery action                                | Applicable Line Manager (A)<br>HR / Salary Office / Pension Fund Manager (R)                | Recovery: Funds / Assets  |  |                             | Memorandum re: recovery actions                            |

|     |                           |  |                 |                    |             |                     |
|-----|---------------------------|--|-----------------|--------------------|-------------|---------------------|
| 14. | Execute corrective action | GM: Human Resources (A)<br>Applicable Line Manager (R) | Progress Report | HR / Applicable GM |             | Progress Report     |
| 15. | Dismissal                 | GM: Human Resources (A)<br>Applicable Line Manager (R) | Dismissal       |                    | A-PRAC-2023 | Letter of dismissal |

### 6.3.2 RECORDS TABLE: WHISTLE-BLOWING PROCEDURE

| No. | Master record   | Responsibility                                    | Location                        | Period  | Disposal |
|-----|---|---|---------------------------------|---------|----------|
| 1   | Recorded message / memo / audit findings                  | Internal audit / external audit / whistle-blowing | Armcor's official filing system | 5 years | Archive  |
| 2   | Preliminary report  | Snr Mngr: Security Division                       |                                 |         | Archive  |
| 4   | Findings report   | Snr Mngr: Security Division                       |                                 |         | Archive  |
| 6   | Letter to SAPS  | Chief Risk Officer                                |                                 |         | Destroy  |
| 7   | Disciplinary hearing report (inkling recommendations)     | Chairperson of disciplinary hearing               |                                 |         | Archive  |
| 8   | Official letter confirming verdict and action to be taken | Applicable Line Manager                           |                                 |         | Archive  |
| 10  | Progress Report   | Applicable Line Manager                           |                                 |         | Destroy  |
| 11  | Letter of dismissal                                       | Applicable Line Manager                           |                                 |         | Destroy  |



## ARMSCOR'S IMPLEMENTED FRAUD PREVENTION MEASURES DOCUMENT

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**SUMMARY:** This document contains the measures implemented by Armscor to counter any fraudulent activities.

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## **LIST OF CONTENTS**

1. INTRODUCTION
2. LIST OF ARMSCOR's IMPLEMENTED MANAGEMENT DOCUMENTATION

## **1. INTRODUCTION**

Arm Scor's fraud prevention measures are captured in Arm Scor's management documentation and are enforced by the various document and process owners.

Arm Scor believes that it is not a requisite to establish a separate fraud prevention plan but that possible areas of fraud should be identified and countered by way of the management documentation (Policies, Practices, Procedures, etc.) and ongoing monitoring thereof.

Non-adherence to management documentation is managed as an actual risk, under the Corporate Risk Management Plan.

Any possible area of fraud that is identified is countered by updating existing management documentation or by establishing new management documentation.

All the management documentation reflected in paragraph 2 is subjected to continuous review and testing against the Prevention and Combating of Corrupt Activities Act to ensure that all possible areas of fraud, shortcomings in existing management documentation and non-compliance with the Prevention and Combating of Corrupt Activities Act are identified and addressed.

## 1.1 Armscor's implemented management documentation

### 1.1.1 Delegation of authority

| Doc No         | Delegation of Authority Management Document                                 | Owner                               |
|----------------|---|-------------------------------------|
| A-CORP-001     | Directives relating to decision-making powers                               | Finance and Infrastructure          |
| 06000-CORP-001 | Directives relating to decision-making powers in Armscor Business (Pty) Ltd | Armscor Business Board of Directors |

