

SAINT VINCENT AND THE GRENADINES

**COMMITTEE OF EXPERTS OF THE MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST
CORRUPTION**

**REPORT ON IMPLEMENTATION IN SAINT VINCENT AND THE GRENADINES OF
THE CONVENTION PROVISIONS SELECTED FOR REVIEW IN THE SECOND
ROUND, AND ON FOLLOW-UP TO THE RECOMMENDATIONS FORMULATED TO
THAT COUNTRY IN THE FIRST ROUND**

**I IMPLEMENTATION BY THE STATE PARTY OF THE CONVENTION
PROVISIONS SELECTED FOR THE SECOND ROUND**

**1. SYSTEMS OF GOVERNMENT HIRING AND PROCUREMENT OF GOODS AND
SERVICES (ARTICLE III (5) OF THE CONVENTION)**

SYSTEMS OF GOVERNMENT HIRING

Laws and/or measures in Saint Vincent and the Grenadines establishing government hiring systems.

The Constitution of Saint Vincent

The Public Service

Chapter VI of the Constitution deals with the Public Service.

Section 77 of the Constitution provides for the establishment of the Public Service Commission for Saint Vincent and the Grenadines. The Commission is an independent body appointed by the Governor-General, acting in accordance with the advice of the Prime Minister. Members of the Commission enjoy security of tenure and may only be removed from office for inability to exercise the functions of office or for misbehaviour

Section 78 of the Constitution provides that the power to appoint persons to hold or act in offices in the public service and the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Public Service Commission.

The provisions of section 78 do not apply to the following offices:

- (a) any office to which section 79 of the Constitution applies;
- (b) the office of Attorney General;
- (c) the office of Director of Public Prosecutions;
- (d) the office of Director of Audit;
- (e) any office to which section 83 of the Constitution applies; or
- (f) any office in the police force.

Under section 79 the appointment , exercise of disciplinary control over and dismissal of the Secretary to the Cabinet, permanent secretary, head or deputy head of a department of government, designated chief professional adviser and office holders required to reside outside the State shall vest in the Governor-General acting on the advice of the Public Service Commission.

Under section 80 the appointment and dismissal of the Attorney General, if a public officer, vests in the Governor-General acting in accordance with the advice of the Judicial and Legal Services Commission following consultation with the Prime Minister.

Under section 81 the Director of Public Prosecutions shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission. The Director of Public Prosecutions enjoys security of tenure and may only be removed for inability to exercise the functions of his office or for misbehaviour.

Under section 82 the Director of Audit shall be appointed by the Governor-General, acting in accordance with the advice of the Public Service Commission. The Director of Audit enjoys security of tenure and may only be removed for inability to exercise the functions of his office or for misbehaviour.

Appointment, discipline and removal from office of judicial officers.

Under section 83 the appointment, exercise of disciplinary control and removal of magistrates, registrars and legal officers shall vest in the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission.

Appointment, discipline and removal from office of police officers.

Under section 84 of the Constitution a Police Service Commission is established for Saint Vincent and the Grenadines. This is an independent body. The power to appoint or remove a person to hold or act in the office of Commissioner of Police and Deputy Commissioner of Police shall vest in the Governor-General acting in accordance with the advice of the Police Service Commission following consultation with the Prime Minister. The appointment, exercise of disciplinary control and dismissal of police officers below the rank of Deputy Commissioner but above the rank of sergeant shall vest in the Police Service Commission. The appointment, exercise of disciplinary control and dismissal of police officers below the rank of sergeant shall vest in the Commissioner of Police.

Appeals in respect of disciplinary control or removal from office.

The Constitution by section 86 establishes a Public Service Board of Appeal for Saint Vincent and the Grenadines appointed by the Governor-General. The Board enjoys security of tenure and independence. By section 87 of the Constitution the Public Service Board of Appeal hears appeals from public officers, including the police service and armed forces, in respect of the exercise of disciplinary control or removal from office by the Governor-General, Public Service Commission, Police Service Commission or Commissioner of Police.

