

Explanatory Memorandum after page 72

2018-06-06

OBJECTS AND REASONS

This Bill would establish a regime, including an integrity commission, to promote the integrity of persons in public life and strengthen measures for the prevention, detection, investigation and prosecution of acts of corruption.

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BARBADOS

A Bill entitled

An Act to establish a regime, including an integrity commission, to promote the integrity of persons in public life and strengthen measures for the prevention, detection, investigation and prosecution of acts of corruption.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Integrity in Public Life Act, 2018*.

Interpretation

2. In this Act,

“appointed day” means a day to be fixed by Proclamation;

“assets”, in relation to a person, means all property, including any right or interest in property, and money held by the person in Barbados or elsewhere;

“benefit” includes any property, service or advantage, whether direct or indirect;

“Chairman” means the chairman of the Commission appointed in accordance with the *First Schedule*;

“child”, in relation to a person, means the person’s child who has not attained the age of 18 years and is not married and includes a step-child or an adopted child and, in respect of a man, includes a child in respect of whom the man has

(a) been adjudged the father by a court of competent jurisdiction; or

(b) acknowledged to be his child;

“Code of Conduct” means the Code of Conduct for Persons in Public Life published by the Commission pursuant to section 65;

“Commission” means the Integrity Commission established by section 3;

“document” includes

(a) anything on which there is writing;

(b) a map, plan, graph or drawing;

- (c) any photograph;
- (d) any disc, tape, sound track or other device in which sounds or other data not being visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced therefrom;
- (e) any film, including microfilm, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced therefrom;

“government official of another State” means a public official of a state other than Barbados;

“income” includes

- (a) money or money’s worth derived from whatever source or acquired in or outside Barbados, whether directly or indirectly;
- (b) all receipts by way of salary, fees, wages, requisitions, profits, grants, emoluments, rents, interest, commissions, bonus, pensions, annuity or benefit;

“investigative officer” means a person designated as such under section 9(1);

“liabilities”, in relation to a person, means all the obligations of the person to pay money or to provide goods or services in Barbados or elsewhere;

“member of the House of Assembly or the Senate”, as the case may be, shall be construed to include, in relation to any period between a dissolution of Parliament and the day on which the next election of members of the House of Assembly is held, a person who was a member of the House of Assembly or the Senate, as the case may be, before the dissolution of Parliament;

“privileged material” means

- (a) communications between a professional legal adviser and his client, or any person representing his client, made in connection with the giving of legal advice to the client;
- (b) communications between a professional legal adviser and his client, or any person representing his client, or between such an adviser or his client (or any such representative) and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; or
- (c) material enclosed with or referred to in such communications and made
 - (i) in connection with the giving of legal advice; or
 - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when the communications or material are in the possession of a person who is entitled to such possession and are not held with the intention of furthering a criminal purpose;

“prohibited interest” means an interest in a contract with the Government, the acquisition of which by a member of the House of Assembly or the Senate is prohibited under rules made pursuant to section 84(2);

“property” includes money and all property, real or personal and things in action;

“public body” includes

- (a) Parliament and the Cabinet;
- (b) Ministries and departments of Government;
- (c) statutory bodies and subsidiary companies of such bodies; and
- (d) any other bodies which receive any payment of monies under an Appropriation Act within the meaning of the *Financial Management and Audit Act*, Cap. 5;

“public officer” has the meaning assigned to it by section 2 of the *Public Service Act*, Cap. 29;

“public official” means a public officer or another person who is a member, officer or other employee of a public body, as the case may be;

“Register of Interests” means the Register established pursuant to section 39;

“spouse”, in relation to a specified person in public life, means a person

- (a) to whom the specified person in public life is married; or
- (b) who is living with the specified person in public life in the circumstances of husband and wife for a continuous period of one year during the period covered by the person’s declaration;

“specified person in public life” means a person who holds an office listed in the *Second Schedule*;

“staff member” means an officer or other employee of the Commission who is at or above the rank of Secretary to the Commission;

“statement of registrable interests” means a statement filed under section 37 of the interests described in section 38 held by or concerning a member of the House of Assembly or the Senate;

“state-owned company” means a company registered under the *Companies Act*, Cap. 308 being a company whose policies the Government or an agency of Government is in a position to influence, whether by holding shares or by financial input;

“statutory body” has the meaning assigned to it by section 2 of the *Financial Management and Audit Act*, Cap. 5.

PART II

INTEGRITY COMMISSION

Establishment of Integrity Commission

3.(1) There is hereby established a body to be called the Integrity Commission.

(2) The *First Schedule* has effect with respect to the constitution of the Commission and otherwise in relation thereto.

(3) Subject to the provisions of this Act, the Commission may regulate its own procedure.

Functions of Commission

4.(1) The functions of the Commission are

- (a) to receive and keep on record all declarations, statements of registrable interests and reports of gifts forwarded by persons in public life;
- (b) to examine declarations, statements of registrable interests and reports of gifts and to request from a specified person in public life any information or further information relevant to a declaration, statement of registrable interests or report of a gift made by him, which may assist the Commission in its examination;
- (c) to make inquiries and carry out investigations as it considers necessary in order to verify or determine the accuracy of a declaration, statement of registrable interests or report of a gift filed under this Act;
- (d) to receive, inquire into and investigate any complaint or report of
 - (i) an alleged contravention of this Act;
 - (ii) an alleged contravention of the Code of Conduct;

- (iii) the acquisition by a member of the House of Assembly or the Senate of a prohibited interest; or
 - (iv) an alleged offence under any Act that assigns responsibility for the investigation of offences to the Commission;
 - (e) to investigate any matter referred to in paragraph (d) on its own initiative, where the Commission is satisfied that there are reasonable grounds for an investigation or inquiry;
 - (f) to examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices, except where there is a statutory duty on any other person to perform that function;
 - (g) to instruct, advise and assist the management of public bodies of any change in practices or procedures which may be necessary to reduce the occurrence of corrupt acts, except where there is a statutory duty on any other person to perform that function; and
 - (h) to perform functions and exercise powers as it is required by this Act or any other enactment.
- (2) In the exercise of its functions under this Act, the Commission may not be subject to the direction or control of any person or authority.
- (3) The Governor-General may, in writing, request the Commission to investigate any matter falling within the functions of the Commission.

Consultation

5. The Commission may consult with any person, institution or organisation in the exercise of its powers of investigation or in the conduct of an inquiry, under this Act.

Agreements and exchange of information with law enforcement agencies

6.(1) The Commission may enter into such written agreements, arrangements or memoranda of understanding with a law enforcement agency, including a foreign law enforcement agency, as the Commission considers necessary or desirable for the discharge or performance of its functions.

(2) The Commission shall be treated as a law enforcement agency for the purposes of receiving disclosures of information which are relevant to its functions from any law enforcement agency, including a foreign law enforcement agency.

(3) Subject to sections 35 and 79, the Commission may disclose to a law enforcement agency, including a foreign law enforcement agency, any information disclosed to the Commission.

(4) The Financial Intelligence Unit referred to in section 9(1) of the *Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011* (Act 2011-23) and foreign financial intelligence units, by whatever name called, shall be treated as law enforcement agencies for the purpose of this section, regardless of whether they operate as enforcement or administrative entities.

Funds of Commission

7.(1) The Commission shall have such funds as may be appropriated to it by Parliament.

(2) The Commission shall keep proper accounts of receipts, payments, assets, and liabilities and those accounts shall be audited annually by the Auditor-General.

(3) The Commission shall, before the commencement of each financial year, prepare and forward to the Prime Minister a report of its activities during the previous financial year, including a statement of its accounts audited in accordance with subsection (2).

(4) A copy of the report together with the Auditor-General's Report shall be laid before Parliament.

Officers and other employees of Commission

8.(1) The Commission may, acting within the funds and resources available to it

- (a) employ such officers and other employees as are required for the proper performance of the functions of the Commission; and
- (b) retain the services of professional persons.

(2) The remuneration and other terms and conditions of employment of the officers and other employees of the Commission employed under subsection (1) and the professional persons retained under that subsection shall be such as may be determined or varied by the Commission from time to time.

(3) The Commission may, with the consent of the appropriate authority, utilise, for the performance of its functions, the services of any public officer or other employee of Government.

(4) The Commission may, with the approval of the Minister responsible for Finance, make such provision as it deems appropriate for the payment of pension, gratuity or other allowances in respect of the service of its officers and other employees on their retirement from employment with the Commission.

(5) In subsection (3) "appropriate authority", in relation to any public officer or other employee of the Government, means the person or authority vested by law with power to appoint such public officer or other employee of the Government to the position he holds at the time when his service is sought to be utilised by the Commission.

Investigative officers

9.(1) The Commission may designate a person employed under section 8(1) as an investigative officer and may issue to such officer a warrant card, which shall be *prima facie* evidence of the officer's designation.

(2) An investigative officer has the function of carrying out investigations in relation to any matter, whether or not involving an alleged offence, in respect of which the Commission exercises functions under this Act or any other enactment.

(3) An investigative officer has the powers described in Part III but, for the avoidance of doubt, is not a member of the Police Force.

Proceedings of the Commission

Commission's powers to summon and examine witnesses

10.(1) The Commission shall have the powers of a judge of the Supreme Court to summon witnesses and to call for the production of documents and to examine witnesses and parties concerned on oath.

(2) A summons to attend to give evidence or to produce documents before the Commission

(a) shall be

(i) in such form as may be prescribed;

(ii) issued under the hand of the Chairman or another member of the Commission; and

(iii) served on the person required to attend or to produce the document either by delivery to the person of the summons or delivery in such other manner as may be ordered by the Commission to ensure that the summons is brought to the attention of the person; and

(b) may be served by a person authorised by the Commission for the purpose.

(3) The Commission may, if it thinks fit, receive oral or written evidence, but it is not bound by the rules of evidence in the *Evidence Act*, Cap. 121, and it may take into account opinion evidence and such facts as it considers relevant and material.

