

In the name of Allah the most merciful and the most compassionate

Law on Overseeing¹ the Implementation of the Anti-Administrative Corruption Strategy

Chapter One General Provisions

Basis

Article One:

This law has been enacted in the light of the provisions of Article (7), item (3) of Article (75) and Article (142) of the Afghanistan Constitution and in accordance with the United Nations Convention against Corruption in order to regulate affairs related to the Overseeing on implementation of the Anti-Administrative Corruption Strategy.

Purposes

Article Two:

The purposes of this Law are as follows:

1. To take measures on overseeing the implementation of the Anti-administrative corruption Strategy and the procedure for administrative reform within all offices in order to prevent and combat administrative corruption effectively.
2. To oversee the performance of offices related to administrative corruption cases
3. To evaluate the implementation of the measures taken for administrative reform and combating administrative corruption by the offices.
4. To ensure transparency in the performance of the offices in order to ensure accountability.
5. To establish a good administrative and management system related to public utility based on honesty in duty and accountable responsibility.
6. To protect public and private properties
7. To strengthen and expand the rule of law

Administrative Corruption

Article Three:

Commission of the following acts and crimes by government officials or other authorities prescribed in Article (7) of this law shall be considered as administrative corruption:

1. Bribery
2. Embezzlement
3. Stealing of documents
4. Unauthorized destruction of official records
5. Exceeding the limits of legal scope of authority
6. Misusing of duty power
7. Impeding the implementation of justice
8. Using government facilities and official work hours for personal affairs
9. Refusing and abstention to perform duty without legal justification
10. Concealing the truth

¹ The Dari word “nazarat” can be translated as monitoring or overseeing/oversight. The Director-General and Deputy DG of HoO prefer “oversight.”

11. Illegal increase in assets
12. Forgery of documents
13. Misrepresentation of authority (falsely representing to have certain executive authority to grant or deny government approval).
14. Receiving any kind of gifts in order to perform or refrain from performing official actions.
15. Delaying the execution of assigned duties
16. Violating the code of ethics of the related office
17. Involving ethnic, regional, religious, party, gender and personal consideration in performing entrusted duties.
18. Acting or refusing to act in violation of provisions stipulated in Anti-administrative corruption Strategy.

Responsible Office

Article Four:

The High Office of Overseeing the Implementation of Anti-administrative Corruption Strategy shall be the highest office for the coordination and overseeing of the implementation of the Anti-Administrative Corruption Strategy and procedure for administrative reform in the country, is independent in carrying out its duties and shall be responsible to the President.

Acronym

Article Five:

The High Office of Oversight for the Implementation of the Anti-administrative Corruption Strategy shall be referred to in this law as the High Office of Oversight.

Independence

Article Six:

No person or authority may impede the actions of the High Office of Oversight with regard to overseeing the implementation of the Anti-Administrative Corruption Strategy within the offices.

Areas of Implementation

Article Seven:

The provisions of this Law, according to the special procedures, shall be applicable to the following offices and persons:

1. State offices and Elective positions
2. Independent commissions
3. Banks that deal with the State
4. NGO's, international organizations and private enterprises that are party to financial transactions with the State within the framework of United Nations Convention Against Corruption and other international treaties.

Chapter Two

Organizational Structure, Duties and Authorities of the High Office Oversight

Organizational Structure

Article Eight:

- (1) The High Office of Oversight as a independent budgetary unit is composed of a Director General, Deputy/Deputies, central and regional directors and professionals and administrative members.
- (2) The Director General of High Office of Oversight shall be appointed by the President. Other staff of the office shall be appointed according to the law.
- (3) The High Office of Oversight shall prepare its budget and submit it to the Council of Ministers through national budget for further proceedings. The High Office of Oversight shall implement its budget independently in accordance with the relevant laws.
- (4) Details of the organizational structure shall be processed in accordance with the provisions of the law.

Duties

Article Nine:

The High Office of Oversight shall have the following duties and authorities:

1. Overseeing the implementation of Strategy and the procedure for administrative reform and combating administrative corruption.
2. Suggesting review of the strategy stated in item (1) of this article to the President.
3. Drafting plans and programs for administrative reforms and combating administrative corruption and submitting them to the President for approval.
4. Carrying out necessary research in order to find appropriate and effective ways for overseeing the implementation of the administrative reform strategy and combating administrative corruption
5. Taking necessary and effective measures to eliminate the causes and reasons for administrative corruption.
6. Providing recommendations on adoption of approaches for reasonable use of financial and technical resources in order to prevent administrative corruption to the relevant office
7. Overseeing the performance of the offices concerning the implementation of the Anti-Administrative Corruption Strategy.
8. Providing notification to the relevant office about administrative reform and prevention of administrative corruption.
9. Evaluating transparency, qualification, competency and fairness during recruiting processes.
10. Ensuring the implementation and observance of laws, decrees and other legislative documents related to combating administrative corruption.
11. Submitting of suggestions on discontinuation of affairs related to procurement, selling or leasing government goods and properties that are found lacking of transparency and efficiency during the assessment, to the President.
12. Reviewing the documents that are already reviewed, upon the existence of reasonable grounds.
13. Requesting necessary documents and information from the offices and the persons stated in the Article (7) of this Law.
14. Evaluating the simplification modality of working procedures of the offices stated in article (7) of this law.
15. Addressing complaints resulting from administrative corruption through relevant authorities.