### 1.1.2 Financial Management

The following management documentation was established in respect of financial management:

| Doc No         | Financial Management Document  | Owner                      |
|----------------|--|----------------------------|
| A-POL-7000     | Group Financial Policy   | Finance and Infrastructure |
| 06000-POL-002  | Policy for purchases from the Operating Budget                                   | Armscor Business           |
| A-PRAC-017     | Cellphone Practice   | Finance and Infrastructure |
| A-PRAC-7013    | Entertainment Practice   | Finance and Infrastructure |
| A-PRAC-7014    | Petty Cash Practice  | Finance and Infrastructure |
| A-PRAC-7015    | Travel Management Practice   | Human Resources            |
| A-PRAC-8030    | Practice for Business against Armscor's Operating Budget                         | Finance and Infrastructure |
| A-PRAC-10018   | Corporate Social Investment Practice   | Human Resources            |
| A-PROC-7030    | Procedure for the handling of guarantees   | Finance and Infrastructure |
| A-PROC-7031    | Procedure for the certification of invoices                                      | Finance and Infrastructure |
| A-PROC-7032    | Procedure for the handling of Diners Club Business Cards                         | Finance and Infrastructure |
| A-PROC-7033    | Procedure for the handling of penalties levied on Special Defence Account Orders | Finance and Infrastructure |
| A-PROC-7035    | Incidental private calls on Armscor Telkom telephone system procedure            | Finance and Infrastructure |
| AF-PROC-7030   | Procedure for handling orders  | Finance and Infrastructure |
| AF-PROC-7031   | Procedure for handling invoices  | Finance and Infrastructure |
| AF-PROC-7032   | Procedure for handling the payment of invoices                                   | Finance and Infrastructure |
| AF-PROC-7033   | Procedure for handling suspense accounts   | Finance and Infrastructure |
| AF-PROC-7034   | Procedure for handling amendments  | Finance and Infrastructure |
| AF-PROC-7036   | The receipt of offers procedure  | Finance and Infrastructure |
| AF-PROC-7037   | The request of offers procedure  | Finance and Infrastructure |
| AF-PROC-7039   | Procedure for handling of monthly creditors' statements                          | Finance and Infrastructure |
| 06000-PROC-005 | Procedure for handling of tenders  | Armscor Business           |
| 06000-PROC-012 | Procedure for handling debtors in Armscor Business                               | Armscor Business           |
| A-DOC-7030     | Budget   | Finance and Infrastructure |

| <b>Doc No</b>  | <b>Financial Management Document</b>  | <b>Owner</b>     |
|----------------|---------------------------------------|------------------|
| 06000-PROS-004 | Payment processes in Armscor Business | Armscor Business |

### 1.1.3 Human Resources Management

The following management documentation was established in respect of human resources management:

| <b>Doc No</b>  | <b>Human Resources Management Document</b>                                  | <b>Owner</b>                         |
|----------------|---|--------------------------------------|
| A-PRAC-2011    | Recognition Practice  | Human Resources                      |
| A-PRAC-2016    | Benefits Practice   | Human Resources                      |
| A-PRAC-2017    | Financial Assistance Practice   | Human Resources                      |
| A-PRAC-2025    | Remuneration Practice   | Human Resources                      |
| A-PRAC-2029    | Recruitment Practice  | Human Resources                      |
| A-PRAC-2032    | Performance Management Practice   | Human Resources                      |
| A-PRAC-2034    | Salary Review Practice  | Human Resources                      |
| A-PRAC-2035    | Armscor New-Talent (Bursary and Talent Development) Management Practice     | Human Resources                      |
| A-PRAC-10013   | Armscor Gifts, Hospitality and Souvenirs Practice                           | Corporate Affairs                    |
| A-PRAC-13015   | Practice for the appointment of consultants                                 | Board Secretariat and Legal Services |
| 06000-PRAC-002 | Practice for contracting of independent contractors within Armscor Business | Armscor Business                     |

### 1.1.4 Asset Management

The following management documentation was established in respect of asset management:

| <b>Doc No</b>  | <b>Asset Management Document</b>   | <b>Owner</b>     |
|----------------|--|------------------|
| 06000-INST-001 | Defence Materiel Disposal financial instruction  | Armscor Business |
| A-PRAC-1013    | Practice for the disposal of SANDF (Special Defence Account) and Armscor assets/stock at Armscor contractors | Acquisition      |
| A-PRAC-1018    | Practice for the keeping and handling of assets at Armscor and contractors                                   | Acquisition      |

