

# SAINT CHRISTOPHER AND NEVIS

## INTEGRITY IN PUBLIC LIFE ACT, 2013

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I assent,

EDMUND WICKHAM LAWRENCE

Governor – General

27<sup>th</sup> September, 2013

**SAINT CHRISTOPHER AND NEVIS**

**No. 18 of 2013**

**AN ACT** to make provision for a Code of Conduct and declarations of interest for public officials; for the offences of abuse of office, misconduct and neglect of duty; and in that connection to make provision for the establishment of the Integrity Commission, its powers and functions, and to provide for related or incidental matters.

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:

**PART I – PRELIMINARY MATTERS**

1. **Short title and commencement.**

(1) This Act may be cited as the Integrity in Public Life Act, 2013.

(2) This Act shall come into force on such date as the Minister may,

Order appoint:

Provided that different provisions of the Act may be brought into force at different dates.

2. **Interpretation.**

In this Act, unless the context otherwise requires,

“Commission” means the Integrity Commission established by section 11;

“declaration” means a declaration filed pursuant to the provisions of section 5;

“Disciplinary Tribunal” means a Tribunal appointed pursuant to the provisions of section 16;

“interest in relation to property” means

- (a) a legal or equitable interest in the property; or
- (b) a right, power or privilege in connection with the property;

“Minister” means the Minister responsible for justice and legal affairs;

“property” means any land and any interest in land, money, stock, bonds, shares or any other 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;

“public body” includes:

- (a) the National Assembly, Cabinet and Cabinet Committees;
- (b) a Ministry or Department of Government;
- (c) a corporation established by an Act of Parliament for a public purpose or as a subsidiary company of that corporation registered under the Companies Act;
- (d) a bank or company owned by the State or in which the State has a controlling interest;
- (e) a commission, statutory board, public authority or other body of any description, whether its members are paid or unpaid;

“public official” means an official specified in the First Schedule.

3. **Application of Act.**

This Act shall apply to a public official as defined by the provisions of this Act.

**PART II – CODE OF CONDUCT AND DECLARATION OF INTEREST**

4. **Codes of Conduct for public officials.**

(1) A public official shall observe, abide and conduct himself or herself in accordance with the Code of Conduct set out in the Second Schedule to this Act.

(2) A public official shall, within the prescribed period of taking office, sign a copy of the Code of Conduct.

(3) The signed copy of the Code of Conduct of the public official shall be kept by the Commission.

5. **Declaration of interest.**

(1) A person who, on or after the coming into force of this Act, is a public official shall, within a period to be prescribed by Order, complete and file a declaration with the Commission of his or her income, assets, liabilities, and private

interests, and thereafter the public official shall in each succeeding year that he or she continues to be a public official file further declarations of his or her income, assets, liabilities, and private interests.

(2) The declaration shall be in such form as may be prescribed, and the signed declaration may be made available for inspection only where the Commission is of the opinion that it is in the public interest to do so.

(3) The Minister may, by regulations made under this Act, prescribe persons who occupy specific posts in the public service to complete and file declarations pursuant to the provisions of this section.

#### 6. **Contents of declaration.**

(1) A declaration required under this Act shall include particulars of the declarant's

- (a) income;
- (b) assets;
- (c) liabilities;
- (d) private interests; and
- (e) gifts in cash or kind that are received by himself or herself, his or her spouse or his or her dependent children.

(2) Where a public official holds money or other property in trust for or jointly with another person, he or she shall so state in his or her declaration, but shall not be required to disclose the terms of the trust.

(3) For the purposes of a declaration filed under this Act, the income, assets, liabilities, and private interests of a public official include the income, assets, liabilities, and private interest acquired, held or incurred by his or her spouse or by another person as his or her agent or on his or her behalf.

(4) Where, in a declaration filed with the Commission, a public official discloses an income which is insufficient to support the accretion in value of the net assets disclosed so as to raise an inference that there must have been other income to account for the extent of the acquisition of such assets, the public official shall be deemed to have been in possession of such income which has not been disclosed and the onus shall be on the public official to establish the source of that further income.

#### 7. **Blind trusts.**

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

(2) Where the assets of a person in public life are placed in a blind trust, he or she need not in his or her declaration give more particulars of those assets than the amount and description of the assets placed in that trust and the date of so doing.

(3) A blind trust is created if a person in public life enters into an agreement with a qualified trust company whereby:

- (a) all or part of his assets are conveyed to the trust company for its management, administration and control in its absolute discretion without recourse or report to the person beneficiary entitled to those assets;
- (b) income derived from the management of the assets is to be distributed to him or her as agreed;
- (c) conversion of assets into other assets are not to be communicated to him or her, until he or she ceases to be a person in public life; and
- (d) after he or she ceases to be a person in public life proper and full accounting it to be made to him or her, as the circumstances of the management of the trust require.

(4) A trust company is a qualified trust company if

- (a) it is incorporated in Saint Christopher and Nevis and is carrying on business in Saint Christopher and Nevis;
- (b) no more than ten percent of the issued shares in the trust company or its affiliates is held by the person in public life entering into an agreement with it, or by any other person associated with him or her; and
- (c) the person in public life holds no directorship or office in the trust company or its affiliate.