Duty of witnesses summoned

11.(1) A person summoned to attend and give evidence or to produce documents at any sitting of the Commission shall be

- (a) bound to obey the summons served upon him as fully in all respects as witnesses are bound to obey subpoenas issued from the Supreme Court; and
- (b) entitled to the like expenses as if he had been summoned to attend the Supreme Court on a criminal trial, if the same is allowed by the Commission.

(2) The procedure for the payment of the expenses of a person referred to in subsection (1) shall be the same as nearly as may be for the payment of witnesses in the Supreme Court and such person shall be paid at such time and in such manner as the Minister responsible for Finance may direct.

(3) The Commission may disallow the whole or any part of the expenses of a person referred to in subsection (1) in any case where the Commission thinks fit.

(4) A person who

- (a) refuses or omits, without sufficient cause, to attend at the time and place mentioned in the summons served on him;
- (b) attends, but leaves the Commission without the permission of the Commission;
- (c) refuses, without sufficient cause, to answer or to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him by or with the concurrence of the Commission;
- (d) refuses or omits, without sufficient cause, to produce any document in his possession or under his control and mentioned or referred to in the summons served on him; or

- (e) at any sitting of the Commission, wilfully insults a member of the Commission or the Secretary of the Commission,

is guilty of an offence and is liable, on summary conviction, to a fine of \$10 000 or to imprisonment for 6 months or to both.

- (5) A person who gives evidence before the Commission shall
 - (a) not be compellable to incriminate himself; and
 - (b) in respect of any evidence given by him before the Commission, be entitled to all privileges to which a witness giving evidence before the Supreme Court is entitled in respect of evidence given by the witness before the court.

Witness may be examined on oath

- 12. The Commission may
 - (a) require that any facts, matters or things relating to the subject of inquiry be verified or otherwise ascertained by the oral examination of witnesses; and
 - (b) cause witnesses to be examined on oath which the Chairman or the Secretary shall be authorised to administer.

False evidence, how punishable

- 13. A witness who wilfully gives false evidence in any inquiry concerning the subject matter of such inquiry, commits perjury and is liable to be prosecuted and be punished accordingly.

Constables detailed to attend Commission

- 14. The Commissioner of Police may, where so required by the Commission, detail constables to
 - (a) attend to preserve order during the proceedings of the Commission;

- (b) perform such other duties as usually pertain to their office when in attendance upon the Supreme Court;
- (c) serve summonses on witnesses; and
- (d) perform such other duties as the Commission shall direct.

PART III

INVESTIGATIONS

Powers of Investigative Officers

Power of arrest

15.(1) An investigative officer has, in carrying out his functions, the powers of a constable to arrest any person whom he reasonably suspects has committed an offence punishable by imprisonment under this Act or under any other enactment that assigns responsibility for investigations to the Commission.

(2) An investigative officer shall, after making an arrest, deliver the person arrested to the custody of a member of the Police Force who shall, as soon as practicable, bring the person before a magistrate.

Production orders

16.(1) An investigative officer may apply to a judge in Chambers for an order, to be called a production order, requiring a specified person to

- (a) give the officer access to material specified in the application; or
- (b) produce the material specified in the application for the officer to take away,

within 7 days from the date on which the order is made or such other period as the judge determines would be appropriate in the circumstances.

- (2) The application shall be made without notice and shall
 - (a) specify the person subject to investigation; and
 - (b) specify or describe the material in respect of which the order is sought.
- (3) A judge may make a production order where he is satisfied that there are reasonable grounds for
 - (a) suspecting that an offence has been committed under this Act or any other enactment that assigns responsibility for the investigation of offences to the Commission; and
 - (b) believing that
 - (i) the specified person is in possession or control of the material specified in the application;
 - (ii) the material is likely to be of substantial value to the investigation for the purposes of which the order is sought, whether by itself or together with other material; and
 - (iii) it is in the public interest for the specified material to be produced or for access to be given to the material, having regard to
 - (A) the benefit likely to accrue to the investigation if the material is obtained; and
 - (B) the circumstances under which the specified person holds the material.
- (4) A production order
 - (a) may state the place where the material is to be produced or where access to the material is to be given; and
 - (b) does not require a person to produce, or give access to, privileged material.

- (5) Sections 43 to 46 of the *Proceeds of Crime Act*, Cap. 143 apply in respect of
- (a) a production order made under this section as if references to an order made under section 42 of that Act were references to a production order made under this section;
 - (b) an investigative officer as if the references to a police officer in that Act were references to an investigative officer; and
 - (c) an offence under this Act or any other enactment that assigns responsibility for the investigation of offences to the Commission as if references to a scheduled offence in that Act were references to an offence under this Act or any other enactment that assigns responsibility for the investigation of offences to the Commission.
- (6) In this section “specified person” means that the person specified in an application under subsection (1) as appearing to be in possession or control of material subject to the investigation.

Power of search and seizure

17.(1) Where, on an application made by an investigative officer, a judge in Chambers is satisfied that there are reasonable grounds for suspecting that

- (a) an offence has been committed under this Act or any other enactment that assigns responsibility for investigations to the Commission;
- (b) there is material on premises specified in the application that is likely to be of substantial value to the investigation of the offence, whether by itself or together with other material;
- (c) the material
 - (i) is likely to be admissible in evidence at a trial for an offence referred to in paragraph (a); and
 - (ii) does not consist of or include privileged material; and

(d) any of the conditions specified in subsection (2) applies, the judge may issue a warrant authorising an investigative officer to enter and search the premises for the material and to seize and retain any material, that, in the opinion of the investigative officer, is of the kind described in paragraphs (b) and (c).

(2) The conditions mentioned in subsection (1)(d) are that

- (a) a production order has been made in respect of the material and has not been complied with;
- (b) a production order in respect of the material would be unlikely to be effective because there are reasonable grounds to suspect that such a production order would not be complied with;
- (c) the material involved cannot be identified or described with sufficient particularity to enable a production order to be made;
- (d) it is not practicable to communicate with any person entitled to grant entry to the premises;
- (e) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;
- (f) entry to the premises will not be granted unless a warrant is produced; or
- (g) the investigation for the purposes of which the application is made might be seriously prejudiced unless the investigative officer is granted immediate access to the material without notice of any person.

(3) An investigative officer may seize and retain anything for which a search has been authorised under subsection (1).

Obstruction of investigative officer

18. A person who resists or obstructs an investigative officer in the execution of his duty is guilty of an offence and is liable, on summary conviction, to a fine of \$5 000 or to imprisonment for 6 months or to both.

Complaints regarding Investigative Officers

Complaints about conduct of an investigative officer

19.(1) A person may address a complaint in writing to the Commission in respect of the conduct of an investigative officer in the performance of his functions where the person

- (a) has been personally affected by the conduct;
- (b) has witnessed the conduct;
- (c) has a substantial and direct interest in the complaint; or
- (d) has been authorised by a person referred to in paragraph (a), (b) or (c) to make a complaint in that person's name.

(2) The Commission shall refer a complaint made under subsection (1) to a panel appointed under section 20.

Appointment of complaints panel

20. The Governor-General may appoint an *ad hoc* panel consisting of

- (a) a judge or magistrate or a retired judge or magistrate, who shall be the chairman;
- (b) the Commissioner of Police, who shall hold office *ex officio*; and
- (c) a person, other than a member or former member of the Police Force, to represent the public,

to hear and adjudicate a complaint made under section 19.

Disposal of complaint without investigation

21.(1) The panel may direct that no investigation of a complaint be carried out where in its opinion

- (a) the complaint is trivial, frivolous, vexatious or made in bad faith; or
- (b) having regard to all the circumstances, an investigation or further investigation is not necessary or reasonably practicable.

(2) Where no direction is made under subsection (1), the panel and the Commission shall

- (a) consider whether the complaint can be disposed of informally; and
- (b) with the consent of the complainant and the investigative officer whose conduct is the subject-matter of the complaint, attempt to dispose of the complaint informally before a formal investigation is undertaken.

(3) Where a complaint is disposed of informally, the panel shall prepare and send the following documents to the complainant, the investigative officer and the Commission:

- (a) an overview of the facts that gave rise to the complaint;
- (b) the name of the person who conducted the informal disposition;
- (c) a statement of the manner in which the complaint was disposed of; and
- (d) evidence of agreement to the disposition of the complaint by the complainant and the investigative officer.

Formal investigation of complaint

22.(1) Where a complaint is not disposed of informally, the Commission shall investigate the matter and send a complaint resolution report to the panel, the complainant and the investigative officer whose conduct is the subject-matter of the complaint.

- (2) The complaint resolution report referred to in subsection (1) shall contain
- (a) a summary of the complaint;
 - (b) the results of the investigation;
 - (c) a summary of any action that has been or will be taken with respect to resolution of the complaint; and
 - (d) a statement that the complainant may refer the complaint to the panel for review, within 60 days of the receipt of the complaint resolution report, where he is not satisfied with the disposition of the complaint by the Commission.
- (3) A complainant who is not satisfied with a direction under section 21(1) or with the disposition of the complaint by the Commission under subsection (1), may refer the complaint to the panel in writing within 15 days after the date on which he receives notice of the direction or the complaint resolution report.
- (4) The panel shall review every complaint referred to it under subsection (3).

Review of complaints by panel

23.(1) Where, after reviewing a complaint, the panel is satisfied with the disposition of the complaint by the Commission, the panel shall send

- (a) a complaint review report to that effect to the Commission, setting out such findings and recommendations with respect to the complaint as the panel sees fit; and
- (b) a report of the conclusion of the review to the complainant and the investigative officer whose conduct is the subject-matter of the complaint together with any finding or recommendation referred to in paragraph (a).

(2) Where, after reviewing a complaint, the panel is not satisfied with the disposition of the complaint by the Commission or considers that further inquiry is warranted, the panel may take any or all of the following measures:

- (a) send a report to the Commission indicating the reasons for its dissatisfaction;
- (b) request the Commission to conduct a further investigation into the complaint;
- (c) make such inquiries as it deems necessary in the circumstances;
- (d) investigate the complaint further;
- (e) institute a hearing to inquire into the complaint.