Public Service Commission Regulations

The appointment, promotion, transfer, termination of employment and the discipline of public officers is regulated by the Public Service Commission Regulations.

Regulation 14 provides that applications for first appointment be addressed to the Chief Personnel Officer.

Regulation 15 provides for the reporting of vacancies. Vacancies may be filled from within the service. However if the permanent secretary recommends that applications to fill the vacancy should be invited from the general public an advertisement will be prepared setting out details of the vacant post, its duties and the qualifications for appointment.

Regulation 16 provides that no appointment to the public service may be made before the Commission has determined the suitability of the candidate concerned.

Regulation 17 provides that the Commission shall select persons for the grant of study leave and the award of scholarships.

Regulation 18 provides for the advertisement of vacancies where the Commission considers it appropriate.

Regulation 19 provides for the principles of selection to be applied for promotion. These include seniority, experience, educational qualifications, merit and ability.

Regulation 24 provides for the procedure for appointment and stipulates that the Commission shall determine whether any candidate has the necessary qualifications for appointment.

Judicial and Legal Services Commission

The Eastern Caribbean Supreme Court Order 1967 provides in section 18 for the appointment of a Judicial and Legal Service Commission which is an independent body responsible for the appointment of Puisne Judges on behalf of Her Majesty, the Registrar and other officers of the Eastern Caribbean Supreme Court. Under section 83 of the Constitution the appointment, exercise of disciplinary control and removal of magistrates, registrars and legal officers employed in the public service shall vest in the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission.

1.1. GOVERNMENT SYSTEMS FOR THE PROCUREMENT OF GOODS AND SERVICES

Purchases and Tenders Procedure Orders

The procurement of goods and services by public officers in Saint Vincent and the Grenadines is conducted in accordance with the Purchases and Tenders Procedure Orders. It is provided that except with the specific or general approval of the Ministry of Finance in exceptional cases, the procurement of all supplies, works or services required by the Government shall be governed by these orders.

Under the Orders a Central Supply Tenders Board shall be appointed by the Minister of Finance to pursue the general policy laid down from time to time for the procurement of Government's supplies and services and for the purpose of authorizing the acceptance of tenders.

Rules for Tender and Purchasing Procedures

The Rules for Tender and Purchasing Procedures are set out as an appendix to the Purchases and Tenders Procedure Orders and are issued under the Authority of Financial Regulations and have the force of Financial Orders.

In particular:

Rule 4 sets out the main functions of the Central Supply Tenders Board.

Rule 6 sets out the procedure to be followed when tenders are to be invited.

Rule 15 sets out the procedure for selective tendering.

Tendering in respect of externally funded projects

In circumstances where projects within the State are financed by external organizations such as the World Bank, the organisation will stipulate the tendering and other financial requirements to be observed by the State.

Procurement and Contract Administration Bill 2007

A draft Bill is currently being prepared to provide for procurement and in particular the establishment of a procurement authority. It is hoped that a copy of the draft Bill will be made available to the Committee in due course.

2. SYSTEMS FOR PROTECTING PUBLIC SERVANTS AND PRIVATE CITIZENS WHO, IN GOOD FAITH, REPORT ACTS OF CORRUPTION (ARTICLE III (8) OF THE CONVENTION)

Information concerning allegations of corruption may be given anonymously by public servants and private citizens to the authorities.

No institutional procedures are in place under the law to specifically offer protection to public servants and private citizens who report acts of corruption.

3. ACTS OF CORRUPTION (ARTICLE VI OF THE CONVENTION)

Criminal Code

Chapter V of the Criminal Code contains the offences against the administration of lawful authority.

Section 85 of the Criminal Code creates an offence of official corruption and provides that any person who:

- (a) being employed in the public service, and being charged with the performance of any duty by virtue of such employment, corruptly solicits, receives or obtains, any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him in the discharge of the duties of his office; or
- (b) corruptly gives, confers or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon or for any person, employed in the public service, or to, upon, or for any other person any property or benefit of any kind on account of such act or omission on the part of the person so employed,

is guilty of an offence and liable to imprisonment for three years.

