PROSECUTOR GENERAL’S ACT

Introduction and title

1. (a) This Act defines the responsibilities, duties and policies therein, of the Prosecutor General, appointed under the Constitution of the Republic of Maldives.

(b) This Act shall be cited as the “Prosecutor General’s Act”

Establishment of the Prosecutor General’s Office

2. (a) With the Commencement of this Act an office, cited as “The Prosecutor General’s Office” shall be established, in order to perform the responsibilities duties of the Prosecutor General, as outlined in this Act.

(b) The Prosecutor General’s Office is an independent legal entity with a separate seal, possessing power to sue and suit against to make undertakings in its own capacity.

Appointment of Prosecutor General

3. (a) The President shall appoint a person as Prosecutor General pursuant to this section.

(b) Where a Prosecutor General is required to be appointed, The President shall submit one or more nominees to the Peoples Majlis

(c) The nominees, submitted by the President to the Peoples Majlis pursuant to subsection (b) shall be among those who have applied
for the post in response to a public announcement. The President shall send to the peoples Majlis as information, the names of all the applicants along with the name or names he proposes

(d) The president shall appoint as Prosecutor General, a person approved by a majority of the total membership of the People’s Majlis, from the nominees submitted to the People’s Majlis pursuant to subsection (b).

Qualifications

4. The person appointed as the Prosecutor General shall possess the following qualifications:

(a) Is a Muslim

(b) Is a citizen of the Maldives

(c) Has attained the age of twenty-five

(d) Has not been convicted of an offence for which a hadd punishment is prescribed in Islam; or of criminal breach of trust or offence of corruption (bribery).

(e) Is not a person holding any political post, appointed or elected under the Constitution of the Republic of Maldives or any Act.

(f) Is not a member or activist of any political party.

(g) Have the educational qualifications, experience and recognized competence necessary to discharge the responsibilities of the Prosecutor General. The person shall
be a graduate in law with a minimum experience of four years.

(h) Is not employed or holds any other posts

(i) Is not a shareholder or member or employee or holds any such posts in any company, firm, partnership or any such organization associated with law or sharia related work.

(j) Is of a sound mind.

5. (a) The Prosecutor General, appointed under this Act, shall be appointed for one term of five years, from the date of appointment.

(b) Subsection (a) does not prevent the Peoples Majlis to approve the renewal of the appointment of the Prosecutor General for a consecutive term of not more than five years in office, with the exceptions of instances where the Prosecutor General may be removed from Office, pursuant to section 9 of this Act.

6. Where the Office of the Prosecutor General becomes vacant, a new person shall be appointed as Prosecutor general, pursuant to Section 3 of this Act, within 30 days of the office becoming vacant.

7. (a) The Prosecutor General shall appoint a Deputy Prosecutor General to assist in executing the responsibilities and powers of the Prosecutor General.

(b) The prosecutor General shall have the
authority to appoint and remove the Deputy Prosecutor general.

(c) The person appointed as the Deputy Prosecutor General shall possess the qualifications of a Prosecutor General pursuant to section 4 of this Act.

(d) The Deputy Prosecutor General shall exercise the responsibilities and powers of the Prosecutor General in accordance with this Act and regulations made under, in the following circumstances:

1. Where the office of the Prosecutor General becomes vacant; or

2. Where the Prosecutor General is unable to perform the responsibilities of office.

(e) The Deputy Prosecutor General shall exercise the responsibilities and powers of the Prosecutor General in the instances identified in subsection (d) 1 and 2 of this section. The Deputy Prosecutor General shall also be accountable to all relevant authorities to whom the Prosecutor General owes such accountabilities.

(f) Where the post of the Deputy Prosecutor General becomes vacant, the Prosecutor General shall appoint a new person, pursuant to this section, within 30 days of such post becoming vacant.

Oath of the Prosecutor General

8 The Prosecutor General shall assume office upon taking and subscribing, before the Chief Justice, the Oath of Office, set out below.
I, ...(name of person)...., do swear in the name of Almighty Allah that I will respect the religion of Islam, that I will uphold the Constitution of the Republic of Maldives, that I will bear true faith and allegiance to the Maldives, that I will uphold the fundamental rights of the Maldivian citizens and will discharge the duties and responsibilities of Prosecutor General honestly and faithfully in accordance with the Constitution and laws of the Republic of Maldives.

Removal from Office  9

The Prosecutor General shall be removed from office only for the reasons specified in sub section (a) and in the manner specified in subsection (b).