| <b>Doc No</b>  | <b>Asset Management Document</b>  | <b>Owner</b>                   |
|----------------|---|--------------------------------|
| A-PROC-098     | Armcor Procedure for the Standardisation and Management of Aspects relating to the driving of SANDF vehicles by employees of Armcor and its contractors | Acquisition                    |
| A-PROC-10036   | Defence Equipment and Personnel Support (DEPS) Procedure  | Logistics and Materiél Support |
| A-PROC-1032    | The storage and handling of SANDF, Armcor and other clients' stock at contractors and / or Armcor stores at contractors procedure                       | Acquisition                    |
| A-PROC-1048    | Procedure for the management of SANDF and Armcor assets at contractors  | Acquisition                    |
| AB-PROC-8038   | Procedure followed in rendering a business purchase service for Armcor  | Finance and Infrastructure     |
| AB-PROC-8040   | Procedure for the disposal of Armcor assets   | Finance and Infrastructure     |
| AB-PROC-8045   | Procedure for the management of Armcor assets   | Finance and Infrastructure     |
| AB-PROC-8061   | Removal of Assets, Inventory and control items from the Armcor building   | Finance and Infrastructure     |
| 06000-PROC-009 | Procedure for submissions to DMD Authorisation Committee or equivalent  | Armcor Business                |
| 06000-PROC-010 | Procedure for the replacement of DOD stock  | Armcor Business                |
| 06000-PROC-011 | Procedure for DMD stock management  | Armcor Business                |
| 06000-PROS-001 | Process and procedure for alienation of materiel  | Armcor Business                |
| 06000-STD-002  | Constitution for Defence Materiel Disposal Authorisation Committee  | Armcor Business                |

#### 1.1.5 DIP Management

The following management documentation was established in respect of DIP Management:

| <b>Doc No</b> | <b>DIP Management Document</b>                              | <b>Owner</b>               |
|---------------|---|----------------------------|
| A-POL-6000    | Policy in respect of Defence Industrial Participation (DIP) | Finance and Infrastructure |
| A-PRAC-6030   | Defence Industrial Participation (DIP) Practice             | Finance and Infrastructure |
| A-PROC-6031   | Defence Industrial Participation (DIP) Procedure            | Finance and Infrastructure |

#### 1.1.6 Acquisition and Procurement Management

The following management documentation was established in respect of acquisition management:

| <b>Doc No</b> | <b>Acquisition and Procurement Management Document</b>                                   | <b>Owner</b> |
|---------------|--|--------------|
| A-PRAC-1015   | Materiel Procurement Practice  | Acquisition  |
| A-PRAC-1020   | Armcor Contract Management Practice  | Acquisition  |
| A-PROC-1031   | Acceptance and release of components services and other items per order                  | Acquisition  |
| A-PRAC-1034   | Practice for the selection of contractual sources  | Acquisition  |
| A-PROC-1035   | Procedure for the investigation, reporting and management of damage or losses and claims | Acquisition  |

| <b>Doc No</b>  | <b>Acquisition and Procurement Management Document</b>               | <b>Owner</b>    |
|----------------|--|-----------------|
|                | pertaining to the client's (DOD) Armcor contractor                   |                 |
| A-PROC-3035    | End user / Non transfer certification procedure                      | Quality and IT  |
| A-PROC-3038    | Arms Control Procedure for the import and export of defence materiel | Quality and IT  |
| A-PROC-3083    | Inspection / Release / Acceptance certificate procedure              | Quality and IT  |
| AQ-PROC-3065   | Validation of tests and evaluations                                  | Quality and IT  |
| AQ-PROC-3068   | Certification process for safety critical software                   | Quality and IT  |
| AQ-PROC-3072   | Supplier registration: Quality                                       | Quality and IT  |
| AQ-PROC-3076   | Inspection Rejection Note Procedure                                  | Quality and IT  |
| 06000-PROS-007 | Process for placing orders – project funds                           | Armcor Business |
| 06000-PROS-009 | Process for client evaluation of projects                            | Armcor Business |
| 06000-PROS-010 | Process for project closure  | Armcor Business |

#### 1.1.7 BEE

The following management documentation was established in respect of BEE management:

| <b>Doc No</b> | <b>BEE Management Document</b> | <b>Owner</b>   |
|---------------|--------------------------------|----------------|
| A-POL-4000    | Armcor BEE Policy              | Quality and IT |
| A-PRAC-4011   | Armcor BEE Practice            | Quality and IT |

## Annexure B

### Different categories of corrupt activities as contained in the Prevention and Combating of Corrupt Activities Act

The under mentioned definitions are contained in the Prevention and Combating of Corrupt Activities Act and are relevant to Armscor as an organisation. Armscor's management documentation is to be tested against these definitions to ensure that the management documentation complies with the said Act.

