



The Public Disclosure Commission

OAS - Mechanism for Follow-Up on the Implementation of the Inter-American Convention
against Corruption (MESICIC)



ESTABLISHMENT, OBJECTIVES & FUNCTIONS OF THE PUBLIC DISCLOSURE COMMISSION

- On the 7th October 1976, The Bahamas enacted the Public Disclosure Act (Chapter 9 of the Statute Laws of the Commonwealth of The Bahamas) which established the Public Disclosure Commission (Section 3(1)). The Act came into effect on 3rd January, 1977. Every person who was a Member of Parliament or Senator on the 31st Day of December 1977 was required to furnish a declaration of his Assets, Income and liabilities to the Commission before the 1st day of March 1978. In the case of a person appointed a Senator or elected a Member of Parliament as the case may be, at any time after the 31st Day of December 1977, within three months from the date of such appointment or election in respect of his Income, Assets and liabilities as at the previous 31st Day of December.



ESTABLISHMENT, OBJECTIVES & FUNCTIONS OF THE PUBLIC DISCLOSURE COMMISSION

- In accordance with Section 9 of the Act, by publication during the year 1980 in the Official Gazette, the Act was extended to include Senior Public Officers and Public Appointees. I will mention these Posts during presentation.
- The objectives and functions of the Public Disclosure Commission are the examination of declarations furnished by Members of Parliament, Senators, Senior Public Officers and Public Appointees in accordance with the provisions of the Public Disclosure Act, 1976.



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AUTONOMY & CO-ORDINATION

- The Commission is a Unit of the Cabinet Office, headed administratively by the Secretary to the Cabinet which is under the Ministerial Portfolio of the Rt. Hon. Prime Minister. Both the budgetary and human resources functions are performed by the Officers at the Cabinet Office.
- The Commission works independently.
- In the execution of its functions, the Commission, for example, under Section (6) (1) of the Act, does work independently and does not harmonize with any other Agency-the examination of declarations under Section 6(1). However, the Accounting and Human Resources functions are performed by the Finance and Human Resources Officers at the Cabinet Office.
- The Commission is required to furnish an annual report to both the Prime Minister and Leader of the Opposition in the case of Members of Parliament and Senators under Section 8(1) who fail to comply with the Act and to the Prime Minister and Attorney General in respect of Senior Public Officers and Public Appointees who fail to comply.



AUTONOMY & CO-ORDINATION

- Under Section 6(2), the Commission is required to publish summaries of Declarations in the Official Gazette. The Commission forwards the completed Summaries to the Cabinet Office and requests publication. Any member of the Public can then make a written complaint to the Commission following their examination of the Summaries in the Gazette-Complaints under Section 7(1) b of the Act.
- In reviewing a declaration, if an act of corruption is discovered, the Commission would not report the matter to the Royal Bahamas Police Force. In this particular case, the Commission, in exercising its discretion, may decide to refer the matter to the Attorney General for legal advice.
- The Attorney-General is responsible for prosecutions.



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PROVISIONS OF THE PUBLIC DISCLOSURE ACT

- The First Schedule of the Act provides for the appointment of the members which consists of three (3) persons appointed under the seal of the Governor-General.
- The Public Disclosure Act makes provision for the public disclosure of assets, liabilities, and income of persons in public life and for matters incidental thereto or connected therewith.
- Under Section 15 of the Act, the Commission may, for good cause, extend the time for the furnishing of a declaration after the expiration thereof for a period not exceeding thirty (30) days. However, Members of Parliament, Senators, and Senior Public Officials and Appointees are advised to disclose assets, income and liabilities in a timely manner.



DUTIES OF THE PUBLIC DISCLOSURE COMMISSION

- The Commission is to ensure that the Members of Parliament, Senators and other persons to whom the Act applies, comply with its provisions.
- If the Commission, following its examination, is satisfied that a full declaration has been made, it publishes a summary of that Declaration in the Official Gazette (for Members of Parliament and Senators only). The Public Disclosure Act and the Official Gazettes are available to the general public at the Government Publication's Department.