Section 86 of the Criminal Code creates the offence of extortion by public officers and provides that:

Any person who, being employed in the public service, takes or accepts from any person for the performance of his duty as such officer, any reward beyond his proper pay and emoluments, or any promise of such reward, is guilty of an offence and liable to imprisonment for three years.

Section 87 of the Criminal Code makes it an offence for any public officer to receive property to show favour and provides that:

Any person who, being employed in the public service, receives any property or benefit of any kind for himself on the understanding, expressed or implied, that he shall favour the person giving the property or conferring the benefit, or anyone in whom that person is interested, in any transaction then pending or likely to take place between the person giving the property or conferring the benefit, or anyone in whom he is interested, and any person employed in the public service is guilty of an offence and liable to imprisonment for six months.

Section 88 of the Criminal Code makes it an offence for a public servant to make a false claim and provides that:

Any person who, being employed in the public service in such a capacity as to require him or enable him to furnish returns or statements touching any sum payable or claimed to be payable to himself or to any other person, or touching any other matter required to be certified for the purpose of any payment of money or delivery of goods to be made to any person, makes a return or statement touching any such matter which is, to his knowledge, false in any material particular, is guilty of an offence and liable to imprisonment for two years.

Section 89 of the Criminal Code makes it an offence for a public servant to abuse his office and provides that:

- (1) Any person who, being employed in the public service, does or directs to be done, in abuse of the authority of his office, any arbitrary act prejudicial to the rights of another, is guilty of an offence and liable to imprisonment for two years.

- (2) If the act referred to in subsection (1) is done or directed to be done for purposes of gain, he is liable to imprisonment for two years.
- (3) A prosecution for an offence under this section shall not be instituted except by, or with the written consent of, the Director of Public Prosecutions.

Any public servant alleged to have committed any offence under the Criminal Code will also be in breach of the Public Service Regulations. The Permanent secretary may report a matter directly to the police. The matter may also be reported to the Public Service Commission by a Permanent Secretary or auditor or other ministry official. The Public Service Commission may also be seized of a matter of its own initiative. In accordance with the Public Service Regulations the Commission may refer any allegation of misconduct to the Director of Public Prosecutions who may recommend or instigate criminal proceedings against the officer concerned. If criminal proceedings are instigated further action by the Commission is stayed until the conclusion of the criminal proceedings and the time period for any appeal has lapsed.

In practice sanctions against the officer concerned may therefore take three forms.

Criminal prosecution where the matter has been reported to the police or the Director of Public Prosecutions has advised the Public Service Commission that the Criminal code has been breached.

Disciplinary action by the Public Service Commission which may result in dismissal, reduction in rank, deferment or withholding of increment, a fine, a severe reprimand or a reprimand.

Imposition of surcharge by the Ministry of Finance to recover funds in accordance with section 10 of the Finance and Audit Ordinance, 1964.

FOLLOW-UP ON THE RECOMMENDATIONS FORMULATED IN THE NATIONAL REPORT IN THE FIRST REVIEW ROUND

The Government of Saint Vincent and the Grenadines is currently engaged in formulating a national strategy against corruption and has prepared two pieces of legislation – The Integrity in Public Life Bill and The Prevention of Corruption Bill. The draft legislation is currently being reviewed by the Government in the light of the recommendations contained in the National Report in the First Review Round. Consideration is currently being given to the recommendations contained in the National Report in the First Review Round with a view to the possibility of adopting the recommendations made and effecting legislative implementation where appropriate.

DOCUMENTS TO BE PROVIDED IN RESPECT OF THE MESICIC REVIEW IN THE SECOND ROUND

Constitution of Saint Vincent

The Eastern Caribbean Supreme Court Order 1967

Finance and Audit Ordinance 1964

Criminal Code – Chapter V. Cap. 124. 1990 Rev.

Purchases and Tenders Procedure

Public Service Commission Regulations

Procurements and contract Administration Bill 2007 (when clean draft available)