(3) The panel shall, on completion of any further investigation, inquiry or hearing that it has ordered under subsection (2) send

- (a) to the Commission, a complaint review report setting out
 - (i) such findings with respect to the complaint as the panel sees fit; and
 - (ii) such recommendations, including disciplinary measures to be taken in regard to the investigative officer, as the panel sees fit; and
- (b) to the complainant and the investigative officer, a report of the conclusion of the review, together with any finding or recommendations referred to in paragraph (a).

Implementation of panel's recommendations

24. The Commission shall give effect to any recommendations in a complaint review report sent to it pursuant to section 23.

PART IV

DECLARATIONS

Declaration of financial affairs

- 25.(1)** A person who is a specified person in public life shall
- (a) on or before the appointed day and every 2 years thereafter, on or before the biennial anniversary of that date; and
 - (b) where such person ceases to be a specified person in public life, within 90 days from the date on which he ceases to be a specified person in public life,

file, where he is not a member or staff member of the Commission, with the Commission or, where he is a member or staff member of the Commission, with the Governor-General, a declaration containing the particulars referred to in subsection (5).

(2) Without prejudice to subsection (1), every person shall, within 90 days from the date on which he becomes a specified person in public life, file, where he is not a member or staff member of the Commission, with the Commission or, where he is a member or staff member of the Commission, with the Governor-General, a declaration containing the particulars referred to in subsection (5) with reference to the date on which he becomes a specified person in public life; and any person required to file a declaration under this subsection in any year is not required to file another declaration under subsection (1) in the same year.

(3) The Commission may, in exceptional circumstances, grant to any person required to file a declaration under subsection (1) or (2), other than a member or staff member of the Commission, an extension of the period for filing the declaration of up to 6 months, beginning on the day that the declaration is required to be filed.

(4) The Governor-General may, in exceptional circumstances, grant to a member or staff member of the Commission required to file a declaration under subsection (1) or (2), an extension of the period for filing the declaration of up to 6 months, beginning on the day that the declaration is required to be filed.

(5) A declaration shall be in such form as may be prescribed and shall give full, true and complete particulars of

- (a) the person's income, assets and liabilities;
- (b) the assets of the person's spouse and dependent children; and
- (c) any gift received in the course of the performance of the person's public functions.

(6) A declaration may be accompanied, where the specified person in public life so wishes, by a statement giving details of his income, assets and liabilities which shall be certified by an accountant.

(7) Where a specified person in public life dies, there shall be no obligation on the administrators of his estate to file the declaration which the specified person in public life would have been required to file, had he lived.

Trust property

26. Where a specified person in public life holds any money or other property in trust for another person, not being his spouse or child or another person in public life, he shall so state in his declaration but shall not be required to disclose the terms of the trust.

Full disclosure

27.(1) A specified person in public life is required to disclose in his declaration under section 25, such details in respect of the income, assets and liabilities of himself and those of his spouse and his children, as by the exercise of reasonable care, should be known to him.

- (2) For the purposes of a declaration under section 25, the income, assets and liabilities of a specified person in public life, his spouse and his children shall include the income, assets and liabilities acquired, held or incurred by any other person as agent or on behalf of all or any of them.
- (3) Any direct or indirect benefit accruing to the income or assets of a declarant or his spouse or children must be disclosed in a declaration under section 25.

Blind trusts

28.(1) A specified person in public life may place his assets or part thereof in a blind trust for the purpose of this Act and file a copy of the trust deed with the Commission.

(2) Where the Commission has reasonable grounds to believe that a specified person in public life is likely to contravene or has contravened this Act, the Commission may direct that person to place all or part of his assets in a blind trust on such terms and conditions as the Commission considers appropriate and to file a copy of the trust deed with the Commission.

(3) Where the assets of a specified person in public life are placed in a blind trust, he need not in his declaration under section 25, give more particulars of those assets than the amount and description of the assets placed in the trust and the date of so doing.

(4) Notwithstanding any other law relating to the duties of trustees, a trust company managing the assets of a specified person in public life by way of a blind trust, shall reply fully to any inquiries of the Commission relating to the nature and management of the assets in the trust.

(5) A blind trust is created when a specified person in public life enters into an agreement with a qualified trust company whereby

- (a) all or any part of his assets or those of his spouse or children are conveyed to the trust company for the management, administration and control thereof, in its absolute discretion without recourse or report to the person or persons beneficially entitled to those assets;

- (b) income derived from the management of the assets is to be distributed, in accordance with the agreement, to him, his spouse or his children until he ceases to be a specified person in public life; and
 - (c) after he ceases to be a specified person in public life, proper and full accounting is to be made to him, his spouse or children as the circumstances of the management of the trust require.
- (6) A trust company is a qualified trust company where
 - (a) it is incorporated in or outside Barbados and is carrying on business in Barbados;
 - (b) no more than 5 per cent of the stated capital in the trust company or its affiliate is held or controlled by the specified person in public life entering into an agreement with it, or by any other person associated with him; and
 - (c) the specified person in public life or his spouse or any of his children does not hold any directorship or office in the trust company or its affiliate.
- (7) For the purposes of this section, a company is an affiliate of another company where it holds more than 5 per cent of the stated capital in that other company or where that other company holds more than 5 per cent of the stated capital in the first mentioned company.
- (8) For the purposes of this section, a person is associated with another, where that other person is
 - (a) the spouse or child of the person;
 - (b) the partner of the person in a profession, trade or commercial undertaking; or
 - (c) a corporation and the first mentioned person or any person mentioned in paragraph (a) controls the corporation, its holding corporation or a corporation affiliated with either.

Receipt and examination of declarations

- 29.** The Commission or the Governor-General, as the case may be, shall
- (a) receive, examine and retain all declarations and documents filed with it or him under this Act; and
 - (b) make such inquiries as it or he considers necessary in order to verify or determine the accuracy of the financial affairs, as stated in the declarations, of persons who are required to file declarations under this Act.

Commission or Governor-General may require further information from declarant

- 30.** The Commission or the Governor-General, as the case may be, may in writing request a declarant to furnish such further particulars or other information relating to his financial affairs as may be considered necessary for the purposes of section 4(1)(b) or 29, as the case may be, and the declarant shall comply with the request within the time specified therefor by the Commission or Governor-General, as the case may be.

Commission may conduct inquiry regarding declarations

- 31.(1)** The Commission may in writing request a declarant to furnish such further information or documents as it may require and may conduct an inquiry to verify any declaration or other statement filed with it.
- (2) The Commission, upon examination of a declaration furnished pursuant to section 25 may require the specified person in public life to attend an inquiry of the Commission at a specified time to be heard on any matter relating to the declaration.

- (3) A specified person in public life who is required to attend the Commission may
- (a) be accompanied and represented by an attorney-at-law or such other person as the specified person in public life chooses; and
 - (b) require the Commission to summon witnesses.
- (4) The Commission shall not take any adverse decision without giving the specified person in public life an opportunity to be heard.
- (5) Where upon examination the Commission is satisfied that a declaration has been fully made and all questions satisfactorily answered, or that a declaration is incomplete but the declarant cannot reasonably obtain the information required to complete it, the Commission shall forward to the specified person in public life a certificate of compliance in such form as may be prescribed.

Commission to report where not satisfied with declaration

- 32.(1)** Where the Commission examines a declaration and any related information or documents, or conducts an inquiry into any declaration, and is not satisfied with any aspect thereof, the Commission may report the matter to the appropriate Service Commission, board or other authority and the Director of Public Prosecutions, setting out such details as it thinks fit.
- (2) The Commission shall report any contravention of this Act it discovers to the appropriate Service Commission, board or other authority and to the Director of Public Prosecutions.
- (3) The appropriate Service Commission, board or other authority may take such disciplinary action in relation to a report made pursuant to subsection (1) as it thinks appropriate in any particular case.
- (4) Pursuant to subsection (3), where criminal proceedings have been commenced against a specified person in public life, no disciplinary procedures shall be instituted pending the determination of criminal proceedings.

- (5) An inquiry shall not be commenced after 2 years from the date on which the person ceased to be in public life.
- (6) The Director of Public Prosecutions may
 - (a) take action in relation to a report made pursuant to subsection (1) as he thinks appropriate in any particular case;
 - (b) authorise any person having an official duty under this Act to furnish information to any officer of the court, a member of the Police Force or any other person specified by the Director of Public Prosecutions.

Further information from members and staff of Commission in respect of their declarations

- 33.(1)** Where in the opinion of the Governor-General, further information or documents are required from a member or staff member of the Commission in respect of his declaration, the Governor-General shall, after consultation with the Prime Minister and the Leader of the Opposition, appoint a fit and proper person as a tribunal to require the declarant to furnish such further information or documents and to conduct any inquiry, where found necessary, to verify the declaration, document or other statement filed with the tribunal.
- (2) For the purpose of any inquiry under this section, a tribunal may request in writing, that the declarant or any other person who the tribunal reasonably believes has knowledge of the matters to be inquired into
 - (a) attend before the tribunal at such place, on such date and at such time as may be specified by the tribunal, to give it such information as it may require to satisfy itself that it is in possession of all the material facts; or
 - (b) furnish such information or documents as may be specified by the tribunal, within the time specified therefore by the tribunal, so as to assist it in verifying the declaration.
 - (3) An inquiry under this section shall not be commenced after 5 years from the date on which the member or staff member of the Commission in respect of

whose declaration the inquiry is being conducted ceased to be a specified person in public life.

(4) In conducting an inquiry under this section, a tribunal shall have and exercise all the powers in this section save that the proceedings shall be held in private.

(5) Where after an inquiry under this section, a tribunal finds that

- (a) a declarant had in fact made full disclosure in his declaration, the tribunal shall forthwith publish a statement to that effect in the *Official Gazette* and in a daily newspaper with nationwide circulation in Barbados; and
- (b) the declaration which gave rise to the inquiry was in fact full and proper, the tribunal shall cause the declarant to be reimbursed from the Consolidated Fund for all expenses reasonably incurred by him in connection with the inquiry within 3 months of the tribunal's finding.