(a) On the ground of misconduct, incapacity or incompetence

(b) A finding to that effect by a committee of the People’s Majlis, pursuant to subsection (a) and upon the approval of such finding by the People’s Majlis by a majority of those present and voting, calling for the Prosecutor General’s removal from office, the Prosecutor General shall be deemed removed from office.

Resignation of Prosecutor General  10.

(a) The Prosecutor General may resign from office by writing under his hand addressed to the President, and the office shall become vacant when the resignation is received by the President.

(b) The Deputy Prosecutor General may resign
by writing under his hand addressed to the Prosecutor General, and the post shall become vacant when the resignation is received by the Prosecutor General.

Salary and allowances

(a) The Prosecutor General shall be paid such salary and allowances as determined by the People's Majlis.

(b) Any salary or allowances paid to the Prosecutor General shall not be reduced during the term of office.

(c) The Prosecutor General shall, with the consultation of Ministry of Finance and Treasury, determine the salary and allowances paid to the employees of the Prosecutor General's Office.

Procedural Standards

(a) The Prosecutor General shall perform his responsibilities and exercise his powers, during the term of his office, in the manner specified below.

1. Shall act in accordance with the constitution and the laws of the Republic of Maldives.

2. Shall uphold the Rule of Law and protect the rights and freedom of the citizens.

3. Shall give precedence to his duty towards the country and public policy and benefits in performing his duties exercising his powers.

4. Shall not discriminate between citizens, in terms of race, national
origin, color, sex, age, mental or physical disability, political or other opinion, property, birth or other status or native island or language, social status or designation.

5. Shall not be under coercion or influence of any person or persons in performing the duties and exercising the powers of the Prosecutor General.

6. Shall perform his duties in accordance with the policy directives issued and published by the Attorney General, without bias and impartially.

7. The policies of the Prosecutor General shall be based on equality, transparency and accountability.

8. Shall not engage or participate in any act, which may question the impartiality or independency of the Prosecutor General.

9. Shall not use his position or any information entrusted to him by virtue of his office to improperly benefit himself or any other person.

10. Shall not impart any information entrusted to him by virtue of his office, to a third party, unless while performing his duties.

11. Shall not actively engage in a
business or in the practice of any profession, or any other income generating employment or be employed by any other person.

12. Shall observe a respectable and ethical code of conduct acceptable to the public.

(b) The Prosecutor General shall annually submit to the Auditor General a statement of all property and monies owned by him, business interests and all assets and liabilities. Also, persons appointed as the Prosecutor General shall, before assuming office, submit to the Auditor General a statement of all property and monies owned by him, business interests and all assets and liabilities. The Auditor General may submit such statements to the People’s Majlis if he finds any grounds for suspicion.

13. The Prosecutor General or his representative shall not be liable to any proceedings in any court, for any acts committed or omitted in good faith in his official capacity or while exercising the powers of the Prosecutor General or the powers conferred to the Prosecutor General or his agent by this Act.

14. The Prosecutor General shall present himself, where the People’s Majlis or a committee of the People’s Majlis requires his presence. The Prosecutor General shall answer all the questions
addressed to him by the People’s Majlis or a committee of the People’s Majlis, to the best of his knowledge and ability.

**Responsibilities and Powers of the Prosecutor General**

15. The Prosecutor General’s responsibilities and powers include the following:

(a) To supervise the prosecution of all criminal offences in the Maldives;

(b) To consider and assess evidence presented by investigating bodies to determine whether charges should be pursued;

(c) To institute and conduct criminal proceedings against any person before any court in respect of any alleged criminal offence;

(d) To oversee the legality of preliminary inquiries and investigations into alleged criminal activity;

(e) To monitor and review the circumstances and conditions under which any person is arrested, detained or otherwise deprived of freedom prior to trial;

(f) To order any investigation that he deems desirable into complaints of criminal activity or into any other criminal matters of which he becomes aware;

(g) To take over, review and continue any criminal proceedings instituted by any prosecuting body authorized to initiate prosecutions pursuant to a law enacted by the Peoples Majlis, and at his discretion to discontinue any criminal proceedings at any stage prior to judgment;
(h) To review and revert any decision to prosecute or not to prosecute any alleged offender, or to discontinue any prosecution;

(i) To appeal any judgment, verdict or decision in a criminal matter;

(j) To issue policy directives which shall be observed in the entire prosecutorial process;

(k) To uphold the constitutional order, the law and the rights and freedom of all citizens;

(l) To establish relevant offices to carry out the prosecutorial work pursuant to section 2 of this Act;

(m) To issue and implement the standards of the employees of the Prosecutor General’s office.