(5) For the purpose of this section, a person is associated with another person where that other person is:

- (a) the spouse or child of the person;
- (b) the partner of the person in a professional, trade or commercial undertaking; or
- (c) a corporation, and any person specified in paragraph (a) or (b) controls the corporation or a corporation affiliated with either.

(6) For the purpose of this section a company is the affiliate of another company where that company holds more than five percent of the issued shares in the other company or where that company holds more than ten percent of the issued shares in the first mentioned company.

#### **8. Examination of declaration by Commission.**

(1) The Commission shall examine every declaration furnished to it and may request from the person in public life any information or explanation relevant to a declaration made which in the opinion of the Commission, would assist it in its examination.

(2) Where upon an examination pursuant to the provisions of subsection (1) the Commission is satisfied that a declaration has been fully made, the Commission shall publish a certificate in the Gazette, which certificate shall be in the form set in the Fifth Schedule.

9. **Request for further particulars.**

The Commission may require a person in public life to file such further particulars relating to his or her financial affairs at the Commission considers necessary for the purposes section 8.(1) within one month or any longer period as specified of any such request from the Commission.

10. **Commission may require attendance of public official.**

(1) The Commission, may upon examination of a declaration filed pursuant to section 5, require a person in public life to appear before the Commission at a specified time to be heard on any matter relating to the declaration.

(2) A person in public life who is required to attend the Commission may

(a) be accompanied and represented by an attorney-at-law, a certified accountant or both; and

(b) require the Commission to summon witnesses.

(3) The Commission shall not make any adverse decision without giving the person in public life an opportunity to be heard.

(4) Where, upon examination of the relevant documents, the Commission is satisfied that a declaration has been fully made and all questions satisfactorily answered, the Commission shall, pursuant to section 8.(2), publish the certificate in the *Gazette*.

### **PART III – INTEGRITY COMMISSION**

11. **Establishment of Commission.**

(1) There is established a Commission to be known as the Integrity Commission.

(2) The Commission shall consist of:

(a) a Chairperson who shall be a retired Judge or an attorney-at-law of at least fifteen years standing, appointed by the Governor-General acting in his or her own deliberate judgment;

(b) two other persons appointed by the Governor-General after consultation with the Prime Minister and the leader of the Opposition as follows:

(i) one member appointed on the recommendation of the Prime Minister; and

- (ii) one member appointed on the recommendation of the Leader of the Opposition.

(3) A person appointed to the Commission shall be a person of high integrity, capable of exercising competence, diligence, sound judgment and impartiality in fulfilling his or her duties pursuant to the provisions of this Act.

(4) Any vacancy arising in the composition of the Commission shall be filled in the same manner as set out in subsection (2) above within thirty days of any such vacancy arising.

#### 12. **Disqualification from Membership.**

(1) A person shall not be qualified to be appointed as a member of the Commission if that person:

- (a) is a person in public life or is otherwise exercising a public function;
- (b) has, at any time during the three years preceding the date of appointment, been a person in public life or a public servant;
- (c) has, at any time during the five years immediately preceding the date of appointment, held office in a political party; or
- (d) would otherwise be disqualified, in accordance with the Constitution, to be a member of the National Assembly.

#### 13. **Tenure of, and removal from, office.**

(1) A member of the Commission shall be appointed by instrument in writing and shall, subject to the provision of this Part, hold office for a period not exceeding five years and shall be eligible for re-appointment.

(2) A members shall be removed from office by the Governor - General if the question of his or her removal from office has been referred to a Disciplinary Tribunal appointed pursuant to the provisions of section 16.(1) and the Disciplinary Tribunal has recommended to the Governor - General that he or she ought to be removed for inability or unwillingness to discharge the functions of his or her office or for misbehaviour or other good cause.

#### 14. **Resignation of Members.**

(1) A member of the Commission, other than the Chairperson, may at anytime resign his or her office by giving one month's notice in writing addressed to the Governor-General and transmitted through the Chairperson.

(2) The Chairperson may, at any time, resign his or her office by giving three months' notice in writing addressed to the Governor-General.



15. **Vacancy in membership of Commission.**

A vacancy in the membership of the Commission shall occur

- (a) on the absence of a member from three consecutive meetings of the Commission, unless that absence is approved by the Chairperson in writing;
- (b) at the expiration of five years from the date of the appointment of a member;
- (c) on the death, resignation or revocation of the appointment, of a member;
- (d) if the member is appointed as a public servant;
- (e) if the member is nominated as a candidate for election as a representative in the National Assembly or is appointed a Senator in the National Assembly;
- (f) if a member otherwise becomes a public official.

16. **Disciplinary Tribunal.**

(1) Where the Governor - General, after consultation with the Prime Minister and the Leader of the Opposition, considers that the question of removing a member of the Commission ought to be investigated, the Governor - General shall appoint a Disciplinary Tribunal which shall consist of one person being either a Judge of the High Court or an attorney at law of fifteen years standing.