THE COMPOSITION OF THE PUBLIC DISCLOSURE COMMISSION

- The Act is administered by the members of the Commission, who are appointed by the Governor-General on the recommendation of the Prime Minister, after consultation with the Leader of the Opposition.
- The Commission consists of three (3) part-time members:
 - One (1) Part-time Secretary; and
 - Two (2) Permanent Administrative staff who are Public Officers.
- The Governor-General appoints one of the members to be Chairman.
- Although the Act makes provision for the members to hold Office for such period not exceeding five (5) years, the terms of the members appointed usually range from one (1) year to three (3) years and these terms are generally fixed.



SANCTIONS AVAILABLE TO THE PUBLIC DISCLOSURE COMMISSION

- Where a Member of Parliament or Senator fails to comply with the Public Disclosure Act, Section 8 provides for the Commission to report the matter to both the Prime Minister and the Leader of the Opposition.
- Where a Senior Public Officer or Public Appointee fail to comply with the Act, Section 8 provides for the Commission to report the matter to both the Prime Minister and the Attorney-General.
- The Commission is not charged with punishing non-disclosure. The Royal Bahamas Police Force is charged with the investigation of Criminal Acts and the Office of the Attorney-General for prosecutions.



DECISIONS OF THE PUBLIC DISCLOSURE COMMISSION

- The Public Disclosure Commission bases its decisions on the information contained in the declarations furnished by the Declarant.
- Following examination of these Declarations by the Commission, if the Commission is satisfied that a full declaration has been made, summaries of these are then forwarded to the Cabinet Office for publication in the Government's Official Gazette.
- The decisions of the Commission can be challenged and if the complainant disagrees with the Commission's decision, the matter can then be referred to the Court (i.e. a case once went to the Privy Council).



DECISIONS OF THE PUBLIC DISCLOSURE COMMISSION

- All complaints, allegations are dealt with by the Public Disclosure Commission in accordance with the Public Disclosure Act, 1976. As mentioned earlier, the Commission's finances are managed by the Cabinet Office, over which the Commission exercises no control. The Commission does not publish any annual report of its activities except the Reports to the Prime Minister, the Leader of the Opposition and the Attorney General as required under Section 8 of the Act.



DIFFICULTIES - PANEL 7

- The Commission experiences time delays in obtaining declarations from Members of Parliament, Senators, Senior Public Officers and Public Appointees.
- The members of the Commission are normally appointed for a period of one year. This appointment for a period of one year is, in the opinion of the Commission's members, too short and usually, there is a delay before the next appointment is received.
- The Commission requires more staff with background in accounting, in addition to IT, etc.



RESULTS & SYSTEMATIZATION OF DATA – PANEL 7

- The Commission maintains results on the number of declarants required to submit a declaration together with the number not received. Presently, there are 38 Members of Parliament and 16 Senators. In addition, those Members of Parliament and Senators who are elected and appointed for the first time together with those who cease, are also required to disclose on the anniversary dates of their elections, appointments and cessation. A register to record these is maintained on a manual basis.



RESULTS & SYSTEMATIZATION OF DATA – PANEL 7

- Declarations are due on the 1st March following the 31st December of the year to which they relate. Reminder letters together with two copies of the declaration forms are sent to all declarants prior to the 1st March when they become due. On receipt of declarations, they are stamped and recorded manually in a register.
- The incoming register is reviewed periodically and those declarants who have not to that date filed their declarations would be sent a second reminder giving them a specific date by which, if the declaration is not received, the matter would then be reported to the Prime Minister, the Leader of the Opposition and the Attorney General in accordance with Section 8 of the Public Disclosure Act.
- The Commission has no further powers other than Section 8 of the Act to compel a person to submit an outstanding declaration.



FOLLOW-UP RECOMMENDATION SYSTEM FOR REGISTERING INCOME etc.

