

Law No. (11) of 2014
on the establishment of the National Anti-Corruption Commission

The General National Congress

Upon review of:

- The Constitutional Declaration issued on 3 August 2011;
- The Penal Code and the Code of Criminal Procedure, and the amendments thereof;
- The law on the financial system of the State and its executive regulation, and the amendments thereof;
- Law No. (152) of 1970 on administrative distraint;
- Law No. (2) of 1979 on economic crimes;
- Law No. (3) of 1986 on illicit gains;
- Law No. (10) of 2005 endorsing the United Nations Convention against Corruption;
- Law No. (21) of 2001 adopting certain provisions concerning the practice of economic activities;
- Law No. (2) on combating money laundering;
- Law No. (12) of 2010 on labour relations;
- Law No. (19) of 2013 on the reorganisation of the Audit Office;
- Law No. (20) of 2013 on establishing the Administrative Control Authority;
- The conclusions of the 179th ordinary session of the General National Congress held on 23 Jumada al-Awwal 1435 AH corresponding to 25/03/2014 AD;

issued the following law:

Chapter (1)
General Provisions

Article (1)

A general commission called “the National Anti-Corruption Commission” (NACC) shall be established in accordance with the provisions of this law. The NACC shall possess independent legal personality and financial liability and it shall report to the legislature.

Article (2)

The NACC shall be headquartered in the city of Sebha. It may establish branches inside Libya.

Article (3)

Competences

The NACC shall assume its competences as follows:

1. Prepare proposals regarding the amendment of anti-corruption legislation that the NACC determines the need to amend, and refer the same to the NACC Council for examination.

2. Review and evaluate the anti-corruption reports issued by local, regional, international organisations, examine the status of the Libyan government therein, and propose the appropriate procedures in their regard.
3. Receive, examine, and keep financial disclosures, and request any data or clarification related thereto from concerned persons or competent entities.
4. Contribute to adding names to the receivership lists in accordance with the provisions of Law No. (36) of 2012 amended by Law No. (47) of 2012 on the management of the funds and properties of certain persons.
5. Coordinate with the Central Bank of Libya and the relevant entities to reclaim the funds resulting from corruption inside and outside the country.
6. Represent Libya before international and regional anti-corruption organisations and conferences.
7. Investigate and detect crimes of corruption, in particular:
 - a. Crimes stipulated by Law No. (2) of 2005 on combating money laundering.
 - b. Crimes against public funds and public trust stipulated by the Penal Code.
 - c. Economic crimes stipulated by Law No. (2) of 1979 and the amendments thereof.
 - d. Crimes of misuse of position or occupation, mediation, and favouritism.
 - e. Crimes stipulated by Law No. (3) of 1986 on illicit gains;
 - f. Crimes stipulated by Law No. (10) of 1994 on purification.
 - g. Any other act set forth by the United Nations Convention against Corruption (UNCAC).

Article (4)

The NACC chairman may order a freeze on any funds suspected of being acquired through a crime of corruption. If the crime is substantiated in accordance with the legislation in force, the chairman may order administrative distraint in accordance with Law No. (152) of 1970 on administrative distraint.

Article (5)

The NACC employees who enjoy the capacity of judicial officers may examine the files of suspects. They may also obtain information from official and non-official departments. In the performance of their duties, they may resort to any expert or specialist they deem necessary and they shall have the right to examine all documents, even confidential documents, and summon any person they deem necessary to hear his statement.

Article (6)

The NACC may, by a decision of its council, require any person suspected of acquiring illicit funds to indicate the legitimate source of his funds.

Chapter (2) NACC Bylaws

Article (7)

The NACC shall have a council called the “NACC Council” composed of a chairman, deputy, and five full-time members appointed by the legislature based on the proposal of the NACC chairman.

The Council shall have the following competences:

1. Draft the general policy of the NACC to achieve its goals.
2. Submit proposals related to anti-corruption legislation.
3. Work to activate the UNCAC and international, regional, and bilateral anti-corruption agreements in coordination with the relevant national entities.
4. Study and ratify periodic anti-corruption reports prepared by the NACC before referral to competent entities.
5. Monitor Libya’s fulfilment of its international commitments entailed by its ratification or adherence to anti-corruption agreements.
6. Follow-up on the NACC’s work regarding international cooperation relations for combating corruption, assess the same, and work to reinforce cooperation with similar committees and bodies.
7. Nominate NACC representatives to international and regional anti-corruption organisations and conferences.

Article (8)

The NACC shall be chaired by a person renowned for his competency, honesty, integrity, and expertise in the field of transparency and anti-corruption. The appointment, relief from office, and acceptance of resignation of such person shall be effected by a decision of the legislature. He shall be treated as a minister in terms of salary and benefits.

Article (9)

The term of mandate of the NACC chairman, deputy, and board of directors shall be for a period of three years, renewable one time.

Article (10)

The NACC chairman shall not be dismissed. His mandate shall only be terminated in the following cases:

1. Resignation
2. Attaining of retirement age
3. Proven inability to perform duties due to medical reasons.
4. Consensual assignment to another position or duty.
5. Issuance of a disciplinary decision of dismissal.

Article (11)

The NACC deputy shall be appointed by a decision of the State legislature. He shall be treated as a deputy minister in terms of salary and benefits. He may only be relieved of his position or transferred by a decision of the legislature at the proposal of the NACC chairman.