(2) The Disciplinary Tribunal shall inquire into the matter and report on the facts thereof to the Governor-General and recommend to him or her whether the member should be removed from office.

(3) The Disciplinary Tribunal appointed under the provisions of subsection (1) shall give the member an opportunity to show cause why he or she should not be removed from office.

(4) Where the question of removing a member has been referred to a Disciplinary Tribunal under this section, 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 or her office pending the hearing and determination of the matter.

(5) A suspension may, at any time, be revoked by the Governor-General and shall in any case cease to have effect if the Disciplinary Tribunal recommends to the Governor-General that the member should not be removed.

17. **Publication in the Gazette.**

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

18. **Functions of the Commission.**

- (1) The Commission shall
  - (a) receive, examine and retain all declarations filed pursuant to the provision of this Act;
  - (b) make such inquiries as it considers necessary in order to verify or determine the accuracy of any declarations filed pursuant to this Act.
  - (c) without prejudice to the provisions of any other enactment, conduct an investigation into any allegation of bribery or act or corruption under this Act referred to it by any person;
  - (d) perform such other functions as may be required pursuant to the provisions of this Act or any other enactment.

(2) The Commission shall not, in the exercise of its functions under this Act, be subject to the control or direction of any person or authority.

19. **Meetings and Proceedings of Commission.**

(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 two.

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

20. **Secretary to the Commission.**

(1) There shall be a Secretary to the Commission who shall be a public servant.

(2) The duties of the Secretary shall be:

- (a) to attend meetings of the Commission;
- (b) to record the minutes of each meeting in proper form; and
- (c) generally to perform duties connected with the work of the Commission and as directed by the Commission.

21. **Staff of the Commission.**

(1) Subject to the provisions of subsection (4), the Commission may, to the extent and on the conditions it considers necessary to carry out its functions,

- (a) employ staff, whether full or part time; and
- (b) engage on contract professional, technical or other assistance.

(2) The Commission shall ensure that members of its staff or appointed to undertake investigations are qualified to do so effectively

- (a) by virtue of previous employment; or

- (b) after undergoing suitable training.

#### **PART IV – INVESTIGATORY POWERS OF THE COMMISSION**

##### **22. Powers of the Commission to summon and examine witnesses.**

(1) The Commission shall, in the performance of its function to investigate complaints, have the powers, rights and privileges of the High Court at a trial, in respect of:

- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
- (b) compelling the production of documents; and
- (c) the issue of a commission or request to a witness abroad.

(2) Section 15 of the Commissions of Inquiry Act shall apply *mutatis mutandis* for the purposes of subsection (1).

(3) The form for summons of the attendance of a witness or any other person or the production of documents shall be in Form I as set out in Schedule III.

##### **23. Inquiry into the accuracy of declarations.**

(1) The Commission may, in accordance with the provisions of this section inquire into the accuracy or fullness of a declaration filed with it if the Commission considers it necessary or expedient to so inquire.

(2) Where the Commission considers it necessary or expedient to inquire into the accuracy or fullness of a declaration filed with it, the Commission shall designate one or more of its staff to conduct an inquiry to verify the contents of a declaration or other statement filed with the Commission.

(3) For the purpose of any inquiry under this section an investigator may, subject to subsection (4), request in writing that the public official or any other person who the investigator reasonably believes has knowledge of the matters to be inquired into

- (a) attends before the investigator to give such information as he or she may require to satisfy himself or herself that he or she is in possession of all material facts; or
- (b) furnish such information or documents as would assist the him or her in verifying the declaration.

(4) An inquiry shall not be commenced after five years from the date when the person in respect of whose declaration the inquiry is being conducted ceased to be a public official.

(6) Where, based on the report submitted by the investigator to the Commission pursuant to the inquiry the Commission has reasonable cause to believe that a breach of any of the provisions of this Act may have been committed, the Commission shall refer the matter to the Director of Public Prosecutions for further action.

**24. Powers of Commission's Investigators.**

(1) The Commission may, in the performance of its function to investigate complaints, require, by notice in writing, any person to supply information to it or produce a document or thing.

(2) An investigator may, upon production of his or her Official Identification Card if so required, enter premises occupied or used by a public authority for the purpose of

- (a) searching for documents kept on the premises;
- (b) inspecting documents or other things kept on the premises; and
- (c) taking copies of relevant documents found on the premises.

(3) The public authority concerned shall make available to the investigator any facilities necessary to enable the investigator to exercise his or her powers under subsection (2).

(4) The investigator may seek a warrant for the purpose of entering private premises where the investigator reasonably suspects that it is necessary to in furtherance of the investigation.

(5) Upon being granted the warrant pursuant to the provisions of subsection (4) the investigator may enter the premises referred to in subsection (4) for the purpose of

- (a) searching for documents kept on the premises;
- (b) inspecting documents or other things kept on the premises;
- (c) taking copies of documents found on the premises; and

the provisions of subsection (3) shall apply to the owner or occupier of the premises.

**25. Application for, and issuing of, investigation direction.**

(1) Where, based upon an inquiry conducted pursuant to section 23, the Commission has reasonable grounds to believe that a public official is in possession of property disproportionate to his or her present or past known sources of income or assets and for which there is no reasonable explanation, the Commission shall issue a report to the Director of Public Prosecution of its findings.