1 (i) “**agent**” means any authorised representative who acts on behalf of his or her principal and includes a director, officer, employee or other person authorised to act on behalf of his or her principal, and “**agency**” has a corresponding meaning;

1 (iii) “**business**” means any business, trade, occupation, profession, calling, industry or undertaking of any kind, or any other activity carried on for gain or profit by any person within the Republic or elsewhere, and includes all property derived from or used in or for the purpose of carrying on such other activity and all rights and liabilities arising from such other activity;

1 (iv) “**dealing**” includes–

- (a) any promise, purchase, sale, barter, loan, charge, mortgage, lien, pledge, caveat, transfer, delivery, assignment, subrogation, transmission, gift, donation, trust, settlement, deposit, withdrawal, transfer between accounts or extension of credit;
- (b) any agency or grant of power attorney; or
- (c) any act which results in any right, interest, title or privilege, whether present or future or whether vested in contingent, in the whole or in part of any property being conferred on any person;

1 (v) “**foreign public official**” means–

- (a) any person holding a legislative, administrative or judicial office of a foreign state;
- (b) any person performing public functions for a foreign state, including any person employed by a board, commission, corporation or other body or authority that performs a function on behalf of the foreign state; or
- (c) an official or agent of a public international organisation;

1 (ix) “**gratification**” includes–

- (a) money, whether in cash or otherwise

- (b) any donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable, or any other similar advantage;
- (c) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage;
- (d) any office, status, honour, employment, contract of employment or service, any agreement to give employment or render service in any capacity and residential or holiday accommodation;
- (e) any payment release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (f) any forbearance to demand any money or money's worth or valuable thing;
- (g) any other service or favour or advantage of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and includes the exercise or the forbearance from the exercise or any right or any official power of duty;
- (h) any right or privilege;
- (i) any real or pretended aid, vote, consent, influence or abstention from voting; or
- (j) any valuable consideration or benefit of any kind, including any discount, commission, rebate, bonus, deduction or percentage;

1 (x) "**induce**" includes to persuade, encourage, coerce, intimidate or threaten or cause a person, and "**inducement**" has a corresponding meaning;

1 (xvi) "**official**" means any director, functionary, officer or agent serving in any capacity, whatsoever in a public body, private organisation, corporate body, political party, institution or other employment, whether under contract of service or otherwise, and whether in an executive capacity or not;

1 (xvii) "**person who is party to an employment relationship**" includes any person who in any manner assists in carrying on or conducting the business of an employer;

1 (xix) "**principal**" includes—

- (a) any employer;
- (b) any beneficiary under a trust and any trust estate;
- (c) the estate of a deceased person and any person with a beneficial interest in the estate of a deceased person;
- (d) in the case of any person serving in or under a public body, the public body; or

(e) in the case of a legal representative referred to in the definition of “**agent**”, the person represented by such legal representative;

1 (xxi) “**property**” means money or any other movable, immovable, corporeal or incorporeal thing, whether situated in the Republic or elsewhere, and includes any rights, privileges, claims, securities and any interest therein and all proceeds thereof;

1 (xxii) “**public body**” means—

(a) any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or

(b) any other functionary or institution when –

(i) exercising a power or performing a duty or function in terms of the Constitution or a provincial constitution;

(ii) exercising a public power or performing a public duty or function in terms of any legislation;

1 (xxiii) “**public international organisation**” means—

(a) an organisation—

(i) of which two or more countries are members; or

(ii) that is constituted by persons representing two or more countries

(b) an organisation established by, or a group of organisations constituted by

(i) organisations of which two or more countries are members; or

(ii) organisations that are constituted by the representatives of two or more countries; or