Article (12)

The NACC chairman, deputy, and Council members may not, while in office, engage in any public position or practice any other activity, be it commercial, financial, or service-related. They may not conclude any contract or commitment with the government or with public bodies or institutions, or serve as members on the boards of directors of companies and oversight and review committees. They may not purchase or rent, whether personally or by an intermediary, any government properties for the purpose of exploitation, even if such is conducted through tenders. They may not sell or lease any of their properties to the government.

Article (13)

The NACC chairman, deputy, Council members, and employees shall be Libyans and hold a superior or university degree in law, auditing, or economics. The capacity of judicial officer may only be granted to the holders of such degrees, with the exception of employees in administrative, clerical or artisanal positions.

Article (14)

Before taking office, the NACC chairman, deputy, and Council members shall take the following oath:

“I swear by Almighty God to remain faithful to Libya, to respect the Constitution and the laws and regulations in force, to perform my duties with loyalty and honesty, and to preserve the secrets of my job”.

The chairman, deputy, and Council members shall take the oath before the legislature, whereas employees shall take the oath before the NACC chairman.

Article (15)

The NACC chairman shall manage the NACC’s affairs and handle the administrative and technical oversight of its work and employees. In this respect, he shall have the power of a minister as stipulated by the laws and regulations applicable to workers. He shall have the power vested in the Minister of Finance with respect to the use of appropriations in the NACC budget. He shall, in particular:

1. Represent the NACC in its relations with third parties and before the judiciary.
2. Issue the necessary decisions to carry out the NACC’s functions and achieve its objectives.
3. Propose the NACC’s draft annual budget.
4. Form the committees necessary for the work of the NACC and determine their functions.
5. Prepare reports on the NACC’s activity and submit them to the legislature.
6. Sign contracts concluded by the NACC.
7. Any other tasks related to the work of the NACC.

The NACC chairman may delegate to his deputy some of his competences stipulated by this law.

Article (16)

The financial treatment of the NACC employees and Council members shall be determined by a decision issued by the legislature at the proposal of the NACC chairman.

Article (17)

The appointment, reassignment, and secondment of employees to the NACC, as well as the acceptance of their resignation and termination of their service shall be effected by a decision issued by the NACC chairman in accordance with the provisions of the legislation in force.

Article (18)

The NACC chairman, deputy, and Council members shall have the capacity of judicial officers regarding the implementation of the provisions of the present law. Such capacity may also be granted to the NACC employees if required by the nature of their job by virtue of a decision issued by the NACC chairman.

Article (19)

In cases other than *in flagrante delicto*, the NACC chairman, deputy, Council members, or employees enjoying the capacity of judicial officers may only be apprehended, placed under investigation, or subjected to criminal procedures by an authorisation of the competent entity.

In cases of *in flagrante delicto*, the competent entities shall be notified to issue the arrest authorisation within the subsequent twenty-four hours.

Article (20)

For the performance of the duties entrusted to the NACC in accordance with the provisions of this law, the NACC may resort to any member of the police or other law enforcement services that it deems appropriate.

It may also resort to experts on matters related to its duties from outside its personnel, by virtue of a decision issued by the NACC chairman.

Article (21)

If, during the exercise of its competences set forth by this law, the NACC detects a criminal offence, be it related to crimes of corruption or to ordinary crimes, it shall refer such crime to the Public Prosecutor for investigation and necessary action.

If the NACC detects any financial or administrative violations, it shall refer the papers to the Administration Control Authority to take action in accordance with its competences.

Article (22)

The NACC shall take the necessary measures to protect witnesses, experts, and informants against any attack they may be exposed to due to their testimony, expert opinion, or reporting.

Article (23)

The NACC shall have an independent budget integrated into the general budget of the State. The preparation thereof shall be subject to the rules and procedures governing the general budget of the State.

Chapter (3)

Final Transitional Provisions

Article (24)

Any person who possesses serious information or documents regarding a crime of corruption shall report the same to the NACC.

Article (25)

Without prejudice to any harsher penalty, whoever commits a crime of corruption stipulated by Article (3), Clause (7) of this law shall be punished by imprisonment for a minimum of five years or by a fine not exceeding ten thousand LYD, or by both penalties.

Article (26)

Crimes of corruption shall not be extinguished by prescription.

Article (27)

The NACC shall submit to the legislature an annual report on its business including its observations, recommendations, and the procedures taken by the NACC regarding the violations and transgressions it detected. It shall also submit periodic reports when necessary.

Article (28)

For matters that are not covered by a special text in this law, the NACC employees shall be subject to the legislation pertaining to public positions.

Article (29)

The Audit Office shall review the NACC's accounts and approve its final account.

Article (30)

The executive regulation of this law shall be issued by a decision of the legislature at the proposal of the NACC chairman.

Article (31)

Law No. (63) of 2012 on the Anti-Corruption Commission shall be repealed. All the assets and liabilities of the said commission shall be transferred to the commission formed in accordance with the provisions of this law. Any contrary text shall be repealed.

Article (32)

This law shall enter into force from its date of issuance and it shall be published in the Official Gazette.

General National Congress – Libya

Issued in Tripoli
On 14 Jumada al-Akhera 1435 AH
Corresponding to 16/04/2014 AD