(2) Where, based on examination of the report submitted pursuant to subsection (1), 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 pursuant to subsection (3).

(3) An application referred to in subsection (1) shall be made *ex parte* and shall be in writing and shall include:

- (a) the public official to be indentified;
- (b) the grounds referred to in subsection (5) on which the application is made;
- (c) full particulars of all the facts and circumstances alleged in support of the application;
- (d) the basis for believing that evidence relating to the grounds on which the application is made will be obtained through the investigation direction.
- (e) whether any previous applications has been made for the issuing of an investigation direction in respect of the same public official to be investigated and if such previous application exists, the current status of that application; and
- (f) the period for which the investigation is required.

(4) A Judge in Chambers may, upon an *ex parte* application made to him or her in terms of subsection (2), issue an investigation direction.

(5) An investigation direction may only be issued if the judge concerned is satisfied that:

- (a) there has been compliance with the provision of subsection (3);
- (b) on the facts all alleged in the application concerned, there are reasonable grounds to believe that the public official to whom the application relates maintains a standard of living above that which is commensurate with his or her present or past known sources of income or assets or is in control or possession of pecuniary resources or property disproportionate to his or her present or past known sources of income or assets;
- (c) such investigation is likely to reveal information, documents or things which may afford proof that such a standard of living is maintained through the commission of corrupt activities or the proceeds of unlawful activities or that such pecuniary resources or properties are instrumentalities of corrupt activities or the proceeds of unlawful activities.

(6) An investigation direction

- (a) shall be in writing;
- (b) shall indicate the identity of the public official;
- (c) shall specify the period for which it has been issued;

- (d) may specify condition of restrictions relating to the conducting of the investigation; and
- (e) may be issued in respect of any place in Saint Christopher and Nevis or elsewhere.

(7) Subject to subsection (8) an application shall be considered and an investigation direction issued without any notice to the public official to whom the application applies and without hearing such person.

(8) Where a previous investigation application has been issued in respect to a public official, the Director of Public Prosecutions may only apply for a further direction in respect of the public official on the same facts after giving reasonable notice to the public official concerned.

(9) A Judge considering an application may require the Director of Public Prosecutions to furnish such further information as he or she deems necessary.

(10) Pursuant to subsection (9) any person from whom a book or document has been taken, as long as it is in the possession of the Commission, may at his or her request be allowed, at his or her own expense and under the supervision of the Commission make copies thereof or to take extracts therefrom at any reasonable time.

(11) The law regarding privilege as applicable to a witness summoned to give evidence in a criminal case in a magistrate's court shall apply in relation to the questioning of a suspect or any person referred to in subsection (4) but that such a person shall not be entitled to refuse to answer any question upon the ground that the answer would tend to expose him or her to a criminal charge.

(12) No evidence regarding any questions and answers contemplated in subsection (10) shall be admissible in any criminal proceedings except where the person concerned stands trial on a charge contemplated pursuant to the provisions of this Act.

(13) Subject to any directions, conditions or restrictions determined by the judge under subsection (5) the provisions of the Magistrate Code of Procedure Act relating to the conducting of an investigation and the execution of a warrant in terms of those provisions shall apply, with the necessary changes, in respect of an investigation conducted in terms of subsection (9).

(14) Any person who

- (a) obstructs or hinders the Investigatory Tribunal in conducting the investigation or any other person in the performance of his or her functions in terms of this section; or
- (b) when he or she is asked in terms of subsection (9) for information or an explanation relating to a matter within his or her knowledge, refuses or fails to give that information or explanation or gives information or an explanation

which is false or misleading, knowing it to be false or misleading,

commits an offence, and shall be liable, on conviction, to a fine of ten thousand dollars or to a term of imprisonment not exceeding one year or both.

**26. Non-suspects not to object to supplying information, etc.**

(1) A person, other than a suspect, may not object to supplying information, document or thing pursuant to the provisions of section 24.(1) on the grounds that it might tend to incriminate him or her.

(2) If objection is made, and such objection does tend to incriminate the person, then neither the fact that the requirement was made nor the statement, document or thing supplied may be mentioned or used in any proceedings against that person.

(3) In this section, “suspect” means a person whom the investigator reasonably believes to have committed an offence under this Act, whether or not the person has been charged with that offence.

**PART V – OFFENCES**

**27. Abuse of office.**

(1) A public official commits an offence of abuse of office if he or she

- (a) seeks or accepts personal or private benefit for himself or herself or a member of his or her family or a person associated with him or her, whether or not the benefit places him or her under an obligation to the person giving or offering the benefit;
- (b) uses public funds or resources for private purposes, including party political purposes;
- (c) fails to act impartially, or gives undue preferential treatment to a person or group of persons;
- (d) misuses information acquired in the course of his or her duties;
- (e) acts in a way that allows or might reasonably be thought to allow, a conflict of interest to arise between the public duties and private interests of the public official;
- (f) interferes in, or seeks to influence, otherwise than as part of his or her duty, the appointment, promotion, suspension, demotion or dismissal of a public official or other person;
- (g) induces or encourages another public official to act contrary to the relevant Code of Conduct.