(c) an organisation that is—

(i) an organ of, or office within, an organisation described in paragraph (a) or (b);

(ii) a commission, council or other body established by an organisation or organ referred to in subparagraph (i); or

(iii) a committee or a subcommittee of a committee of an organisation referred to in paragraph (a) or (b) or of an organ, council or body referred to in subparagraph (i) or (ii);

1 (xxiv) “**public officer**” means any person who is a member, an officer, an employee or a servant of a public body, and includes—

(a) any person in the public service contemplated in section 8(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

- (b) any person receiving any remuneration from public funds; or
- (c) where the public body is a corporation, the person who is incorporated as such;

but does not include any—

- (a) member of the legislative authority;
- (b) judicial officer; or
- (c) member of the prosecuting authority;

1 (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.

### 3 **General offence of corruption**

Any person who, directly or indirectly

- a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or
- b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person

in order to act, personally or by influencing another person so to act, in a manner:

- (i) that amounts to the:
  - (aa) illegal, dishonest, unauthorised, incomplete, or biased: or
  - (bb) misuse or selling of information or material acquired in the course of the  
  
exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation:
- (ii) that amounts to:
  - (aa) the abuse of a position of authority;
  - (bb) a breach of trust; or

- (cc) the violation of a legal duty or a set of rules;
- (iii) designed to achieve an unjustified result: or
- (iv) that amounts to any other unauthorised or improper inducement to do or not to do anything,

is guilty of the offence of corruption.

#### **4 Offences in respect of corrupt activities relating to public officers**

Any:

- (a) public officer who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person: or
- (b) person who, directly or indirectly, gives or agrees or offers to give any gratification to a public officer, whether for the benefit of that public officer or for the benefit of another person,

in order to act, personally or by influencing another person so to act, in a manner

- (i) that amounts to the—
  - (aa) illegal, dishonest, unauthorised, incomplete, or biased: or
  - (bb) misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;
- (ii) that amounts to—
  - (aa) the abuse of a position of authority;
  - (bb) a breach of trust; or
  - (cc) the violation of a legal duty or a set of rules;
- (iii) designed to achieve an unjustified result; or
- (iv) that amounts to any other unauthorised or improper inducement to do or not to do anything,

is guilty of the offence of corrupt activities relating to public officers.

"to **act**" above includes:

- (i) voting at any meeting of a public body;

- (ii) performing or not adequately performing any official functions;
- (iii) expediting, delaying, hindering or preventing the performance of an official act;
- (iv) aiding, assisting or favouring any particular person in the transaction of any business with a public body;
- (v) aiding or assisting in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person in relation to the transaction of any business with a public body;
- (vi) showing any favour or disfavour to any person in performing a function as a public officer;
- (vii) diverting, for purposes unrelated to those for which they were intended, any property belonging to the state which such officer received by virtue of his or her position for purposes of administration, custody or for any other reason, to another person; or
- (viii) exerting any improper influence over the decision making of any person performing functions in a public body.

## **5 Offences in respect of corrupt activities relating to foreign public officials**

Any person who, directly or indirectly gives or agrees or offers to give any gratification to a foreign public official, whether for the benefit of that foreign public official or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner—

- (a) that amounts to the—
  - (i) illegal, dishonest, unauthorised, incomplete, or biased: or
  - (ii) misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;
- (b) that amounts to—
  - (i) the abuse of a position of authority;
  - (ii) a breach of trust; or
  - (iii) the violation of a legal duty or a set of rules;
- (c) designed to achieve an unjustified result; or
- (d) that amounts to any other unauthorised or improper inducement to do or not to do anything,

is guilty of the offence of corrupt activities relating to foreign public officials.

"to **act**" above includes:

- (a) the using of such foreign public official's or such others person's position to influence any acts or decisions of the foreign state or public international organisation concerned; or
- (b) obtaining or retaining a contract, business or an advantage in the conduct of business of that foreign state or public international organisation.