Publication of failure to file declaration or furnish information

34. Where a person who is required to do so fails to file a declaration in accordance with this Act or to furnish particulars or other information pursuant to section 4(1)(b) or 30, the Commission or Governor-General, as the case may be, shall

- (a) publish that fact in the *Official Gazette* and a daily newspaper with nationwide circulation in Barbados; and
- (b) send a report on the matter to the appropriate Service Commission, board or authority and to the Director of Public Prosecutions.

Duty of secrecy regarding declarations

35.(1) Every member of the Commission and every person performing any function in the service or as an employee of the Commission shall treat all records, and information relating to declarations, as secret and confidential and shall not disclose or communicate the text of any record, information or declaration to any

unauthorised person or allow any unauthorised person to have access to any records, information or declarations.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine of \$20 000 or to imprisonment for 3 years or to both.

Offences and penalties in respect of declarations

36.(1) Any person who

- (a) fails, without reasonable cause, to file with the Commission or the Governor-General, as the case may be, a declaration which he is required to file in accordance with this Act;
- (b) knowingly files with the Commission or the Governor-General, as the case may be, a declaration that is not complete or is false in any material particular;
- (c) fails, without reasonable cause, to comply with a request for information made pursuant to section 4(1)(b), 28(4), 30 or 33(2) by the Commission, the Governor-General or a tribunal within the time specified therefor by the Commission, the Governor-General or the tribunal, as the case may be, or knowingly gives any false or incomplete information pursuant to the request;
- (d) fails, without reasonable cause, to attend an inquiry being conducted pursuant to section 31 or 33; or
- (e) fails, without reasonable cause, to comply with a direction of the Commission given pursuant to section 28(2) within the time specified by the Commission, or knowingly gives any false or incomplete information in the trust deed filed with the Commission,

is guilty of an offence and is liable, on summary conviction, to a fine of \$15 000 or to imprisonment for one year or to both.

(2) Where an offence referred to in subsection (1) involves the non-disclosure, by a declarant, of property, which should have been disclosed in the declaration, the magistrate shall order the declarant to make full disclosure of the property within a specified period.

(3) Where a declarant fails to comply with an order made pursuant to subsection (2) within the specified period, the offence shall be deemed to be a continuing offence and the declarant shall be liable to a further fine of \$3000 for each day on which the offence continues.

PART V

REGISTER OF INTERESTS

Duty of members to file statement of registrable interests

37.(1) Every member of the House of Assembly and the Senate shall file with the Commission, in addition to his declaration under section 25, a statement of registrable interests.

(2) A member of the House of Assembly or the Senate shall file his statement of registrable interests in such form as may be prescribed within 90 days after

(a) the day on which he becomes a member, in respect of his interests on the day on which he became a member; and

(b) the 31st day of December in each year during any part of which he was a member, in respect of his interests on the 31st day of December in that year.

(3) Notwithstanding subsection (2)(b), a member need not file a statement of registrable interests for a particular year where the member filed a statement in the 6 months preceding the 31st day of December in that year.

(4) Where a member dies, the administrator of his estate is not required to file the statement of registrable interests which the member would have been required to file, had he lived.

Content of statement of registrable interests

38.(1) A statement of registrable interests shall contain the following information relating to the member of the House of Assembly or the Senate, his spouse and children:

- (a) particulars of any directorships held in any company or other corporate body;
- (b) particulars of any contract made with the Government;
- (c) the name or description of any company, partnership or association in which the person is an investor;
- (d) a concise description of any trust to which the person is a beneficiary or trustee;
- (e) any beneficial interest held in land;
- (f) any fund to which the person contributes;
- (g) particulars of any political, trade or professional association to which the person belongs;
- (h) particulars relating to sources of income; and
- (i) any other substantial interest, whether of a pecuniary nature or not, which the member considers may appear to raise a material conflict between his private interests and his public duty.

(2) Nothing in this section shall be taken to require disclosure of the actual amount or extent of any financial benefit, contribution or interests.

Register of Interests

39.(1) The Commission shall maintain a register, to be called the Register of Interests, in such form as may be prescribed.

(2) The Commission shall compile and cause to be entered in the Register of Interests all information furnished by members of the House of Assembly and the Senate under this Part and shall, at the request of any member of the public, permit inspection of the register.

(3) A member of the House of Assembly or the Senate shall notify the Commission of any changes which occur in his interests, or those of his spouse or children, within 6 months of the change occurring.

Commission may require further information and conduct inquiry regarding statements of registrable interests

40.(1) Where upon examination of a statement of registrable interests, the Commission is of the opinion that it should inquire further into the statement so as to ascertain whether there has been a full disclosure, the Commission may

- (a) require the member of the House of Assembly or the Senate who made the statement to attend before it to answer such questions, and to furnish such documents or information, as it may require; and
- (b) make such independent inquiries and investigations relating to the statement as the Commission thinks fit.

(2) Without prejudice to the generality of subsection (1), where the Commission is of the opinion that there are reasonable grounds to believe that a member of the House of Assembly or the Senate has failed to comply with the requirements for the registration of interests under this Part or that such member has acquired a prohibited interest, the Commission may

- (a) request the member in writing to furnish any further information or documents that it may require;

- (b) require the member to attend an inquiry of the Commission at a specified time to be heard on any matter relating to the alleged contravention.

Procedure at inquiry regarding registrable interests

41.(1) The Commission shall not, in the conduct of an inquiry under this Part, issue a determination against a member of the House of Assembly or the Senate without giving the member an opportunity to be heard.

(2) The Commission shall prepare a written report of its findings and determinations pursuant to an inquiry held under section 40 and send a copy of the report to

- (a) the Speaker of the House of Assembly or the President of the Senate, as the case may be; and
- (b) the member whose conduct was the subject of the inquiry.

Determination regarding prohibited interests

42. The Commission shall not issue a determination that a member of the House of Assembly or the Senate has acquired a prohibited interest where

- (a) the member has notified the Commission of the interest as required by this Act; and
- (b) the Commission is of the opinion that the interest
 - (i) is unlikely to affect the member's obligations under the Code of Conduct; or
 - (ii) is likely to affect the member's obligations under the Code of Conduct but that the member, his spouse or child, as the case may be, has divested himself of the interest or has placed it in a blind trust on such terms and conditions as the Commission considers appropriate.

Offences and penalties in respect of statements of registrable interests

- 43.(1)** A member of the House of Assembly or the Senate who
- (a) fails, without reasonable cause, to file with the Commission a statement of registrable interests required to be filed under this Part;
 - (b) knowingly files with the Commission a statement of registrable interests that is incomplete or is false in any material particular;
 - (c) fails, without reasonable cause, to comply with a request made pursuant to section 4(1)(b) by the Commission respecting the member's statement of registrable interests within the time specified therefor by the Commission or knowingly gives any false or incomplete information pursuant to the request; or
 - (d) fails, without reasonable cause, to attend an inquiry being conducted pursuant to section 40 or to furnish any information that the Commission requests him to furnish, or knowingly gives any false or incomplete information at such inquiry,

is guilty of an offence and is liable, on summary conviction, to a fine of \$15 000 or to imprisonment for one year or to both.

(2) Where an offence referred to in subsection (1)(a) or (b) involves the non-disclosure, by a member of the House of Assembly or the Senate, of property which should have been disclosed in a statement of registrable interests, the magistrate shall order the member to make full disclosure of the property within a specified period.

(3) Where a member of the House of Assembly or the Senate fails to comply with an order made pursuant to subsection (2) within the specified period, the offence referred to in subsection (1) shall be deemed to be a continuing offence and the member shall be liable to a further fine of \$3 000 for each day on which the offence continues.

Disqualification of member from holding public office

44. A member of the House of Assembly or the Senate who is convicted of an offence under section 36 or 43 is liable, in addition to any other penalty prescribed by law, to be disqualified from holding any public office for a period of 5 years from the date of conviction for the offence.

PART VI

GIFTS

Report to Commission on gifts

45.(1) Every specified person in public life, other than a member or staff member of the Commission, who receives a gift worth more than \$1 000 shall make a report of that fact to the Commission in such form as may be prescribed stating the name and address of the donor, the description and approximate value of the gift and whether, in the opinion of the donee, the gift is a personal or an official gift.

(2) The Commission shall determine whether the gift is a personal gift or an official gift.

(3) The decision of the Commission pursuant to subsection (2) shall be final.

(4) This section shall not apply to any personal gift received by a specified person in public life from a relative or friend.

(5) A specified person in public life who is unsure whether a gift received from a relative or friend is a personal gift or an official gift may apply to the Commission seeking its opinion as to the proper classification of the gift.

(6) A report or an application under subsection (1) or (5) shall be made to the Commission by the specified person in public life within 30 days of the receipt of the gift.

- (7) Where the Commission finds after inquiry that
- (a) a gift was given to a specified person in public life personally and
 - (i) was trivial; or
 - (ii) was not trivial, but was not intended to be a motive or reward for doing or forbearing to do anything in the course of the performance of his official functions or for causing any other person to do or forbear from doing anything,
 the Commission shall allow the specified person in public life to retain the gift; or
 - (b) a gift was not of the kind described in paragraph (a), the Commission shall direct the specified person in public life in writing to deliver the gift to the Minister responsible for Finance within such period, not exceeding 30 days, as may be specified by the Commission; and the specified person in public life shall comply with the direction within the time so specified.
- (8) The specified person in public life shall be entitled to notice of an inquiry under subsection (7) and to be represented in the inquiry in person or by an attorney-at-law.

Report to Governor-General on gifts

46.(1) Every specified person in public life who is a member or staff member of the Commission and receives a gift worth more than \$1 000, or whose spouse or child receives such a gift, shall make a report of that fact to the Governor-General in such form as may be prescribed, stating the name and address of the donor, the description and approximate value of the gift and whether, in the opinion of the donee, the gift is a personal or an official gift.

(2) Section 45(2) to (8) apply in respect of the gift, the report and the member or staff member referred to in subsection (1) as if the word “Commission” were substituted for the word “Governor-General”.