(2) A public official who is convicted of an offence pursuant to the provisions of subsection (1) shall be liable, on conviction, to a fine not exceeding thirty thousand dollars or to imprisonment for a term not exceeding five years.

28. **Misconduct and neglect of duty.**

A public official who misconducts himself or herself or neglects to perform his or her duties to such a degree as to amount to an abuse of public trust in the office holder, commits an offence, and shall be liable, on conviction, to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding two years.

29. **Offence of obstruction etc.**

A public official or any other person who

- (a) obstructs or fails to assist an investigator who is duly authorised to carry out the powers conferred on him or her under sections 23.(2) and 24; or
- (b) gives false or misleading information to the investigator or the Commission;

commits an offence and shall be liable, on conviction, to a fine not exceeding fifteen thousand dollars or to a term of imprisonment not exceeding two years.

30. **Failure to furnish information.**

(1) A person who fails, without reasonable cause, to furnish to the Commission a declaration or further particulars thereof which he or she is required to furnish in accordance with the provisions of this Act commits an offence, and shall be liable, on conviction, to a fine not exceeding thirty thousand dollars or to a term of imprisonment not exceeding five years.

(2) A person who aids, abets or facilitates another person in the commission of an offence under subsection (1) commits an offence shall be liable, on conviction, to the same penalty as provided for in subsection (1).

(3) Where the offence under subsection (1) involves the non-disclosure of property acquired by the public official while he or she was still a public official, the Court may, if satisfied that such property was acquired but not declared as required under this Act, in addition to the penalty specified under subsection (1),

- (a) where the property involved is situated in Saint Christopher and Nevis declare that it be forfeited to the State; or
- (b) where the property involved is situated outside Saint Christopher and Nevis, order that an amount equivalent to the value of property, be paid by the person in public life to the State.

(4) Any property acquired from a person referred to under subsection (3) by a *bona fide* purchaser for value without notice of any offence by that person shall not be liable to forfeiture, but an amount equivalent to the value of the property or the price paid by the purchaser, whichever is the greater shall be paid by the public official to the State.



(5) The payments of all sums due to the State pursuant to the provisions of subsection 3 (b) or subsection (4) may be enforced as a debt due and owing to the State and any proceedings thereon on behalf of the State may be taken.

**31. Prosecutions.**

No prosecution for an offence under this Part, other than an offence committed under section 30.(1), may be instituted after five years from the date when the public official in respect of whose declaration or financial affairs the alleged offence was committed, ceased to be a public official.

**32. Deductible income tax expenses.**

For the purpose of the Income Tax, all outgoings and expenses reasonably incurred in an income year by a person in public life in connection with the preparation of a statutory declaration required to be furnished for the purposes of this Act are deemed to be incurred by him or her wholly, exclusively and necessarily in the production of his or her income for that year of income.

**PART VI – FUNDS OF THE COMMISSION**

**33. Funds of the Commission.**

The funds of the Commission shall consist of funds as may, from time to time, be appropriated by Parliament and other moneys as may be lawfully received by or made available to the Commission for the purposes of this Act.

**34. Estimates of the Commission.**

(1) The Commission shall, on or before the 15<sup>th</sup> day of September of each year, submit to the Minister for his or her approval, its estimates of expenditure in respect of the next financial year.

(2) For the purpose of this part “financial year” means the period January 1<sup>st</sup> to December 31<sup>st</sup> of each year.

**35. Accounts and Audit.**

The Commission shall keep proper accounts of receipts, payments, assets and liabilities, and those accounts shall be audited annually by the Director of Audit or such other Auditor appointed by the Governor-General for that purpose.

**36. Annual Reports.**

(1) The Commission shall, in each year and at such time as the Minister shall direct, prepare and forward to the Minister a report of its activities during the previous financial year, including a statement of its accounts audited in accordance with section 31.

(2) A copy of the report together with the auditor’s report shall be laid before the National Assembly.

## PART VII – MISCELLANEOUS PROVISIONS

### 37. **Matters to be referred to the Director of Public Prosecutions.**

(1) Where the Commission is satisfied, on the basis of an enquiry conducted pursuant to the provisions of section 23 that

- (a) a breach of any of the provisions of this Act has been committed, it shall take such action as it deems fit; or
- (b) an offence has been committed, it shall
  - (i) forthwith refer the matter to the Director of Public Prosecutions together with a certified copy of the declaration in question and a report of its findings;
  - (ii) forward to the Governor-General a report of its findings.

(2) Where the Commission determines that the subject matter of an enquiry under section 23 is

- (a) under investigation by the police or that a charge has been laid; or
- (b) the subject matter of any proceedings in a court of law;

the Commission shall hold its own enquiry in abeyance, pending the final disposition of that investigation and the proceedings.

### 38. **Findings of Commission.**

Where, from an inquiry made pursuant to the provisions of section 23, the Commission finds that a declarant had in fact made full disclosure in his or her declaration, publish a statement to that effect in the *Gazette* and in a local newspaper.