Recruitment of staff

16 (a) The Prosecutor general shall recruit relevant staff to assist in executing his responsibilities and powers. He may also employ additional staff, provide trainings and offer promotions, within the framework of the annual budget approved by the Peoples Majlis and shall also have the power to dismiss any staff.

(b) The Prosecutor General’s office shall formulate a special employment plan in relation to the required technical staff and other employees. Regulations made under this Act shall include the procedure for appointment, promotion and service conditions of employees recruited under the
Acting through Agents

17. (a) The responsibilities and powers of the Prosecutor General may be assigned with his express instructions, to any person working under his mandate or to any other person.

(b) The Prosecutor General shall delegate powers to his agent, pursuant to subsection (a), with his written approval and the agent shall only exercise such powers within the confines of the delegated authority.

Financial matters

18. (a) The state treasury shall provide the Prosecutor General the funds from an annual budget, approved by the People's Majlis, essential to undertake the responsibilities of the Prosecutor General. For the said purpose, the Prosecutor General shall prepare its annual budget, with the consultation of Ministry of Finance and Treasury, and submit it to the Peoples Majlis along with the annual budget of the state treasury.

(b) The Prosecutor General shall not utilize the financial assistance provided by persons or an organization or foreign government, except for the purpose of performing the responsibilities of the Prosecutor General.

(c) A financial statement of the Prosecutor General's Office, comprising the income, expenditure, assets and liabilities, audited and prepared in consultation with the Auditor General and in accordance with the regulations formulated by the Auditor
Annual Report

19. (a) The Prosecutor General shall prepare and submit its annual report, before February 28 of every year, to the President and the Peoples Majlis.

(b) The annual report, stipulated in subsection (a), shall include the following:

1. Number of cases sent to the Prosecutor General’s Office, list of the authorities who sent the cases and status details of the said cases.

2. Administrative details of the preceding year, in relation to the staff and the Prosecutor General’s Office in general.

(c) The Prosecutor General’s Office shall openly publish the annual report, pursuant to section (a), within 14(fourteen) days of submitting the said report to the President and the Peoples Majlis.

(b) Notwithstanding subsection (a), where a special circumstance arise and should the Prosecutor General deem relevant, the Prosecutor General may submit a special report to the President and the Peoples Majlis accordingly.

Appointment of Prosecutor General

20 (a) A Prosecutor General shall be appointed in accordance with this Act, within 60 (sixty) days of the first sitting of the People’s
Majlis, elected under Article 296 of the Constitution of the Republic of Maldives.

(b) For the purpose stipulated in subsection (a):

1. The President shall submit the nominations to the new People’s Majlis within 20 (twenty) days of the first sitting of the People’s Majlis, elected under Article 296 (b) of the Constitution of the Republic of Maldives.

2. The Peoples Majlis shall inform the President of its decision within 20 (twenty) days of submission of the nominations by the president, pursuant to subsection (b) 1 and (b) 3.

3. Where the Peoples Majlis rejects the nominations submitted by the President pursuant to this section, the president shall submit new nominations within 5 (five) days of the Peoples Majlis informing the President of its decision.

Prosecutor General 21. (a) The Prosecutor General appointed during the transitional period under Article 288 of the Constitution of the Republic of Maldives shall have such responsibilities and powers of the Prosecutor General as appointed in accordance with this Act. With the exceptions of sections 3, section 5 and subsection 20 (1) of this Act, all the other provisions of this Act shall be applicable to the Prosecutor General appointed in
accordance with Article 288 of the Constitution of the Republic of Maldives.

(b) The Prosecutor General appointed pursuant to subsection (a) shall remain in office until the appointment of a Prosecutor General as stipulated in section 20 of this Act.

(c) Notwithstanding Subsection (b), this Act does not encourage the access of journalists to scenes where for safety reasons access may be denied.

Commencement of this Act

22. This Act shall come into force, after the approval of the Peoples Majlis, assent by the President and publication in the Government Gazette.

Formulating Regulations

23. (a) All regulations under this Act shall be formulated and enforced by the Prosecutor General. The Prosecutor General shall make such regulations within 6 (six) months of appointment, pursuant to section 20 (a) of this Act.

(b) Subsection (a) does not prevent the Prosecutor General from amending the regulations or formulating additional regulation when the Prosecutor General deems necessary, even after the expiration of the time frame stipulated in subsection (a).

(c) Subsection (a) does not prevent the Prosecutor General, appointed under Article 288 of the Constitution of the Republic of Maldives, to formulate regulations for the purpose of executing his duties and responsibilities.
24. Unless otherwise stipulated in this Act;

"Prosecutor General's Office" means the office established by the Prosecutor General, pursuant to section 1 of this Act, for the purpose of executing his duties.