

**Recommendations from BARBADOS PRIVATE SECTOR ASSOCIATION
IN SUPPORT OF SUBMISSION ALSO OF THOSE SUBMITTED BY INSTITUTUE OF CHARTERED ACCOUNTANTS
OF BARBADOS**

| Section | Title | Comments |
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| | Proclamation | <p>The bill should be proclaimed at the earliest possibility, subject to any significant amendments identified through the public consultation process or otherwise.</p> <p>Based on publicly available information only Barbados and Syria (of 140 signatories) have not yet ratified the 2003 UN Convention Against Corruption or otherwise brought its provisions into law (https://www.unodc.org/unodc/en/corruption/ratification-status.html)</p> <p>In January 2018 Barbados became the second to last of 34 OAS member states to be listed as having ratified the Inter-American Convention against Corruption, having signed the Convention in 2001. The only outstanding member now is Cuba. (http://www.oas.org/en/sla/dil/inter_american_treaties_B-58_against_Corruption_signatories.asp)</p> |
| 25, Second Schedule | Declaration of financial affairs | <p>The requirement for the filing of declarations by “Persons in Public Life” as defined in the legislation may present a number of practical challenges. Some examples from other countries are listed below. We support the requirement to file every two years as this may mitigate some of these challenges.</p> <ul style="list-style-type: none"> • The Commissions in Antigua and Jamaica have reported significant numbers of public officials who have been delinquent in filing declarations, and challenges in having these individuals prosecuted. • The Commission in Trinidad has reported significant delays in verifying the accuracy of the filed declarations as this is a manual and time-consuming process. • Difficulty in using the filed declarations to detect evidence of corruption. <p>We recommend the following:</p> <ul style="list-style-type: none"> • With respect to the declaration of assets, liabilities and income at section 25(5), the reporting format should be made available for comment as part of this consultative |

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| | | <p>process with the Joint Select Committee. We recommend that the format be clear and simple to reduce the reporting burden and encourage compliance. Persons required to file declarations must keep detailed information in support of the declaration made. This supporting information must be made available to the commission on request as either part of routine audits or special enquiry as provided in the draft bill.</p> <ul style="list-style-type: none"> • Following the 6 month extension which the Commission can grant under section 25(3) it should be empowered to make an ex parte application to the High Court for an order directing any Person in Public Life who is still delinquent in filing, to comply with the legislation (as in Trinidad) on automatic penalty of a specific fine or jail sentence. |
| 29 | Receipt and examination of declarations | Consideration should be given to amending this Section to give the Commission discretion to determine which declarations to examine and when to do so using a risk based approach. |
| 3, First Schedule | Members of Integrity Commission | <ul style="list-style-type: none"> • Consideration should be given to including the Auditor General as an ex officio member of the Commission, as is the case in Jamaica. This will enable sharing of information between the two offices and more timely follow up of irregularities and concerns discovered by the Auditor-General during the course of his work. • The reference to “any body which in his opinion represents chartered or certified accountants in Barbados” should be replaced by a specific reference to the Institute of Chartered Accountants of Barbados |
| 4(1) | Functions of Commission | <p>(f) 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.</p> <p>Consideration should be given to removing the exception in the above clause, and giving the Commission the power to examine the practices and procedures either of all public bodies, or of specific public bodies where the relevant statutory duty now falls on some other person.</p> |
| 6 | Agreements and exchange of information with law | We commend the specific reference to the Financial Intelligence Unit, as it should be productive for the Commission to work closely with that Unit, as well as the financial |

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| | enforcement | crimes section of the Royal Barbados Police Force. For example, the suspicious transaction reports that must be filed by financial institutions and others will generate useful intelligence that may be utilized by the Commission. |
| 7 | Funds of Commission | <p>Parliament should ensure that the Commission is properly funded to facilitate its work.</p> <p>The Commission should be required to forward the report described in Section 7(3) to the Governor-General, instead of the Prime Minister.</p> <p>The deadline for submission of the Commission’s report (included the audited financial statements) should be amended to four months after the end of the financial year. The Section currently states that it should be submitted prior to the commencement of the subsequent financial year.</p> <p>Furthermore the timeline for laying the report in Parliament should be stipulated – for example, within three months of receipt by the Governor General.</p> |
| 32(5) | Commission to report where not satisfied with declaration | <p>“An enquiry shall not be commenced after 2 years from the date on which the person ceased to be a person in public life”.</p> <p>This time period appears to be too short – in contrast, the time period relevant for members and staff of the Commission (S. 33(s)) is 5 years. Article 29 of the UN Convention requires each of the signatories to “establish under its domestic law a <u>long</u> statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a <u>longer</u> statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.”</p> |
| 38(1)(b) | Content of statement of registrable interests | Need clarification whether this requirement to disclose particulars of any contract made with the government relates only to those directly involving the individual, his spouse and his children, or whether it extends to government contracts made with entities in which the individual is a director or investor. |
| Various | Fines and penalties | The proposed fines and penalties are significantly lower than in the first draft of the Bill circulated immediately prior to the general elections, and significantly lower than the Prevention of Corruption Act 2012 which was passed but not proclaimed. |

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| | | It is recommended that the level of fines in the 2012 Act be used in this draft Integrity in Public Life Bill 2018. |
| 60 | Complaint to Commission regarding contravention of Act | The Commission should be given the express power to establish a hotline to receive anonymous tips from the public, including from public sector employees (with consequential amendments to other pieces of legislation as required). |
| | Comparison with provisions of 2003 UN Convention Against Corruption | <p>The provisions of the legislation should be compared to the requirements of the 2003 UN Convention to identify gaps that may need to be addressed.</p> <p>For instance the Convention recommends consideration of:</p> <ul style="list-style-type: none"> - Steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making that are effective, inter alia, in preventing corruption - Measures to enhance transparency in the funding of candidates for elected public office and the funding of political parties - Measures to prevent corruption involving the private sector and provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures - Procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public |
| | Additional measures to educate public officers and the general public | <p>We recommend:</p> <ul style="list-style-type: none"> - periodic training in ethics and fraud awareness (including. corruption) for public officers - national recognition of United Nations <i>International Anti-Corruption Day</i> on December 9 each year |