### 39. **Indemnity.**

Where, upon an inquiry having been made, the Commission finds that the declaration which gave rise to the inquiry was in fact full and proper, the public official shall be entitled to full indemnity and shall be reimbursed from the Consolidated Fund for all expenses reasonably incurred by him or her in connection with the investigation as may be determined by the Commission.

### 40. **Secrecy and confidentiality.**

(1) The declaration filed with the Commission and the records of the Commission in respect of those declarations are secret and confidential and shall not be made public.

(2) Subsection (1) shall not apply where a particular declaration or record is required to be produced for the purpose of, or in connection with any court proceedings against, or inquiry in respect of a declarant under this Act, the Commission of Inquiry Act or perjury under the Perjury Act.

41. **Information not to be communicated to unauthorized persons.**

(1) A person who is a member of the Commission or performs any function in the service or as an employee of the Commission shall treat all declarations or information relating to such declarations as secret and confidential and shall not disclose or communicate to any unauthorized person or allow any such person to have access to any such declarations or information.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable, on summary conviction, to a fine of ten thousand dollars or to a term of imprisonment not exceeding one year or both.

(3) An authorised person who publishes information which comes to his or her knowledge pursuant to the provisions of subsection (1) to an unauthorized person commits an offence and shall be liable, on summary conviction, to a fine of ten thousand dollars or to a term of imprisonment not exceeding one year or both.

(4) For the purpose of this section, an unauthorized person is a person other than a person authorised to receive information

- (a) under this Act in relation to the financial affairs of a public official; or
- (b) by reason of an order of a Judge or the High Court.

42. **Oath.**

Members of the Commission and staff of the Commission shall not enter upon the duties of their office until they have taken the oath of allegiance, oath of office and oath of secrecy as may be prescribed.

43. **Regulations.**

The Minister may generally make regulations to give effect to the provisions of this Act.

## **FIRST SCHEDULE**

### **(Section 2)**

1. Members of the National Assembly
2. Ministers of Government
3. Speaker of the National Assembly
4. Heads of Diplomatic Missions of St. Kitts and Nevis accredited to any country or any international organisation.
5. Commissioner of Police, Superintendent of Prisons, Head of the Armed Forces.
6. Parliamentary Secretaries
7. Permanent Secretaries
8. Assistant Secretaries
9. Heads of Department in Government Ministries
10. Solicitor General and Legal Officers employed in the public service above the level of Grade K40
11. Chairpersons and Board members of statutory bodies
12. Directors and Managers of majority state-owned or controlled banks or other financial institutions or Companies
13. Director of Audit
14. Chairpersons and Executive Members of Political Parties
15. Declared candidates for political parties.

## SECOND SCHEDULE

Section 4

### CODE OF CONDUCT

#### PART 1 – GENERAL PRINCIPLES

1. A public official has the duty to take all necessary action to comply with the provision of this Code.
2. A public official should carry out his or her duties in accordance with law, and with lawful instruction and ethical standards which relate to his or her functions.
3. A public official should act in a politically neutral manner and should not attempt to frustrate the lawful policies, decisions or citations of a public authority.
4. A public official has the duty to serve loyally, the lawfully constituted national, local or regional authority.
5. A public official shall be honest, impartial and efficient and shall perform his or her duties to the best of his or her ability with skill, fairness, understanding, having regard only for the public interest and the relevant circumstances of the case.
6. In the performance of his or her duties a public official shall not act arbitrarily to the detriment of any person, group or body and shall have regard for the rights, duties and proper interest of all others.
7. A public official shall not allow his or her private interest to conflict with his or her public position. It shall be the responsibility of the public official to avoid such conflicts of interest, whether real, potential or apparent and where such conflicts are unavoidable, to fully explain the conflict to any public official above that person or where the conflict is in relation to a Minister of Government, to Cabinet.
8. A public official shall not take advantage of his or her position for his or her private interest.
9. A public official shall always conduct himself or herself in such a way that the public's confidence and trust in the integrity, impartiality and effectiveness of the public service are preserved and enhanced.
10. Having due regard for the right of access to official information, a public official shall have a duty to treat appropriately with all necessary confidentiality all information and documents acquired by him or her in the course of, or as a result of, his or her employment.
11. A public official who believes that he or she is being required to act in a way which is unlawful, improper, unethical, which involves maladministration, or which is otherwise inconsistent with this Code, should report the matter in accordance with the law.

## **PART II – CONFLICT OF INTEREST**

12. A conflict of interest arises from a situation in which a public official has a private interest which is such as to influence, or appear to influence, the impartial and objective performance of his or her official duties.
13. A public official private interest includes any advantage to himself or herself, to his or her family, close relatives, friends and persons or organization with whom he or she has had business or potential relations. It also includes any liability whether financial or work relating thereto.
14. Since the public official is usually the only person who knows whether he or she is in that situation, he or she has a personal responsibility to:
  - (a) be alert to any actual or potential conflict of interest;
  - (b) take steps to avoid such conflict;
  - (c) disclose to his or her superiors any such conflict as soon as he or she becomes aware of it;
  - (d) comply with any final decision to withdraw from the situation or to divest himself or herself of the advantage causing the conflict.
15. Whenever required to do so, a public official should declare whether or not he or she has a conflict of interest.