Offences and penalties in respect of sections 45 and 46

- 47.** A specified person in public life who
- (a) knowingly makes a report to the Commission pursuant to section 45(1) or to the Governor-General pursuant to section 46, which is incomplete or false in any material particular;
 - (b) without reasonable excuse fails to comply with section 45(1) or section 46(1); or
 - (c) without reasonable excuse fails to comply with a direction given by the Commission pursuant to section 45(7) or by the Governor-General pursuant to section 46(2),

is guilty of an offence and is liable, on summary conviction, to a fine, which shall not be less than the value of the gift involved in the commission of the offence, or to imprisonment for 3 months or to both.

Limitation on prosecution for section 47 offences

- 48.** No prosecution for an offence pursuant to section 47 shall be instituted after 5 years from the date when the person alleged to have committed the offence ceased to be a specified person in public life.

PART VII

ACTS OF CORRUPTION AND OTHER CONTRAVENTIONS OF THIS ACT

Part VII to apply in addition to other laws

- 49.** This Part shall apply in addition to, and not in derogation of, the provisions of the *Criminal Law (Arrestable Offences) Act*, Cap. 125A, the *Theft Act*, Cap. 155, the *Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011* (Act 2011-23) and any other enactment and the Common Law.

Powers of appropriate disciplinary authority preserved

50. This Part shall apply without prejudice to the powers conferred upon the appropriate disciplinary authority by the *Constitution* or any other enactment.

Acts of corruption generally

51. A person commits an act of corruption where he

- (a) solicits or accepts, whether directly or indirectly, any article, money or other benefit for himself or another person for doing an act, or for omitting to do an act, in the exercise of his functions as a public official;
- (b) performs or omits to perform, in the exercise of his functions as a public official, any of his duties in a public body for the purpose of obtaining any benefit for himself or another person;
- (c) offers, promises or gives, directly or indirectly, to a public official any article, money or other benefit, for doing an act, or omitting to do an act, in the exercise of his functions as a public official;
- (d) knowingly or recklessly allows his private interest to conflict with his public duties or to improperly influence his conduct in the exercise of his functions as a public official;
- (e) improperly uses for his benefit or that of a third party, any classified or confidential information obtained in the exercise of his functions as a public official;
- (f) communicates to any person not authorised to receive it, any classified or confidential information obtained in the exercise of his functions as a public official with a view to assisting the person to obtain a benefit;
- (g) improperly uses for his benefit or that of a third party, any property belonging to the Government or a statutory body or state-owned company to which he has access as a result of, or in the course of, the exercise of his functions;

- (h) improperly influences the appointment of, or the dismissal or suspension of, or other disciplinary action against, a public official;
- (i) hinders, delays or interferes with the exercise of a function of a public official with a view to obtaining any benefit for himself or another person;
- (j) pursues, in the exercise of his functions as a public official, a course of conduct with respect to another public official which amounts to offensive sexual comments, gestures or physical contact or other conduct of a similar nature;
- (k) pursues, in the exercise of his functions as a public official, a course of conduct by which he exploits his position or authority for his sexual gratification.

Bribery in procurement

52.(1) A public official who, in relation to a contract for the procurement of any goods, works or services

- (a) accepts, agrees or offers to accept, whether directly or indirectly, any benefit for himself or for another person for awarding a tender to a particular person;
- (b) gives, agrees or offers to give, whether directly or indirectly, any benefit to another person for the purpose of obtaining any benefit for himself or for another person as a reward for awarding a tender to a particular person; or
- (c) gives to a person confidential information in order to enable that person to tender or not to tender in a particular manner in order to obtain an unfair advantage in tendering,

commits an act of corruption.

(2) A person who, in relation to a contract for the procurement of any goods, works or services

(a) offers to a public official, whether directly or indirectly, any benefit for himself or for another person for awarding a tender to a particular person; or

(b) offers to a public official, whether directly or indirectly, any benefit for the purpose of obtaining any benefit for himself or for another person as a reward for awarding a tender to a particular person,

commits an act of corruption.

Transnational bribery

53.(1) A person who

(a) is a citizen or permanent resident of Barbados; or

(b) resides in Barbados,

and intentionally offers, promises or grants, directly or indirectly, to a government official of another State, any gift or money or other advantage in connection with any economic or commercial transaction, in order that such official act, or refrain from acting, in relation to the performance of his official duties, in order to obtain or retain business or another improper advantage in the conduct of international business, commits an act of corruption.

(2) A public official who solicits, demands, accepts or receives, directly or indirectly, from any private or public corporation, including a transnational corporation or any individual from another State, any payment, gift or other advantage, as undue consideration for performing, or refraining from the performance of his official duties in relation to the conduct of international business, commits an act of corruption.

(3) For the purposes of subsection (1) “citizen” and “permanent resident” have the meanings respectively assigned to them by section 2 of the *Immigration Act*, Cap. 190.

Offences and penalties in respect of acts of corruption

54.(1) A person who commits an act of corruption under section 51, 52 or 53 is guilty of an offence and is liable

- (a) on conviction on indictment to a fine of \$20 000 or to imprisonment for 5 years or to both;
- (b) on summary conviction to a fine of \$10 000 or to imprisonment for 2 years or to both; and
- (c) to be disqualified from holding any public office for a period of 5 years from the date of conviction for the offence.

(2) A person who possesses or is in control of any property knowing that the property or part of the property or proceeds from the property were obtained or derived, directly or indirectly, from the commission of an act of corruption, is guilty of an offence and is liable

- (a) on conviction on indictment to a fine of \$20 000 or to imprisonment for 5 years or to both;
- (b) on summary conviction to a fine of \$10 000 or to imprisonment for 2 years or to both; and
- (c) to be disqualified from holding any public office for a period of 5 years from the date of conviction for the offence.

(3) A person who

- (a) aids, assists, is an accessory after the fact to, participates in any manner in the commission of or conspires to commit, an act of corruption; or
- (b) procures the commission of an act of corruption or attempts or counsels another to commit, an act of corruption,

is guilty of an offence and is liable

- (i) on conviction on indictment to a fine of \$20 000 or to imprisonment for 5 years or to both;

- (ii) on summary conviction to a fine of \$10 000 or to imprisonment for 2 years or to both; and
- (iii) to be disqualified from holding any public office for a period of 5 years from the date of conviction for the offence.

Presumption of corruption

55. Where in any proceedings for an offence it is proved that in seeking to obtain a contract from the Government or a public body, a person received or gave money, a gift or other benefit, the money, gift or other benefit shall be presumed to have been given or received an inducement or reward unless, on a balance of probabilities, the contrary is proved.

Defences available to person charged with act of corruption

56. In any proceedings for an offence concerning an alleged act of corruption, it shall be a defence for the accused to prove, on a balance of probabilities, that

- (a) he had no knowledge of the circumstances giving rise to the act of corruption; or
- (b) any property, gift or pecuniary resource related to the alleged act of corruption was acquired by lawful means.

Possession of unaccounted property or pecuniary resource

57.(1) Where a person who is or was a public official is suspected to be in possession of property or a pecuniary resource disproportionate to such person's known sources of income, the Commission, upon a complaint or of its own motion, may summon the person to produce evidence that the property or resource was lawfully obtained.

(2) A person referred to in subsection (1) who fails to produce satisfactory evidence to prove that the possession of the property or pecuniary resource was acquired by lawful means is guilty of an offence and is liable, on summary

conviction, to a fine and to imprisonment for not less than 6 months or more than 3 years.

(3) In imposing a fine pursuant to subsection (2) on a person found guilty of an offence under that subsection, the court shall have regard to the value of the property or pecuniary resource in the possession of the person, which cannot be accounted for by his known sources of income or other lawful means of acquisition of property or pecuniary resources and the fine shall be equivalent to one and one half times the value of the property or pecuniary resource found to be in the possession of the person and for which no such account can be made.

Certain defences not available to any person charged under this Part

58. Where in any proceedings for an offence under this Part it is proved that a public official accepted a gift or benefit believing or having grounds to believe or to suspect that the gift or benefit was given as an inducement or reward for doing or forbearing to do an act in the exercise of his functions it shall be no defence that the public official

- (a) did not actually have the power or right to do or to forbear from doing, the act; or
- (b) accepted the benefit with no intention of doing or forbearing to do, the act.

Making of false allegation

59. A person who maliciously makes a false allegation or maliciously provides false information related to a contravention of this Act is guilty of an offence and is liable

- (a) on conviction on indictment to a fine of \$20 000 or to imprisonment for 2 years or to both;
- (b) on summary conviction to a fine of \$10 000 or to imprisonment for 2 years or to both.

Complaint to Commission regarding contravention of Act

60.(1) A person who has reasonable grounds to believe that another person has contravened this Act may complain in writing to the Commission stating

- (a) the particulars of the contravention;
- (b) the nature of the evidence that the complainant proposes to produce in support of the complaint;
- (c) such other particulars as may be prescribed.

(2) A complaint to the Commission pursuant to this section may be presented in person or may be sent by registered post to the Chairman.

Duty of public officials to report contravention of Act

61.(1) A public official who knows or suspects that another person has been, is or is likely to be engaged in a contravention of this Act shall report his knowledge or suspicion to the Commission.

(2) A public official who fails to report his knowledge or suspicion as required by subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine of \$5 000 or to imprisonment for 6 months or to both.

(3) No public official who reports his knowledge or suspicion that another person has been, is or is likely to be engaged in a contravention of this Act to a person or entity other than the Commission, in accordance with the requirements of another enactment, shall be convicted of an offence under this section.

Inquiry by Commission into complaint

62.(1) Where the Commission receives a complaint, the Commission may, on examination of the complaint

- (a) reject the complaint where it considers that the complaint is frivolous or does not relate to a matter the Commission is empowered to address;

- (b) hold an inquiry into the complaint, giving the person alleged to have contravened this Act an opportunity to be heard;
 - (c) on conclusion of the inquiry, forward the complaint, and any documents and report containing the recommendations of the Commission to the Director of Public Prosecutions where it considers that an offence may have been committed.
- (2) Where a person is exonerated following an inquiry into an allegation of a contravention of this Act, the Commission shall
- (a) in writing inform the person who made the complaint and the person alleged to have contravened this Act of the finding of the inquiry; and
 - (b) publish the finding of the inquiry in the *Official Gazette*.