## **6 Offences in respect of corrupt activities relating to agents**

Any:

- (a) agent who, directly or indirectly—
  - (i) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person: or
  - (ii) gives or agrees or offers to give to any person any gratification, whether for the benefit of that person or for the benefit of another person: or
- (b) person who, directly or indirectly—
  - (i) accepts or agrees or offers to accept any gratification from an agent, whether for the benefit of himself or herself or for the benefit of another person: or
  - (ii) gives or agrees or offers to give any gratification to an agent, whether for the benefit of that agent or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner:
    - (aa) that amounts to the—
      - (aaa) illegal, dishonest, unauthorised, incomplete, or biased: or
      - (bbb) misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation:
    - (bb) that amounts to—
      - (aaa) the abuse of a position of authority:

- (bbb) a breach of trust: or
- (ccc) the violation of a legal duty or a set of rules:
- (dd) designed to achieve an unjustified result: or
- (ee) that amounts to any other unauthorised or improper inducement to do or not to do anything

is guilty of the offence of corrupt activities relating to agents.

## **10 Offences of receiving or offering of unauthorised gratification by or to party on an employment relationship**

Any person:

- (a) who is party to an employment relationship and who, directly or indirectly accepts or agrees or offers to accept from any other person any unauthorised gratification, whether for the benefit of that person or for the benefit of another person: or
- (b) who, directly or indirectly, gives or agrees or offers to give to any person who is party to an employment relationship any unauthorised gratification, whether for the benefit of that party or for the benefit of another person

in respect of that party doing any act in relation to the exercise, carrying out or performance of that party's powers, duties or functions within the scope of that party's employment relationship, is guilty of the offence of receiving or offering an unauthorised gratification.

## **11 Offences in respect of corrupt activities relating to witnesses and evidential material during certain proceedings**

Any person who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person, in return for—

- (i) testifying in a particular way or fashion or in an untruthful manner in a trial hearing or other proceedings before any court, judicial officer, committee, commission or officer authorised by law to hear evidence or take testimony;
- (ii) withholding testimony or withholding a record, document, police docket or other object at any such trial, hearing or proceedings;
- (iii) giving or withholding information relating to any aspect at any such trial, hearing or proceedings;
- (iv) altering, destroying, mutilating, or concealing a record, document, police docket or other object with the intent to impair the availability of such record document, police docket or other object for use at such trial, hearing or proceedings;
- (v) giving or withholding information relating to or contained in a police docket;

(vi) evading legal process summoning that person to appear as a witness or to produce any record, document, police docket or other object at such trial, hearing or proceedings; or

(vii) being absent from such trial, hearing or proceedings,

is guilty of the offence of corrupt activities relating to witnesses and evidential material during certain proceedings.

Any person who, directly or indirectly, gives or agrees or offers to give any gratification to any other person, whether for the benefit of that other person or for the benefit of another person, with the intent to—

(a) influence, delay or prevent the testimony of that person or another person as a witness in a trial, hearing or other proceedings before any court, judicial officer, committee, commission or any officer authorised by law to hear evidence or take testimony; or

(b) cause or induce any person to—

(i) testify in a particular way or fashion or in an untruthful manner in a trial, hearing or other proceedings before any court, judicial officer, committee, commission or officer authorised by law to hear evidence or take testimony;

(ii) withhold testimony or to withhold a record, document, police docket or other object at such trial, hearing or proceedings;

(iii) give or withhold information relating to any aspect at any such trial hearing or proceedings;

(iv) alter, destroy, mutilate, or conceal a record, document, police docket or other object with the intent to impair the availability of such record, document, police docket or other object for use at such trial, hearing or proceedings;

(v) give or withhold information relating to or contained in a police docket;

(vi) evade legal process summoning that person to appear as a witness or to produce any record, document, police docket or other object at such trial, hearing or proceedings; or

(vii) be absent from such trial, hearing or other proceedings,

is guilty of the offence of corrupt activities relating to witnesses and evidential material during certain proceedings.

