

INTEGRITY IN PUBLIC LIFE BILL, 2023

EXPLANATORY MEMORANDUM

The 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 and provide for related matters.

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

Establishment and Functions of 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 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:** requires the Commission to produce annual reports on its activities.
- Clause 9:** provides for the Commission's staff.
- Clause 10:** empowers the Commission to designate persons to be investigative officers.

PART III -
DECLARATIONS

- Clause 11:** 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 senior officers of the Commission, with the President.
- Clause 12:** 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 dependent children.
- Clause 13:** exempts a person from declaring certain trust property in detail.
- Clause 14:** 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 15:** provides for the receipt and examination of declarations and explains the steps the Commission must take in relation to both satisfactory and unsatisfactory declarations.

- Clause 16:** 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 17:** makes it an offence, among other things, to fail to file a declaration or to give false or incomplete information in a declaration.

PART IV -
REGISTRABLE AND PROHIBITED INTERESTS

- Clause 18:** requires every member of the House of Assembly and of the Senate to file a statement of registrable interests with the Commission with details, for example, of any directorships held and any associations to which the person belongs.
- Clause 19:** 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 of the Senate concerning their statements of registrable interests and which would be available for public inspection.
- Clause 20:** makes it an offence to fail to file a statement of registrable interests or to give false or incomplete information concerning such a statement.
- Clause 21:** 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 10 years from the date of conviction for the offence.

Clause 22: provides for the Commission to make rules regarding the circumstances in which a specified person in public life would be prohibited from acquiring an interest in a contract with the Government or a state-owned enterprise.

PART V -
GIFTS

Clause 23: requires every specified person in public life who receives a gift worth more than \$2500 to report that fact to the Commission or, in the case of a member or senior officer of the Commission, to the President, 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 24: makes it an offence, among other things, to fail to report a gift or to comply with a direction to deliver a gift to the Minister of Finance but places a limitation period of 5 years from when a person ceases to be a person in public life for the institution of proceedings.

PART VI -
CONDUCT IN PUBLIC LIFE AND CONTRAVENTIONS OF ACT

Clause 25: establishes a code of conduct for persons exercising public functions and provides for the Commission to investigate alleged contraventions of the code. The code is set out in the *Fourth Schedule*.

Clause 26: imposes a duty on persons to report suspected contraventions of the legislation.

- Clause 27:** provides generally for complaints to be made to the Commission in relation to contraventions of the legislation.
- Clause 28:** requires any oral complaint received by the Commission to be put in writing.
- Clause 29:** provides for the Commission to examine each complaint and to reject any that is frivolous or outside its jurisdiction.
- Clause 30:** makes it an offence to knowingly make a false allegation or provide false information relating to a contravention of the legislation.

PART VII -
POWER TO REQUIRE FURTHER INFORMATION AND TO CONDUCT
INQUIRIES

- Clause 31:** empowers the Commission to make independent inquiries and request further information for several purposes including to determine whether any declaration or statement of registrable interests is complete and accurate and whether any person has contravened the Code of Conduct or otherwise contravened the legislation.
- Clause 32:** addresses the conduct by the Commission of formal inquiries.
- Clause 33:** gives the Commission the power of a judge to summon and examine witnesses.
- Clause 34:** outlines the duties of witnesses summoned by the Commission and makes non-compliance an offence.
- Clause 35:** provides for the expenses of witnesses.

- Clause 36:** provides for the Chief Marshal to detail marshals to preserve order at proceedings of the Commission.
- Clause 37:** provides for the Commission to prepare written reports of each inquiry it conducts.
- Clause 38:** speaks to action by the Director of Public Prosecutions upon receipt of information from the Commission.
- Clause 39:** makes it an offence, among other things, to fail to furnish information requested by the Commission or attend an inquiry, without reasonable cause.
- Clause 40:** provides for the President to appoint a person as a tribunal to discharge her functions on her behalf.

PART VIII -
INVESTIGATIONS

Powers of Investigative Officers

- Clause 41:** 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 42:** allows an investigative officer to obtain a disclosure order from a Judge in Chambers for the purpose of obtaining material relevant to his investigation.
- Clause 43:** provides for an investigative officer to obtain a search warrant.
- Clause 44:** makes it an offence to obstruct an investigative officer in the execution of his duty.

Complaints regarding Investigative Officers

- Clause 45:** provides a procedure for complaints about the conduct of an investigative officer to be made.
- Clause 46:** requires the President to appoint a panel to hear and adjudicate such complaints.
- Clause 47:** permits the panel to dispense with trivial complaints and to dispose of complaints informally.
- Clause 48:** provides for the complaints to be investigated formally by the Commission in certain cases.
- Clause 49:** requires the panel to review the Commission's disposition of a complaint and report thereon.

PART IX -
MISCELLANEOUS

- Clause 50:** provides for the Commissioner of Police to assist the Commission in connection with the discharge of its functions where the Commission so requests.
- Clause 51:** imposes, among other things, a general duty of confidentiality on members and employees of the Commission with respect to information received in the discharge of their functions.
- Clause 52:** provides for the manner in which conflicts of interest are to be addressed.
- Clause 53:** protects members and employees of the Commission from suit for acts done in good faith in the exercise of their functions.
- Clause 54:** provides for an oath of office and of secrecy to be taken by members and employees of the Commission and other persons

performing specified functions under the legislation. The forms of the oaths are set out in the *Fifth Schedule*.

Clause 55: empowers the Minister to amend Part II of the *Second Schedule* and the *Third Schedule*.

Clause 56: provides for the Minister to make regulations to give effect to the legislation and empowers the Commission to make rules for its procedure.

Clause 57: provides for the amendment of section 112 of the *Constitution*.

Clause 58: provides for the commencement of the legislation by Proclamation.