## **PART III – INCOMPATIBLE OUTSIDE INTERESTS**

16. A person in public life shall not engage in any activity or transaction or acquire any position or function whether paid or unpaid, that is incompatible with or detracts from the proper performance of his or her duties as a public official. Where it is not clear whether an activity is compatible, he or she should seek advice from the Commission.
17. A public official shall comply with any lawful requirement to declare membership of, or association with, organisation that could detract from his or her proper performance of his or her duties as a person in public life.

## **PART IV – POLITICAL OR PUBLIC ACTIVITY**

18. Subject to respect for fundamental and constitutional rights, a public official shall ensure that none of his or her political activities or involvement or political or public debates impairs the confidence of the public and his or her employers in his or her ability to perform his or her duties impartially and loyally.
19. In the exercise of his or her duties, a public official shall not allow himself or herself to be used or his or her office to be used for partisan political purposes.
20. A public official shall comply with any restrictions in political activity lawfully imposed on certain persons in public life by reason for his or her position or the nature of his or her duties.

## **PART V – REACTION TO IMPROPER OFFERS**

21. If a public official is offered an undue advantage he or she should take the following steps to protect himself or herself
- (a) refuse the undue advantage;
  - (b) try to identify the person who made the offer;
  - (c) avoid lengthy contacts with the person who made the offer;
  - (d) if the gift cannot be refused or returned to the sender, it should be preserved, but handled as little as possible;
  - (e) obtain witnesses if possible, such as colleagues working nearby;
  - (f) prepare as soon as possible a written record of the attempt; preferably in an official notebook;
  - (g) report the attempt as soon as possible to the Commission;
  - (h) continue to work normally, particularly on the matter in relation to which the undue advantage was offered

## **PART VI– SUSCEPTIBILITY TO INFLUENCE BY OTHERS**

22. A public official should not allow himself or herself to be put in a position of obligation to return a favour to any person or body; nor should his conduct in his or her official capacity or in his or her public life make him or her susceptible to the improper influence of others.
23. The public official should not seek to influence for private purposes any person or body including other public officials by using his or her official position or by offering them personal advantages.

## **PART VII– INFORMATION HELD BY PUBLIC AUTHORITIES**

24. Having respect to the framework provided by any law with respect to access to information held by a public authority, a public official shall not disclose information in accordance with the rules and requirements applying to the authority by which he or she is employed.
25. The public official should take appropriate steps to protect the security and confidentiality of information for which he or she is responsible or for which he or she becomes aware.

26. The public official should not seek access to information which it is inappropriate for him or her to have and he should not make improper use of information which he or she may acquire in the course of, or arising from his or her employment.
27. Equally, a public official has a duty not to withhold official information that should properly be released and a duty not to provide information which he or she knows or has reasonable grounds to believe is false or misleading.
28. This Code shall form part of the terms of employment of a public official and shall be observed a terms of employment.

**THIRD SCHEDULE**

(Section .....

**FORMS**

**FORM I**

**INTEGRITY IN PUBLIC LIFE ACT NO. ( of 2012)**

**SUMMONS TO WITNESS BEFORE THE INTEGRITY COMMISSION**

A, B, Complainant

C, D, (name of public official alleged to be in breach of the Code of Conduct)

To: E, G, of

.....

Whereas a complaint has been made before the Integrity Commission that C, D, (state concisely the substance of the complaint) and it has been made to appear to the Commission that you are likely to give material evidence on behalf of the Complainant/person in public life in this behalf:

This is to require you to be and appear at .....  
o'clock on the ..... Day of ....., 20..... At  
..... before the Commission in the said place, to testify  
what you know concerning the matter of the said complaint.

Dated this .....day of .....20....

\_\_\_\_\_  
*Chairperson of Integrity Commission*



**FOURTH SCHEDULE**

(Section 5.(2))

**INTEGRITY IN PUBLIC LIFE ACT NO. (    of 2012)**

**DECLARATION OF ASSETS, LIABILITIES AND INCOME**

Declaration of assets and liabilities at .....  
(Declaration Date)

and of income for the period of twelve months (or other period where appropriate) ending on that date.

NOTE:

- (a) Where any property is held by the declaration, declarant's spouse or the declarant's child or children in trust for any other person, this should be indicated by a note to that effect.
- (b) The declaration date should be the date as at which pursuant to section 13 the declaration is to be made.
- (c) Where the space in this Form is inadequate a separate sheet of paper may be used and signed by the declarant.