## **12 Offences in respect of corrupt activities relating to contracts**

Any person who, directly or indirectly—

- (a) accepts or agrees or offers to accept any gratification from any other person whether for the benefit of himself or herself or for the benefit of that other person or of another person; or
- (b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person
  - (i) in order to improperly influence, in any way—
    - (aa) the promotion, execution or procurement of any contract with a public body, private organisation, corporate body or any other organisation or institution; or
    - (bb) the fixing of the price, consideration or other moneys stipulated or otherwise provided for in any such contract; or
  - (ii) as a reward for acting as contemplated in paragraph (a)

is guilty of the offence of corrupt activities relating to contracts.

Any person who, in order to obtain or retain a contract with a public body or as a term of such contract, directly or indirectly, gives or agrees or offers to give any gratification to any other person, whether for the benefit of that other person or for the benefit of another person—

- (a) for the purpose of promoting, in any way, the election of a candidate or a category or party of candidates to the legislative authority; or
- (b) with the intent to influence or affect, in any way, the result of an election conducted for the purpose of electing persons to serve as members of the legislative authority

is guilty of an offence.

### **13 Offences in respect of corrupt activities relating to procuring and withdrawal of tenders**

Any person who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person, as:

- (a) an inducement to, personally or by influencing any other person so to act—
  - (i) award a tender, in relation to a contract for performing any work, providing any service, supplying any article, material or substance or performing any other act, to a particular person; or
  - (ii) upon an invitation to tender for such contract, make a tender for that contract which has as its aim to cause the tenderer to accept a particular tender; or
  - (iii) withdraw a tender made by him or her for such contract; or

(b) a reward for acting as contemplated in paragraph (a) (i), (ii) or (iii)

is guilty of the offence of corrupt activities relating to procuring and withdrawal of tenders.

Any person who, directly or indirectly—

(a) gives or agrees or offers to give any gratification to any other person, whether for the benefit of that other person or the benefit of another person, as—

(i) an inducement to, personally or by influencing any other person so to act, award a tender, in relation to a contract for performing any work, providing any service, supplying any article, material or substance or performing any other act, to a particular person; or

(ii) a reward for acting as contemplated in subparagraph (i): or

(b) with the intent to obtain a tender in relation to a contract for performing any work, providing any service, supplying any article, material or substance or performing any other act, gives or agrees or offers to give any gratification to any person who has made a tender in relation to that contract, whether for the benefit of that tenderer or for the benefit of any other person, as:

(i) an inducement to withdraw the tender; or

(ii) a reward for withdrawing or having withdrawn the tender,

is guilty of the offence of corrupt activities relating to procuring and withdrawal of tenders.

#### **14 Offences in respect of corrupt activities relating to auctions**

Any auctioneer who, directly or indirectly—

(a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person—

(i) in order to conduct the bidding process at an auction in a manner so as to favour or prejudice a specific person: or

(ii) as a reward for acting as contemplated in subparagraph (i): or

(b) gives or agrees or offers to give any gratification to any other person, whether for the benefit of that other person or for the benefit of another person—

(i) in order to influence that person to

(aa) refrain from bidding at an auction: or

(bb) participate, personally or by influencing any other person so to participate, in the bidding process at an auction in such a manner so as to get a specific offer for the article or to sell the article at a specific amount or to sell the article to a specific bidder: or

(ii) as a reward for acting as contemplated in subparagraph (i)

is guilty of the offence of corrupt activities relating to auctions.

Any person who, directly or indirectly:

(a) accepts or agrees or offers to accept any gratification from any other person or an auctioneer, whether for the benefit of himself or herself or for the benefit of another person:

(i) in return for that person:

(aa) refraining from bidding at an auction; or

(bb) participating, personally or by influencing any other person so to participate, at an auction in the bidding process in order to get a specific offer for the article or to buy the article for a specific amount or to sell the article to a specific bidder; or

(ii) as a reward for acting as contemplated in subparagraph (i); or

(b) gives or agrees or offers to give any gratification to an auctioneer, whether for the benefit of that auctioneer or for the benefit of another person

(i) in order to influence that auctioneer to conduct the bidding process at an auction in such a manner so as to favour or prejudice a specific person: or