Action by Director of Public Prosecutions

63. The Director of Public Prosecutions shall, as soon as practicable after receiving any complaint, documents and report pursuant to this Act, in any case in which he considers that a person ought to be prosecuted for an offence, institute and undertake criminal proceedings against the person and inform

- (a) the Commission of any action taken following the receipt of the complaint, documents and report;
- (b) the appropriate Service Commission, where a complaint relates to a public officer; and
- (c) the appropriate board, authority or body with which the person alleged to have contravened this Act is employed or in respect of which he is a member.

Cases of public allegation

64. Where an allegation is made in public that a specified person in public life has committed a contravention of this Act, a person desiring to make a complaint to the Commission relative to the alleged contravention shall lodge a

complaint with the Commission not later than 3 months from the date on which the public allegation was first made.

PART VIII

CONDUCT IN PUBLIC LIFE

Code of Conduct

Formulation of Code of Conduct and investigation into contravention

65.(1) The Commission shall by Order, after public consultation, establish a code, to be called the Code of Conduct for Persons in Public Life, to govern the conduct of public officials.

(2) The Commission shall keep the Code of Conduct under review and may, after public consultation, amend or replace the code as it considers necessary or desirable.

(3) The Commission shall inquire into or investigate every contravention of the Code of Conduct by a public official where it

(a) receives a complaint or report of the contravention; or

(b) is satisfied that there are reasonable grounds for it to carry out an investigation on its own initiative.

(4) An inquiry or investigation shall not be commenced after 2 years from the date on which the person involved ceased to be a public official.

Commission may request further information and conduct formal inquiry

66.(1) Where the Commission is of the opinion that there are reasonable grounds to believe that a public official contravened the Code of Conduct, the Commission may

- (a) request the official in writing to furnish any further information or documents that it may require;
- (b) require the official to attend an inquiry of the Commission at a specified time to be heard on any matter relating to the alleged contravention.

(2) A public official who fails, without reasonable cause, to attend an inquiry being conducted pursuant to this section or to furnish any information that the Commission requests him to furnish, or knowingly gives any false or incomplete information at such an inquiry is guilty of an offence and is liable, on summary conviction, to a fine of \$15 000 or to imprisonment for one year or to both.

(3) The Commission shall not take any adverse decision without giving the public official an opportunity to be heard.

Commission to report its findings regarding contravention of Code of Conduct

67.(1) The Commission shall prepare a written report of the findings of an inquiry or investigation held under this Part and indicate its conclusion in the report that it

- (a) is not satisfied that the public official subject to the inquiry or investigation contravened the Code of Conduct; or
- (b) has determined that the public official contravened the Code of Conduct.

(2) Where the Commission determines that a public official contravened the Code of Conduct, it may include in the report any recommendations as to the

punishment or disciplinary measures that it believes would be appropriate to be taken against the public official.

(3) The Commission shall send a copy of the report, including copies of evidence and material documents submitted during the inquiry or investigation to

- (a) the public official who was subject to the inquiry or investigation; and
- (b) the following persons in the following cases:
 - (i) the head of the Public Service and the Governor-General, in the case of an alleged contravention of the Code of Conduct by a public officer;
 - (ii) the Speaker of the House of Assembly or President of the Senate, as the case may be, and the Governor-General, in the case of an alleged contravention of the Code of Conduct by a member of the House of Assembly or the Senate;
 - (iii) the Governor-General, in the case of an alleged contravention of the Code of Conduct by the head of the Public Service or by the Speaker of the House of Assembly or the President of the Senate; and
 - (iv) the public body in relation to which the public official is a public official, in the case of an alleged contravention of the Code of Conduct by a public official other than a public official referred to in sub-paragraphs (i) to (iii).

(4) A person who receives a report from the Commission pursuant to subsection (3)(b) in which the Commission has determined that the public official subject to the inquiry or investigation contravened the Code of Conduct shall

- (a) decide without delay what measures shall be taken, if any, in response to the report, and shall implement such measures without delay; and

- (b) inform the Commission, as soon as practicable, but not later than 30 days after receiving the report
 - (i) of the follow-up actions or disciplinary measures that will be or have been taken against the public official in response to the report;
 - (ii) that no further action is required to be taken against the public official in response to the report; or
 - (iii) that no decision has been made as to the measures to be taken in response to the report, of the reasons for the delay, and of the date by which a decision will be made and sent to the Commission.

PART IX

WHISTLE BLOWER PROTECTION

Protected disclosures

- 68.(1)** A public official shall benefit from the protections in sections 76 and 77 where he makes a protected disclosure, in good faith
- (a) to a person referred to in section 69, 70, 71 or 72, of a kind described in that section;
 - (b) of an exceptionally serious matter, in the circumstances described in section 73; or
 - (c) in the circumstances described in section 74.
- (2) A protected disclosure is a disclosure that
- (a) an offence has been committed, is being committed or is likely to be committed;
 - (b) a person has failed, is failing or is likely to fail to comply with a legal obligation to which he is subject;

- (c) a miscarriage of justice has occurred, is occurring or is likely to occur;
 - (d) the health or safety of an individual has been, is being or is likely to be endangered;
 - (e) the environment has been, is being or is likely to be damaged; or
 - (f) information tending to show a matter within any of paragraphs (a) to (e) has been, is being or is likely to be deliberately concealed.
- (3) A disclosure is not a protected disclosure where the public official
- (a) commits an offence by making the disclosure; or
 - (b) discloses privileged material or information disclosed to him in the course of obtaining legal advice.
- (4) For the purposes of this section, it is immaterial whether
- (a) the matter disclosed occurred, occurs or would occur in Barbados or elsewhere; or
 - (b) the law applying to the matter disclosed is that of Barbados or of any other country or territory.

Disclosure to employer or other responsible person

69. A public official may make a disclosure in connection with his employment to

- (a) his employer; or
- (b) another person, where the public official reasonably believes that the matter disclosed relates mainly to that person's conduct or to another matter for which that person has legal responsibility.

Disclosure to legal adviser

70. A public official may make a disclosure to a legal adviser in the course of obtaining legal advice.

Disclosure to Governor-General

71. A public official may make a disclosure to the Governor-General where the official's employer is

- (a) an individual appointed under an enactment by the Governor-General;
or
- (b) a body any of whose members is appointed by the Governor-General.

Disclosure to Commission

72. A public official may make a disclosure to the Commission where the official reasonably believes that the information disclosed, and any allegation contained in it, are substantially true.

Disclosure of an exceptionally serious matter

73. A public official may disclose a matter of an exceptionally serious nature where

- (a) he reasonably believes that the information disclosed, and any allegation contained in it, are substantially true;
- (b) he does not make the disclosure for the purposes of personal gain; and
- (c) it is reasonable for him to make the disclosure, having regard in particular to the identity of the person to whom the disclosure is made.

Disclosure in particular circumstances

74.(1) Subject to subsection (2), a public official may make a disclosure in any of the following circumstances where

- (a) he reasonably believes that if he were to make the disclosure to his employer, his employer would subject him to a detriment;

- (b) he reasonably believes that

 - (i) he cannot make the disclosure to the Commission because the matter to be disclosed is not one that the Commission is willing or able to deal with; and
 - (ii) if he were to make the disclosure to his employer, it is likely that evidence relating to the matter would be concealed or destroyed;
- (c) he has previously made a disclosure of substantially the same information to his employer or to the Commission.
- (2) The official may only make a disclosure under this section where

 - (a) he reasonably believes that the information to be disclosed, and any allegation contained in it, are substantially true;
 - (b) he does not make the disclosure for personal gain; and
 - (c) it is reasonable for him to make it.
- (3) In determining whether it is reasonable for a public official to make a disclosure under this section, regard must be had in particular to

 - (a) the identity of the person to whom the disclosure is made;
 - (b) the seriousness of the matter disclosed;
 - (c) whether the matter disclosed is continuing or is likely to occur in the future; and
 - (d) whether the disclosure is in breach of a duty of confidentiality owed by the person's employer to any other person.

Previous disclosures of substantially the same information

75.(1) In determining whether it is reasonable for a public official to make a disclosure in the circumstances described in section 74(1)(c), regard must also be had to

- (a) any action that his employer or the Commission took or might reasonably be expected to have taken in consequence of the previous disclosure; and
- (b) in the case of a previous disclosure to his employer, whether in making the disclosure, the official complied with any procedure whose use was authorised by the employer.

(2) For the purposes of section 74(1)(c), a subsequent disclosure may be regarded as a disclosure of substantially the same information as that disclosed by a previous disclosure even though the subsequent disclosure extends to information about action taken or not taken in consequence of the previous disclosure.

Protection *vis-a-vis* employer or person in authority

76.(1) An employer or any person in authority over a public official who subjects the official to a detriment by reason only of his having made a protected disclosure pursuant to section 68 is guilty of an offence and is liable, on summary conviction, to a fine of \$15 000 or to imprisonment for 2 years or to both.

(2) A public official who makes a protected disclosure pursuant to section 68 does not break a duty of confidentiality to any person by reason only of having made the disclosure.

Contractual limitations

77.(1) A provision in an agreement to which this section applies is void in so far as it purports to preclude a person from making a protected disclosure pursuant to section 68.

(2) This section applies to an agreement between a person and his employer, whether or not part of the contract of employment, including an agreement to refrain from instituting or continuing proceedings for breach of contract.

PART X

MISCELLANEOUS PROVISIONS

Assistance by Commissioner of Police

78.(1) Where the Commission requests the Commissioner of Police for any assistance in connection with the exercise of its functions, it shall be the duty of the Commissioner of Police to provide or to ensure the provision of such assistance to the Commission.

(2) Where the Commission is investigating an offence alleged to have been committed by a member of the Police Force contrary to this Act or another enactment in respect of which the Commission has responsibility to investigate offences

- (a) the Commission shall have conduct of the proceedings for the offence; and
- (b) the investigative officer shall have, for the purposes of the proceedings referred to in paragraph (a), the same powers as that of an Inspector under the *Police Act*, Cap. 167.