Name of Declarant	Address of Declarant
Name of Declarant's Spouse	Address of Declarant's Spouse
Maiden Name (of Spouse)	

**PARTICULARS OF DECLARANT'S CHILDREN**

Name	Date of Birth	Address

\_\_\_\_\_  
*Signature of Declarant*

Date: \_\_\_\_\_

**PARTICULARS OF ASSETS HELD BY DECLARANT,  
SPOUSE AND CHILDREN**

**BANKS ACCOUNTS**

1. TO BE SUPPORTED BY BANKS STATEMENT OR LETTER FROM BANK CONFIRMING BALANCES.

Name and Address of Banks	In whose Name held	Balance in Account

2. CASH IN EXCESS OF ..... DOLLARS HELD OTHER THEN IN BANK BY DECLARANT, SPOUSE AND CHILDREN.

Where held	In whose Name held	Amount

3. BONDS, STOCKS, SHARES, AND SIMILAR INVESTMENT INCLUDING ANY SUCH PROPERTY OVER WHICH A RIGHT OF DISPOSITION RESIDES IN THE DECLARANT, SPOUSE AND CHILDREN.

No. and Description	Organization in which held	In whose name held	Face value	Cost of acquisition where known or market value

\_\_\_\_\_  
Signature of Declarant

Date: \_\_\_\_\_

4. IMMOVABLE PROPERTY (e.g. HOUSE, LAND AND FARM BUILDINGS) HELD BY DECLARANT, SPOUSE AND CHILDREN

Description

General	Vol.	Fol.	Where situated	In whose name held	Purchase price	Estimated current market value

\_\_\_\_\_  
Signature of Declarant

Date: \_\_\_\_\_

5. MONIES INVESTED IN MORTGAGE OR BUSINESS VENTURE (INCLUDING CROPS AND LIVESTOCK) BY DECLARANT, SPOUSE AND CHILDREN

Type of Investment	In whose name	Amount invested in project	Terms	Interest rate	Annual Income

6. PARTICULARS OF MOTOR VEHICLES OWNED BY, OR ON HIRE FOR ANY PERIOD TO, OR ON HIRE FOR ANY PERIOD TO, OR ON LOAN FOR A PERIOD IN EXCESS OF TWO MONTHS TO THE DECLARANT, SPOUSE OR CHILDREN

Description	Owner's Name	Age of Vehicle	Terms of Hireage (if hired)	Purchase Price

7. VALUES HELD IN SAFETY DEPOSIT BOXES BY DECLARANT, SPOUSE AND CHILDREN

Where held	Owner's name	Contents	\$ Value

8. INSURANCE POLICIES HELD BY DECLARANT, SPOUSE AND CHILDREN

Insurance Company	Type of Policy	Date Insured	Date maturity	Name of Insured	Annual Premium	Face value	Surrender Value

9. ANY OTHER PROPERTY OWNED BY DECLARANT, SPOUSE AND CHILDREN

Description	Owner's Name	By whom being held	In what capacity being held	Estimate

10. OTHER PROPERTY OWNED BY DECLARANT, SPOUSE AND CHILDREN BEING HELD BY A PERSON OTHER THAN OWNER, WHETHER IN TRUST OR OTHERWISE.

Description	Owner's Name	By whom being held	In what capacity being held	Estimated Market Value

\_\_\_\_\_  
Signature of Declarant

Date: \_\_\_\_\_

11. PARTICULARS OF INCOME FROM ALL SOURCES OF DECLARANT, SPOUSE AND CHILDREN (INCLUDING PERQUISITES SUCH AS HOUSE, ENTERTAINMENT ALLOWANCES, RENTAL, etc.)

Type of Income	Recipient's Name	Source	Gross Amount for period under review

12. PARTICULARS OF LIABILITIES (INCLUDING GUARANTEES) OF DECLARANT, SPOUSE AND CHILDREN  
 CERTIFICATE FROM CREDITORS OR PARTY TO WHICH GUARANTEE GIVEN SHOULD BE PROVIDED

Nature of Liability	Person Liable	To whom Liable	Amount

\_\_\_\_\_  
*Signature of Declarant*

Date: \_\_\_\_\_

13. PARTICULARS OF ANY PROPERTY ACQUIRED OR DISPOSED OF BY  
 DECLARANT, SPOUSE AND CHILDREN DURING PERIOD OF 12  
 MONTHS OR OTHER PERIOD WHERE APPROPRIATE) ENDING ON  
 .....

Description of Property	Acquisition of Disposal	Cost of Acquisition	Price of Disposal

I do solemnly and sincerely declare that the particulars given by me herein are, to the best of my knowledge, true, accurate and complete and I hereby authorize my bankers and/or other financial advisors to provide such information to the Commission as may be reasonably requested by Commission to verify the contents of this Declaration

\_\_\_\_\_  
 Signature of Declarant

Date: \_\_\_\_\_

Signed at .....

This .....day of.....before .....

**Commissioner of Oaths**

**FIFTH SCHEDULE**

Section 8.(2)

**FORM III**

**INTEGRITY IN PUBLIC LIFE ACT NO. ( of 2012)**

**CERTIFICATE OF COMPLIANCE**

The Integrity Commission certifies that it has examined the declaration filed with the Commission and is satisfied that full disclosure has been made by (Name and address of Declarant) in accordance with the Act.

Dated this                      day of                      20....

**Chairman, Integrity Commission**



**CURTIS A MARTIN**  
*Speaker*

Passed by the National Assembly this 9<sup>th</sup> day of September 2013.



**JOSE LLOYD**  
*Clerk of the National Assembly*