

# **PRESENTATION BY THE ATTORNEY GENERAL'S CHAMBERS**

## **INTEGRITY IN PUBLIC LIFE ACT No. 18 of 2013**

1. The Integrity in Public Life Act No. 18 of 2013 was passed on the 9<sup>th</sup> of September 2013 and came into force in the Federation from 11<sup>th</sup> July 2018.
  
2. The main purposes of the Act are to make provision for
  - a Code of Conduct and declarations of interest for public officials;
  - to establish the Integrity Commission, its powers and functions,
  - and to provide for related or incidental matters.
  
3. The Act applies to:
  - Members of the National Assembly;
  - Ministers of Government;
  - The Speaker of the National Assembly;
  - Heads of Diplomatic Missions;
  - Commissioner of Police, Superintendent of Prisons, Head of the Armed Forces;
  - Parliamentary Secretaries;
  - Permanent Secretaries;
  - Assistant Secretaries;
  - Heads of Department in Government Ministries;
  - Solicitor General and Legal Officers above Grade K40;
  - Chairpersons and Board members of statutory bodies;

- Directors and Managers of majority state-owned or controlled banks or other financial institutions or Companies;
- Director of Audit;
- Chairpersons and Executive Members of Political Parties;
- Declared candidates for political parties.

4. The Act also applies to the spouse, agent and in certain cases children of the public officials previously stated

5. Section 5 of the Act requires a Public Officials to file with the Integrity Commission a declaration of all of his or her income, assets, liabilities, and private, legal or equitable interest in property.

### **Property means**

- land and any interest in land
- money, stock, bonds, shares
- movable, immovable, corporeal or incorporeal things having economic value  
whether situated in St. Kitts and Nevis or elsewhere
- and includes any rights, privileges, claims, securities and any interest therein and all proceeds thereof.

6. The Act also provides, that public officials stated shall declare gifts in cash or kind received by himself or herself, his or her spouse or his or her dependent children.

7. Section 7 of the Act allows a public official to place his or her assets or part of his or her assets in a blind trust.

- A blind trust refers to a financial arrangement in which a person in public office gives the administration of his or her private business interests to an independent trust in order to avoid conflicts of interest. Under a blind trust, the owner of the property does not know how the assets are managed nor does he or she have a right to intervene in their handling. The trustee has full discretion over the assets.
- Where the assets are placed in a blind trust only the amount and description of the assets need be stated.

8. Declarations filed by public officials are to be filed within such period as the Minister may by order specify. The Order has not yet been published.

- Declarations are to be filed with the Integrity Commission annually.
- Section 8 of the Act provides that **The Integrity Commission shall examine every declaration furnished** to it and may request from the person in public life any information, explanation or further particulars in relation to the declaration and may require the public official to

attend and be heard. A person who is required to attend a hearing of the Commission may be represented by a lawyer.

- Where the Commission is satisfied that a declaration has been fully made, the Commission shall publish a certificate in the Gazette.
- The signed declaration made by the public official may be made available for inspection only where the Commission is of the opinion that it is in the public interest to do so.

9. Section 30 of the Act provides that failure to make a declaration is a criminal offence. The penalty for this offence is a fine of thirty thousand dollars (**\$30, 000.00**) and/or **five years in prison**. In addition to the imposition of the fine or period of imprisonment, the court may also order forfeiture of any property not declared to the State. Where the property that was not declared has been sold or is not located in St. Kitts, the Court may order a payment equal to the value of the property.

10. Section 4 provides for the Code of Conduct outlined in the Second Schedule which public officials are required to sign. The provisions of the Code are similar to what is contained in the Code of Ethics of the Public Service Act. A summary of the Code is on the back of the flyer you were handed today.

11. The Code of Conduct outlines how a public official is expected to conduct his or herself in the execution of the duties of his or her office. The Code of Conduct addresses such matters as conflicts of interest, political and public activity, reaction to improper offers and access to information held by public authorities.

The Act has created 2 offences related to the conduct of a public official in the execution of the duties of his or her office. They are

- **abuse of office** - the penalty is \$30,000.00 and/or five years **imprisonment**;
- **misconduct and neglect of duty** - the penalty is \$20 000.00 and/or two years imprisonment; and

Charges for these offences shall be brought no later than five years after the person has ceased to be a public official.

12. Part III of the Act provides for the establishment of the Integrity Commission, the composition of the Commission and qualifications of members of the Commission.

13. The members of the Commission are appointed as follows:

- The Chairperson who shall be a retired Judge or an Attorney-at- Law with at least fifteen (15) years standing is appointed by the Governor General acting in his own deliberate judgment

- the two other members are appointed by the Governor General on the recommendation of the Prime Minister and the Leader of the Opposition, respectively.

14. The tenure of members of the Commission shall be for a period not exceeding five (5) years.

15. Section 12 of the Act provides for matters with respect to disqualification from membership of the Commission -

- Public Officials,

- persons who have held public office 3 yrs preceding the date of appointment, and

- persons who have held office in a political party 5 yrs preceding the date of appointment

are disqualified from membership of the commission

16. Section 13 provides for removal of a member pursuant to the decision of a disciplinary tribunal appointed by the Governor General.

17. Section 15 provides for resignation of members and section 17 provides for publication of the appointment, resignation, removal, revocation or death of a member in the Gazette.

18. The functions of the Commission are outlined in section 18 and they include receiving, examining and retaining declarations, enquiring into the accuracy of declarations and investigating allegations of bribery and corruption.

19. The investigatory powers of the Commission are set out in Part 4 of the Act. Section 22 provides that in the performance of its powers to investigate, the Commission shall have the same rights, powers and privileges as that of the High Court at trial. This includes the power to compel witnesses to attend and the power to demand the production of documents.

20. Section 23, provides that the Commission may enquire into the accuracy of a declaration if it considers it expedient to do so provided that no inquiry shall be commenced after a period of five years after the person has ceased to be a public official.

21. Section 24 outlines the powers of investigators which include entering premises used or occupied by a public official for the purpose of searching for documents and inspecting and taking away documents.

22. Section 25 provides that where an investigator has reasonable cause to believe that a public official is in possession of property disproportionate to his or her sources of income or assets and there is no

reasonable explanation for same the Commission shall report the matter to the Director of Public Prosecutions, for further actions.

23. If the Director of Public Prosecutions has reasonable grounds to believe that an investigation into the assets and income of the public official is necessary, he or she may, on behalf of the Commission, apply to a Judge in Chambers for the issuing of an investigation direction.

24. An investigation direction issued by the Judge must be in writing and must state the identity of the official being investigated and the period for which it was issued. It may also state any conditions of restrictions relating to the investigations and may be issued in respect of St. Kitts and Nevis or elsewhere.

25. Anyone who hinders or obstructs the investigation or gives false information in relation to the investigation commits an offence and shall be liable on conviction to fine of 10,000 or a period of one-year imprisonment.

26. The IPL conforms to our international obligations as outlined in documents such as the Inter American Convention Against Corruption and is generally in accordance with the Constitutional tenets of transparency, good governance and accountability.



27. We have only outlined some of the provisions of the Act. We would encourage you to read it. I believe that following this meeting the Act will be posted on the SKNIS website and copies will be made available to the Permanent Secretaries of your Ministry.

THANK YOU