- As a matter of clarification, whenever the Public Disclosure Commission has difficulty in enforcing disclosure, the matter can be referred to the Prime Minister AND the Leader of the Opposition for non-declaring members of the House of Assembly and Senators.
- Paragraph D of the Questionnaire further states that the issue of other non-declaring Senior Government Officials are referred to the Governor General. This Statement is incorrect also. In the case of Senior Public Officers and Public Appointees, the non-disclosure by these Officers is reported to the Prime Minister and the Attorney General under the Act.
- As stated earlier, the Commission does not have a Web-Site.



MANUALS, TRAINING & TECHNOLOGY

- The two (2) administrative Officers are guided by the Public Service Regulations, and General Orders.
- On-the-job training is provided to ensure that all staff members are aware of the proper procedures for the examination of a declaration.
- The use of technology at the Public Disclosure Commission is currently being upgraded.
- There are specific job descriptions for each staff member of the Commission. The Commission offers guidance for its staff during the processing of a declaration by a member, if a circumstance arises for which that staff member requires assistance.
- On the job training is provided through the Public Service.



MANUALS, TRAINING & TECHNOLOGY

- The following machines are used by the Commission in the execution of its functions: one adding machine, two Word Processors and a Fax Machine. The Commission does not have an electronic system for receiving declarations and accordingly, there is no electronic database in use. Data is stored in our filing system.
- All declarations received are manually recorded and managed in accordance with the Act.



BUDGETARY AND HUMAN RESOURCES

- The selection and identification of Human Resources are conducted in accordance with the Public Service Act and the Public Service Regulations (General Orders).
- The Public Service Commission is the body established to oversee the recruitment process of all Public Service Officers. These appointments require the approval of the Governor-General.
- The funds of the Commission are provided by Parliament. Estimates of the Commission's revenues and expenditures are submitted to the Prime Minister on an annual basis for approval by Parliament.
- The Cabinet Office maintains proper records of the Commission's financial transactions (receipts, payments, assets, and liabilities). The financial records of the Commission are audited by the Auditor-General on an annual basis and included in the Central Government's Financial Statements which are presented to Parliament annually.



BUDGETARY AND HUMAN RESOURCES

- Panel 5: Cabinet office approves Human Resources and Budgeting.
- The commencement of the Government's financial year takes effect from the 1st July each year. The Public Disclosure Commission submits its detailed budget to the Cabinet Office for inclusion in their budget. The Commission's approved budgets by Parliament for the past five years are as follows:

Year	\$
• 2010/2011	40,000.00
• 2011/2012	40,000.00
• 2012/2013	40,000.00
• 2013/2014	40,000.00
• 2014/2015	40,000.00

The approved budget excludes the salaries of administrative staff.



BUDGETARY AND HUMAN RESOURCES

- The Finance Officer at the Cabinet Office is responsible for the Commission's accounting functions. The records are properly maintained and audited by the Auditor-General of the Commonwealth of the Bahamas on an annual basis.
- With regards to the human resources, the Commission is not involved in the recruitment and engagement of its staff; this function is performed by the Human Resources Section of the Cabinet Office and the Public Service Commission. The two administrative staff are Public Officers who are employed by the Cabinet Office and posted to this Unit. The Secretary is not a Public Officer. There are no other members of the Public Service employed at The Commission's office who are carrying out the examination of the declarations.



BUDGETARY AND HUMAN RESOURCES

- The two administrative staff are Public Officers and their recruitment, appointments are governed by the normal procedure for the employment of Public Officers; that is, the approval of the Governor General, acting on the advice of the Public Service Commission.
- Under the Public Disclosure Act, the three members of the Commission are appointed by the Governor General under seal, upon the recommendation of the Prime Minister after consultation with the Leader of the Opposition.



ACTION PLAN

- Request:
 - (1) Review of the legislation
 - (2) further funding.
 - (3) More Staff with back-ground in accounting is required.
 - (4) Review of the Declaration form



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