(ii) as a reward for acting as contemplated in subparagraph (i); or

(c) gives or agrees or offers to give any gratification to any other person, whether for the benefit of that other person or for the benefit of another person:

(i) in return for that other person—

(aa) refraining from bidding at an auction; or

(bb) participating, personally or by influencing any other person so to participate, in the bidding process at an auction in such a manner so as to get a specific offer for the article or to sell the article at a specific amount or to sell the article to a specific bidder; or

(ii) as a reward for acting as contemplated in subparagraph (i),

is guilty of the offence of corrupt activities relating to auctions.

### **17 Offence relating to acquisition of private interest in contract, agreement or investment of public body**

- (1) Any public officer who, subject to subsection (2), acquires or holds a private interest in any contract, agreement or investment emanating from or connected with the public body in which he or she is employed or which is made on account of that public body, is guilty of an offence.
- (2) Subsection (1) does not apply to—
  - (a) a public officer who acquires or holds such interest as a shareholder of a listed company;
  - (b) a public officer whose conditions of employment do not prohibit him or her from acquiring or holding such interest; or
  - (c) in the case of a tender process, a public officer who acquires a contract agreement or investment through a tender process and whose conditions of employment do not prohibit him or her from acquiring or holding such interest and who acquires or holds such interest through an independent tender process.

### **18 Offences of unacceptable conduct relating to witnesses**

Any person who, directly or indirectly, intimidates or uses physical force, or improperly persuades or coerces another person with the intent to:

- (a) influence, delay or prevent the testimony of that person or another person as a witness in a trial, hearing or other proceedings before any court, judicial officer, committee, commission or any officer authorised by law to hear evidence or take testimony; or
- (b) cause or induce any person to—
  - (i) testify in a particular way or fashion or in an untruthful manner in a trial hearing or other proceedings before any court, judicial officer, committee, commission or officer authorised by law to hear evidence or take testimony;
  - (ii) withhold testimony or to withhold a record, document, police docket or other object at such trial, hearing or proceedings;
  - (iii) give or withhold information relating to any aspect at any such trial, hearing or proceedings;
  - (iv) alter, destroy, mutilate, or conceal a record, document, police docket or other object with the intent to impair the availability of such record document, police docket or other object for use at such trial, hearing or proceedings;

- (v) give or withhold information relating to or contained in a police docket;
- (vi) evade legal process summoning that person to appear as a witness or to produce any record, document, police docket or other object at such trial hearing or proceedings; or
- (vii) be absent from such trial, hearing or other proceedings,

is guilty of the offence of unacceptable conduct relating to a witness.

## **19 Intentional interference with, hindering or obstruction of investigation of offence**

Any person who, at any stage, with intent to defraud or to conceal an offence in terms of this Chapter or to interfere with, or to hinder or obstruct a law enforcement body in its investigation of any such offence:

- (a) destroys, alters, mutilates or falsifies any book, document, valuable security account, computer system, disk, computer printout or other electronic device or any entry in such book, document, account or electronic device, or is privy to any such act;
- (b) makes or is privy to making any false entry in such book, document, account or electronic device; or
- (c) omits or is privy to omitting any information from any such book, document, account or electronic device,

is guilty of an offence.

## **20 Accessory to or after offence**

Any person who, knowing that property or any part thereof forms part of any gratification which is the subject of an offence in terms of Part 1, 2, 3 or 4, or section 21 (in so far as it relates to the aforementioned offences) of this Chapter, directly or indirectly, whether on behalf of himself or herself or on behalf of any other person:

- (a) enters into or causes to be entered into any dealing in relation to such property or any part thereof; or
- (b) uses or causes to be used, or holds, receives or conceals such property or any part thereof,

is guilty of an offence.

## **21 Attempt, conspiracy and inducing another person to commit offence**

Any person who:

- (a) attempts;

- (b) conspires with any person; or
- (c) aids, abets, induces, incites, instigates, instructs, commands, counsels or procures another person;

to commit an offence in terms of this Act, is guilty of an offence.