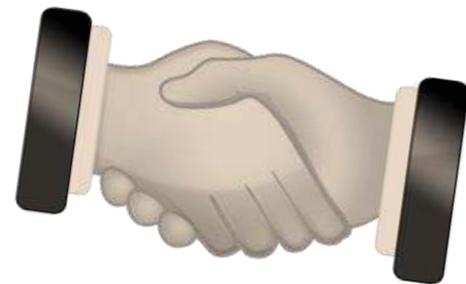


Prevention and Combating of Corrupt Activities Act

PRECCA



The Prevention and Combating of Corrupt Activities Act (**PRECCA**)

aims to **prevent and fight
corruption in government
and in the private sector.**

PURPOSE OF PRECCA

- To **strengthen measures** to **prevent** and **combat corruption**;
- To **provide** for the **offence of corruption and offences relating to corrupt activities**;
- To provide for **investigative measures** in respect of corruption;
- To provide for the **establishment of a register** in order to **place restrictions of people / entities** from **contracting with the state**;
- To place a **duty on people** in authority **to report corruption**;
- To **provide for extraterritorial jurisdiction** in respect of the offence of corruption

WE ARE ALL BOUND BY PRECCA

But in particular, it applies to:



WE ARE ALL BOUND BY PRECCA

Private sector
(everyone
working
outside of the
public sector)

Civil society
organisations
(NGOs and
community
based
organisations)

Individuals
working for
themselves or
business
companies

Companies or
businesses



GENERAL OFFENCE OF CORRUPTION UNDER PRECCA

The general offence of corruption under PRECCA is **giving** or **offering** to give **someone** in a position of power **gratification** to act in a certain manner.

What does gratification mean?

- Money
- A donation
- A vote
- A service or a favour
- Employment etc.

SPECIFIC OFFENCES UNDER THE ACT

In addition to creating the general crime of corruption; the Act also criminalises specific corrupt activities.

Offences relating to sporting events

Offences involving a public official

Offences that involve tenders

Offences involving contracts

Offences of conflict of interest

Offences that involve judges, magistrates, and witnesses

OFFENCES INVOLVING CONTRACTS

It is a crime for anyone to accept money or favours to influence who gets a contract.

Example: A municipality needs to contract mechanics to service the state's vehicles. MotorMechaniks hears about this and they tell Ms Ximba (a lady who works for the municipality) that they will pay her R10 000 if she can convince the procurement officer to give them the contract. They promise her another R20 000 if she can assure that the contract is for at least R150 000



OFFENCES INVOLVING **A PUBLIC OFFICIAL**

If anyone in the private sector offers a public official money or a favour to give them a benefit, they will be guilty of corruption.

If a public official offers to do something for someone in the private sector in exchange for money or a favour, the public official will be guilty of corruption.

Example: bribing a traffic officer to escape a fine.



OFFENCES THAT INVOLVE JUDGES, MAGISTRATES AND WITNESSES

It is a crime to offer a magistrate or judge money or a favour to decide a case in a certain way.

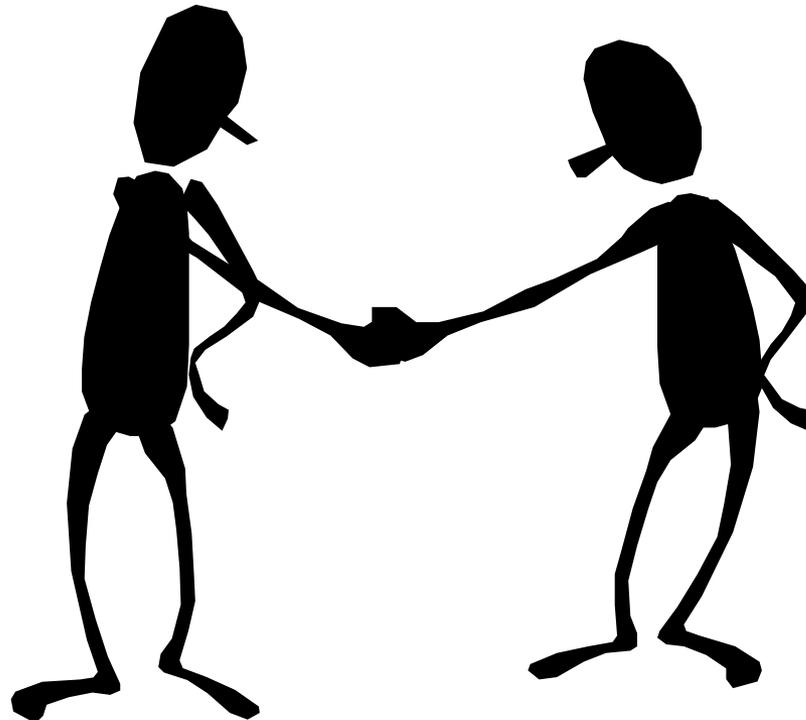
Example: a magistrate in Gauteng has been accused of accepting bribes to influence the outcome of a court case. The magistrate along with two co-accused, one being an attorney and the other a state prosecutor, have been charged with corruption.



OFFENCES THAT INVOLVE **TENDERS**

The Act makes it a crime to offer or accept money or favours in order to influence the award of a tender.

Example: a person on the panel that decides who gets the tender may offer to vote for a certain business if that business pays them a fee.



OFFENCES RELATING TO **SPORTING** **EVENTS**

Giving or receiving gratification to influence the outcome of a sporting event

Example: match fixing in a cricket or soccer game.



OFFENCES OF CONFLICT OF INTEREST

Any public officer who acquires a private interest in a contract connected with the public body is guilty of an offence.

Example: a mayor in a KwaZulu-Natal municipality awarded a tender to cater for a municipality event to a company that she owns.

Exceptions to this offence:

- Where the public officer's conditions of employment do not prohibit him/her from holding such interest
- Where the public official's interest is as a shareholder of a listed company
- Where the contract is awarded through a tender and the official's contract of employment does not prohibit this and the tender process is independent.

PENALTIES UNDER THE ACT



The Act imposes penalties for people who are convicted of corrupt activities. **Hefty prison sentences can be imposed, as well as fines.**

If convicted in the **High Court**, one can receive up to **life imprisonment**.

If convicted in the **regional magistrates' court**, one can receive a sentence of up to **18 years in prison**.

If convicted in the **district magistrates' court**, one can receive up to **five years in prison**.

REPORTING CORRUPTION UNDER PRECCA

Section 34 of the PRECCA requires all **people in positions of authority** in both public and private sector **to report corruption to the police** if it **involves more than R100 000**.

Failure by people in positions of authority to report corruption is an offence!

Who are people in positions of authority:

- The director-general/ head of national or provincial government;
- The municipal manager of the municipality;
- The principal or head of a tertiary institution;
- The director of a company;
- The executive manager of a bank;
- A partner in a partnership;
- CEOs.