Confidentiality of information

79.(1) Any information received by any member or officer or other employee of the Commission, in the exercise of the functions of such person under this Act, including information contained in any document received by that person by virtue of this Act, shall not be divulged by any such member, officer or other employee, except where the information is required to be produced for the

purpose of complying with any other enactment or the order of any court or for the purpose of prosecution for an offence.

(2) Any member or officer or other employee of the Commission who contravenes subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine of \$5 000 or to imprisonment for 2 months.

(3) Any person who receives any information or anything contained in such documents as aforesaid, knowing or having reasonable ground to believe at the time when he receives it, that it is communicated to him in contravention of this section, unless he proves that the communication to him of the information or anything contained in any document was contrary to his desire, is guilty of an offence and is liable, on summary conviction, to a fine of \$5 000 or to imprisonment for 2 months.

Appearance of counsel etc

80.(1) A person whose conduct is the subject of an inquiry under this Act or who is in any way implicated or concerned in a matter under inquiry, is entitled to be represented at the inquiry by an attorney-at-law or such other person as he chooses, and any other person who desires to be so represented may, by leave of the Commission, be represented in the manner aforesaid.

(2) A person whose conduct is the subject of an inquiry under this Act may require the Commission to summon witnesses in relation to the inquiry.

Protection from suit

81. No member or officer or other employee of the Commission shall be liable to any action or suit for any matter or thing done by him in good faith as a member or officer or other employee of the Commission or in the exercise of his functions or the course of his employment, as the case may be.

Amendment of Schedules

82. The Attorney-General may, after consultation with the Commission, by Order subject to affirmative Resolution, amend the *First* and *Second Schedules*.

Regulations

83. The Attorney-General may make Regulations generally for giving effect to this Act and, in particular, for

- (a) any matter required to be prescribed by this Act;
- (b) any matter in relation to any report, investigation or inquiry under this Act; and
- (c) any matter concerning the procedure of the Commission.

Commission may make rules

84.(1) Subject to the provisions of this Act and any regulations made hereunder, the Commission may make rules for its procedure.

(2) The Commission shall make rules outlining the circumstances in which the acquisition by a member of the House of Assembly or the Senate of an interest in a contract with the Government is prohibited.

Repeals and consequential amendments

85.(1) The *Prevention of Corruption Act, 2012* (Act 2012-31) and the *Prevention of Corruption Act, Cap. 144* are repealed.

(2) The enactments set out in column 1 of the *Third Schedule* are amended to the extent set out opposite thereto in column 2.

Commencement

86. This Act shall come into operation on a day to be fixed by Proclamation.

FIRST SCHEDULE*(Sections 2 and 3)***INTEGRITY COMMISSION****Members of Commission**

- 1.** The Commission shall consist of
 - (a)* a chartered or certified accountant of at least 7 years' standing appointed by the Governor-General after consultation with any body which in his opinion represents chartered or certified accountants in Barbados;
 - (b)* a person who holds or has held the office of judge in a superior court of record in any part of the Commonwealth, appointed by the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition.
 - (c)* an attorney-at-law with at least 10 years' standing whose name appears on the Roll of Attorneys-at-law pursuant to the *Legal Profession Act*, Cap. 370A, appointed by the Governor-General, after consultation with the Council of the Barbados Bar Association;
 - (d)* a member of the clergy, appointed by the Governor-General, after consultation with the Prime Minister and Leader of the Opposition;
 - (e)* a person appointed by the Governor-General on the advice of the Prime Minister; and
 - (f)* a person appointed by the Governor-General on the advice of the Leader of the Opposition.

Disqualification from membership

2. A person shall not be qualified to be appointed as a member of the Commission where the person
- (a) is a member of the House of Assembly or the Senate;
 - (b) has, at any time during the period of 3 years preceding the appointment, been a public officer;
 - (c) has, at any time during the period of 5 years preceding the appointment, held office in a political party; or
 - (d) would otherwise be disqualified in accordance with section 38 or 44 of the *Constitution*, as the case may be, to be a member of the House of Assembly or the Senate.

Tenure of office

3. All members of the Commission shall be appointed by instrument in writing and, subject to paragraphs 2, 5 and 6, shall hold office for a period of 3 years and be eligible for re-appointment.

Appointment of Chairman

- 4.(1) The Governor-General shall, acting in his discretion, appoint a member to be Chairman of the Commission.
- (2) The Chairman shall preside at all meetings of the Commission at which he is present, and in the case of the absence of the Chairman from any meeting, the members present and forming a quorum shall elect one among them to preside at the meeting.

Vacancy in membership of Commission

- 5.(1) The office of a member of the Commission shall become vacant
- (a) at the expiration of the term specified in the member's instrument of appointment;
 - (b) where he notifies the Governor-General by writing under his hand of his intention to resign his office and the resignation shall take effect when the letter of resignation is received by the Governor-General;
 - (c) on the death, retirement or removal of a member; or
 - (d) on the absence of a member from 3 consecutive meetings of the Commission, unless that absence is approved by the Governor-General.
- (2) Where any vacancy occurs in the membership of the Commission, the vacancy shall be filled by the appointment of another person from the categories of persons in paragraph 1.

Removal of member

- 6.(1) A member of the Commission may be removed from office by the Governor-General for inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause, or for misbehaviour and shall not be removed except in accordance with this paragraph.
- (2) A member shall be removed from office by the Governor-General where the question of his removal is referred to a tribunal appointed under sub-paragraph (3) and the tribunal recommends to the Governor-General that the member ought to be removed for inability to discharge the functions of his office or for misbehaviour.
- (3) Where the Governor-General, after consultation with the Prime Minister and Leader of the Opposition, considers that the question of removing a member

ought to be investigated, the Governor-General shall appoint a tribunal which shall consist of

- (a) a judge of the Supreme Court;
- (b) an attorney-at-law with at least 10 years' standing whose name appears on the Roll of Attorneys-at-law pursuant to the *Legal Profession Act*, Cap. 370A; and
- (c) one other person of high integrity and appropriate qualifications,

to inquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed.

(4) The tribunal shall give the member an opportunity to show cause why he should not be removed.

(5) Where the question of removing a member is referred to a tribunal, the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition, may suspend the member from the exercise of the functions of his office.

(6) A suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect where the tribunal recommends to the Governor-General that the member should not be removed.

Proceedings and meetings

7.(1) The Commission shall meet at such times as may be expedient for the Commission to carry out its functions.

(2) A quorum of the Commission shall be four.

(3) The proceedings of the Commission shall not be affected by a vacancy among its members or by a defect in the appointment of a member.

(4) The Governor-General may in writing request the Commission to meet at such times as he thinks fit.

Oath

8. A member of the Commission shall, before assuming the functions of his office, make and subscribe an oath of office and an oath of secrecy such form as may be prescribed.

Interest in matter or party to proceedings before Commission

9.(1) Where a member of the Commission is interested in a matter before the Commission or in a person who is a party to proceedings before the Commission, the member so interested shall disclose the nature of his interest to the Commission and shall not participate in its sittings in relation to the matter or person.

(2) Where, in the opinion of the Governor-General or of the Commission, the member is interested in a matter before the Commission or in a person who is party to proceedings before the Commission, the Governor-General or the Commission, as the case may be, shall direct the member not to participate in the sittings of the Commission in relation to the matter or person.

Secretary to the Commission

10.(1) There shall be a Secretary to the Commission.

(2) The Secretary shall

- (a) attend the meetings of the Commission;
- (b) record the proceedings of the Commission and keep the minutes of each meeting in proper form; and
- (c) generally perform such duties connected with the work of the Commission as the Commission may require.

Publication in the *Official Gazette*

11. The appointment, resignation and revocation of appointment or death of a member of the Commission shall be published in the *Official Gazette*.

SECOND SCHEDULE

(Section 2)

SPECIFIED PERSONS IN PUBLIC LIFE

- 1.** Members of the House of Assembly and the Senate
- 2.** Members of Cabinet
- 3.** Permanent Secretaries and Officers of Related Grades
- 4.** Heads of Departments within the Public Service
- 5.** Chairpersons of Boards, Commissions, Corporations or other Entities established by statute
- 6.** Chief Executive Officers, Managers or Executive Heads of Boards, Commissions, Corporations or other Entities established by statute
- 7.** Magistrates
- 8.** Members and staff members of the Commission

THIRD SCHEDULE

(Section 85)

CONSEQUENTIAL AMENDMENTS

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
1. <i>Criminal Law (Arrestable Offences) Act, Cap. 125A</i>	In section 2, in the definition of “arrestable offence”, delete paragraph (a)(v) and substitute the following: “(v) an offence under the <i>Integrity in Public Life Act, 2018</i> (Act No. of 2018);”.
2. <i>Proceeds of Crime Act, Cap. 143</i>	In the Schedule, delete paragraph (y) and substitute the following: “(y) sections 11, 18, 35, 36, 43, 47, 54, 57, 59, 61, 66, 76 and 79 of the <i>Integrity in Public Life Act, 2018</i> (Act No. of 2018);”.
3. <i>Financial Management and Audit (Financial) Rules, 2011 (S.I. No. 54 of 2011)</i>	In rule 225(1)(f)(i), delete the words “Prevention of Corruption Act” and substitute the words “ <i>Integrity in Public Life Act, 2018</i> (Act No. of 2018)”.

Read three times and passed the House of Assembly this
day of _____, 2018.

Speaker

Read three times and passed the Senate this _____ day of
_____, 2018.

President

INTEGRITY IN PUBLIC LIFE BILL, 2018

EXPLANATORY MEMORANDUM

The *Integrity in Public Life Bill, 2018* would make provision for the purpose of promoting the integrity of persons in public life and establish an integrity commission.

PART I - PRELIMINARY

- Clause 1:** provides the short title.
- Clause 2:** defines the terms used in the legislation, including the term “specified person in public life”, which is any person listed in the *Second Schedule* including a Member of Parliament.