16. Establishing, expanding relations, and collaboration with the resemble offices of the friend states, international organizations and making synergies in this context.
17. Conducting trainings courses, seminars, workshops and conferences to enhance the capacity and work efficiency of staff combating administrative corruption at the central and provincial levels.
18. Publishing annual activities reports of the High Office of Oversight, for the purpose of public awareness.
19. Reporting to the President about the High Office of Oversight performance and achievements on a regular basis.
20. Performing other duties as assigned by the President.

Chapter Three Collaboration with Offices

Collaboration with the Office of Audit and Control

Article Ten:

The High Office of Oversight shall refer suspicious financial activities of offices and persons stated in Article (7) of this law to the General Office of Audit and Control in order to inspect.

The General Office of Audit and Control shall be obliged to inspect the issue and report on its conclusion to the High Office of Oversight

Cooperation of Offices

Article Eleven:

The offices are obliged to cooperate in the following areas with the High Office of Overseeing in order to achieve the objectives stipulated in this law:

1. Providing necessary facilities for the officials of the High Office of Oversight while conducting inspection of concerned issues.
2. Providing the necessary documents, information and explanations for the officials of the High Office of Oversight, as requested.
3. Assigning experts professionals in order to cooperate with the officials of the High Office of Oversight while conducting inspection, as requested.
4. Providing reports about the implementation of the results of previous inspection.

Registration and Disclosure of Assets

Article Twelve:

- (1) The High Office of Oversight shall register and address the asset of the officials mentioned in Article 154 of the Afghanistan Constitution and publishes when needed.
- (2) The High Office of Oversight, on annual basis and as requested, shall register, address and if needed disclose the assets of members of the National Assembly, members of provincial and district councils , deputy ministers, Heads of independent commissions and offices, Ambassadors, Governors, Mayors and theirs deputies, Judges, Prosecutors, Officers of National Defence and Interior Ministries, District Administrators, ,officials working in second and higher grades and those working in finance accounting and procurement sections of the offices, prior to occupation of their positions.

Chapter Four **Miscellaneous Provisions**

Temporary Discharge from Official Duties and Prosecution

Article Thirteen:

- (1) Whenever during the inspection, a public servant is suspected of administrative corruption, he/she shall be referred to the prosecutors' office for further investigations.
- (2) Whenever a judge is suspected of administrative corruption, or violates his obligation, the High Office of Oversight shall refer the issue to the Supreme Court.

Informant and Witness Immunity

Article Fourteen:

(1) Individuals who cooperate with good will with the discovery of administrative corruption cases as an informant or assist during the investigation or trial as a witness or provide proofing/admissible evidence and documents shall be immune from any type of pressure, intimidation and ill-treatment and shall be rewarded.

- (3) Disclosing identity of the informant, witness, Intellectuals or the person who provides evidence and documents, without their consent, is prohibited.

Deprivation of Rights

Article Fifteen:

- (1) Suspended sentences shall be prohibited in cases of administrative corruption crimes.
- (2) Persons sentenced more than 3 to 10 years of imprisonment for the crimes of administrative corruption shall not be appointed as an employee of the governmental or as a candidate to elective positions for 2 years starting from the date the punishment is completed.
- (3) Individuals mentioned in paragraph (1) of this article may not benefit from presidential decrees of pardon and reduction of the penalties.

Hiring Requirements

Article Sixteen:

Only those persons may be appointed as the director general, deputy, central and regional directors and professional employees of the High Office of Oversight who, in addition to the terms provided in Civil Servants Law, meet the following requirements:

1. Having a bachelor or higher degree.
2. Not being convicted of crimes of misdemeanor or felony
3. Not having membership of a political party during term of duty

Providing Professional Training Opportunities

Article Seventeen:

In order to combat administrative corruption effectively and actively, the High Office of Oversight shall provide professional training opportunities for its staff, as well as other relevant offices, prosecutors and judges who are involved in discovery and dealing with administrative corruption cases.

Reporting

Article Eighteen:

The Offices of Audit and Control, the Police, Prosecution and Courts shall report their performance regarding the cases of administrative corruption to the High Office of Oversight

Establishing Prosecution Office and Tribunal

Article Nineteen:

- (1) The Attorney General's Office, in accordance with the law, shall establish Anti-Administrative Corruption Prosecution Offices in the capital and provinces in order to investigate crimes of corruption and to file the case against those who commit corruption.
- (2) The Supreme Court, in accordance with the law, shall establish Anti-Administrative Corruption Tribunals in the capital and provinces in order to deal with crimes of administrative corruption.

Chapter Five Final Provisions

Conflict of Jurisdiction

Article Twenty:

The Provisions of this law shall not disrupt the legal jurisdictions of prosecutors' offices and courts.

Enacting Terms of Reference and Procedures

Article Twenty One:

The High Office of Oversight shall propose regulations and shall enact and ratify terms of reference and procedures in order to better implement the provisions of this law.

Enforcement

Article Twenty Two:

This law shall come into force from the date of its publication in the Official Gazette and by the enforcement of this Law, the Law on Anti-Administrative Corruption and Bribery published in the Official Gazette number (838) on 20/7/1383 will be counted abrogated.