PART II - INTEGRITY COMMISSION

- Clause 3:** provides for the establishment of the Integrity Commission, the constitution of which is set out in the *First Schedule*.
- Clause 4:** sets out the functions of the Commission.
- Clause 5:** empowers the Commission to consult with any person, institution or organisation in the exercise of its functions.
- Clause 6:** provides for the Commission to enter into written agreements, arrangements or memoranda of understanding with law enforcement agencies.
- Clause 7:** provides for the funds of the Commission and mandates the Commission to keep proper accounts.
- Clause 8:** provides for the Commission’s staff.

Clause 9: empowers the Commission to designate persons to be investigative officers.

Proceedings of the Commission

Clause 10: gives the Commission the power of a judge to summon and examine witnesses.

Clause 11: outlines the duties of witnesses summoned by the Commission and makes non-compliance an offence.

Clause 12: provides for witnesses to be examined on oath.

Clause 13: provides that any witness who wilfully gives false evidence commits perjury.

Clause 14: provides for the Commission of Police to detail constables to preserve order at proceedings of the Commission.

PART III - INVESTIGATIONS

Powers of Investigative Officers

Clause 15: gives an investigative officer the same power of arrest as a constable where he reasonably suspects that a person has committed an offence under the legislation.

Clause 16: permits an investigative officer to apply to a judge for a production order for the purpose of obtaining material relevant to his investigation.

Clause 17: provides for an investigative officer to apply for a search warrant.

Clause 18: makes it an offence to obstruct an investigative officer in the execution of his duty.

Complaints regarding Investigative Officers

- Clause 19:** provides a procedure for complaints about the conduct of an investigative officer to be made.
- Clause 20:** provides for a panel to hear complaints referred to in clause 19.
- Clause 21:** permits the panel to dispense with trivial complaints and to dispose of complaints informally.
- Clause 22:** provides for complaints to be investigated formally by the Commission in certain cases.
- Clause 23:** requires the panel to review the Commission's disposition of any complaint and report thereon.
- Clause 24:** imposes a duty on the Commission to give effect to any recommendations the panel makes in its report.

PART IV - DECLARATIONS

- Clause 25:** requires all persons in public life specified in the *Second Schedule* to file, every 2 years, declarations of their financial affairs with the Commission, or, in the case of members and staff of the Commission, with the Governor-General.
- Clause 26:** exempts a person from declaring certain trust property in detail.
- Clause 27:** stipulates that the declaration must contain details of the income, assets and liabilities of the person in public life and those of his spouse and children.

- Clause 28:** permits a person in public life to place his assets in a blind trust, and, where he does so, exempts him from the requirement to declare details of those assets.
- Clause 29:** provides for the receipt and examination of declarations.
- Clause 30:** empowers the Commission and the Governor-General to request further information from declarants.
- Clause 31:** provides for the Commission to conduct an inquiry to verify the content of any declaration.
- Clause 32:** requires the Commission to report to the appropriate Service Commission, board or other authority and the Director of Public Prosecutions where it is not satisfied with an aspect of a declaration.
- Clause 33:** provides, in relation to the declarations of members and staff of the Commission, for the Governor-General, after consultation with the Prime Minister and Leader of the Opposition, to appoint a person as a tribunal to verify the content of their declarations and conduct inquiries, where necessary.
- Clause 34:** imposes a duty to publish the name of any person who fails to file a declaration or to furnish further information concerning his declaration, in the *Official Gazette* and in a daily newspaper.
- Clause 35:** imposes a duty on the Commission and its staff to treat all declarations and related information as secret.
- Clause 36:** makes it an offence to fail to file a declaration or to give false or incomplete information or fail to attend an inquiry concerning a declaration.

PART V - REGISTER OF INTERESTS

- Clause 37:** requires every member of the House of Assembly and the Senate to file a statement of registrable interests with the Commission.
- Clause 38:** sets out the information to be included in statements of registrable interests.
- Clause 39:** provides for the Commission to maintain a register, to be called the Register of Interests, in which must be recorded all information furnished by members of the House of Assembly and the Senate under Part V and which the public would be entitled to inspect.
- Clause 40:** empowers the Commission to require further information and conduct inquiries regarding statements of registrable interests.
- Clause 41:** makes it clear that a person must be given an opportunity to be heard at any inquiry into his statement of registrable interests and provides for the Commission to prepare a report on the inquiry.
- Clause 42:** provides guidance to the Commission with respect to determining whether a member of the House of Assembly or the Senate has acquired an interest in a contract with the Government that is prohibited.
- Clause 43:** makes it an offence to fail to file a statement of registrable interests or to give false or incomplete information or fail to attend an inquiry concerning such a statement.
- Clause 44:** disqualifies a member of the House of Assembly or the Senate who is convicted of an offence related to his declaration or statement of registrable interests from holding any public

office for a period of 5 years from the date of conviction for the offence.

PART VI - GIFTS

- Clause 45:** requires every specified person in public life, other than a member or staff member of the Commission, who receives a gift worth more than \$1000 to report that fact to the Commission for determination as to whether the gift is a personal or official one, and requires the person in public life to deliver any gift that is not personal to the Minister of Finance.
- Clause 46:** imposes the same requirements as clause 45 on every member and staff member of the Commission, except that the report must be made to the Governor-General.
- Clause 47:** makes it an offence to fail to report a gift or to comply with a direction to deliver a gift to the Minister of Finance.
- Clause 48:** provides that no prosecution for an offence referred to clause 47 shall be instituted after 5 years from the date when the person alleged to have committed the offence ceased to be a specified person in public life.

PART VII - ACTS OF CORRUPTION AND OTHER CONTRAVENTIONS OF THIS ACT

- Clause 49:** provides for Part VII to apply in addition to other laws.
- Clause 50:** preserves the powers of appropriate disciplinary authorities to deal with acts of corruption.
- Clause 51:** sets out a general list of acts of corruption.

- Clause 52:** classifies bribery in relation to the procurement of goods, services and works as an act of corruption.
- Clause 53:** indicates that bribery of governmental officials of other states is also an act of corruption.
- Clause 54:** makes an act of corruption an offence and sets out the penalty for it.
- Clause 55:** provides for a presumption of corruption to apply in certain cases.
- Clause 56:** makes certain defences available to a person charged with an act of corruption.
- Clause 57:** makes it an offence where a public official fails to produce satisfactory evidence to prove that his possession of property or a pecuniary resource under investigation was acquired by lawful means.
- Clause 58:** disallows as a defence to an act of corruption, the fact that a public official who received a gift or benefit did not have the power to act or refrain from acting as he was requested or had no intention of so doing.
- Clause 59:** makes it an offence for a person to maliciously make a false allegation or provide false information related to a contravention of the legislation.
- Clause 60:** provides generally for complaints to be made to the Commission in relation to contraventions of the legislation.
- Clause 61:** imposes a duty on public officials to report suspected contraventions of the legislation.

- Clause 62:** provides for the Commission to inquire into complaints made in relation to contraventions of the legislation.
- Clause 63:** requires the Director of Public Prosecutions, where he receives a report or other information from the Commission and believes that a person concerned should be prosecuted, to institute proceedings against the person and inform the Commission and any other entity having authority over the person, of the action he took.
- Clause 64:** provides a procedure where an allegation is made in public concerning a contravention of the legislation.

PART VIII - CONDUCT IN PUBLIC LIFE

Code of Conduct

- Clause 65:** provides for the Commission to establish a code of conduct for public officials and to investigate alleged contraventions of the code.
- Clause 66:** empowers the Commission to conduct formal inquiries into alleged contraventions of the code and to request further information, where necessary.
- Clause 67:** requires the Commission to prepare reports on its findings regarding alleged contraventions of the code and provides for the entity having authority over the public official concerned to determine what action it should take on the basis of the report.

PART IX - WHISTLE BLOWER PROTECTION

- Clause 68:** provides certain protections to a public official who makes, to a person referred to in clause 69, 70, 71 or 72, a disclosure that is classified as a protected disclosure.
- Clause 69:** permits a public official to make a disclosure to his employer in connection with his employment.
- Clause 70:** provides for a public official to make a disclosure to a legal adviser in the course of obtaining legal advice.
- Clause 71:** provides for a public official to make a disclosure to the Governor-General where the official's employer is appointed by the Governor-General.
- Clause 72:** provides for a public official to make a disclosure to the Commission where the official reasonably believes that the information disclosed, and any allegation contained in it, are substantially true.
- Clause 73:** permits a public official to disclose matters of an exceptionally serious nature in certain cases.
- Clause 74:** sets out the circumstances in which a protected disclosure may be made.
- Clause 75:** speaks to the factors that must be taken into account in determining whether it was reasonable for a public official to make a disclosure in certain circumstances described in clause 74.
- Clause 76:** sets out the first protection in relation to a protected disclosure, that is, it makes it an offence for an employer or any person in authority over a public official to subject the official to a

detriment by reason only of his having made a protected disclosure.

Clause 77: sets out the second protection in relation to a protected disclosure, that is, that any provision in an agreement between a person and his employer will be void in so far as it purports to preclude a person from making a protected disclosure.

PART X - MISCELLANEOUS PROVISIONS

Clause 78: provides for the Commissioner of Police to assist the Commission in connection with the exercise of its functions where the Commission so requests.

Clause 79: imposes a general duty of confidentiality on members and staff of the Commission with respect to information received in the exercise of their functions.

Clause 80: provides for a person subject to an inquiry to be represented by counsel and to require the Commission to summon witnesses.

Clause 81: protects members and staff of the Commission from suit for acts done in good faith in the exercise of their functions.

Clause 82: provides for the amendment of the *First* and *Second Schedules*.

Clause 83: empowers the Attorney-General to make regulations.

Clause 84: empowers the Commission to make rules, among other things, to regulate its procedure.

Clause 85: repeals the *Prevention of Corruption Act, 2012* (Act No. 31 of 2012) and the *Prevention of Corruption Act, Cap. 144* and

provides for the consequential amendments set out in the *Third Schedule* to be made.

Clause 86: provides for the commencement of the legislation by Proclamation.