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GRENADA

ACT NO. 14 OF 2007

I assent,

10th May, 2007.

DANIEL CHARLES WILLIAMS

Governor-General.

An Act to establish an Integrity Commission in order to ensure integrity in public life, to obtain declaration of the assets, liabilities, income and interest in relation to property of persons in public life, to give effect to the provisions of the Inter-American Convention Against Corruption and for matters incidental thereto and for purposes connected therewith.

[18th May, 2007].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Grenada, and by the authority of the same as follows—

PART I

PRELIMINARY

1. This Act may be cited as the

Short title.

INTEGRITY IN PUBLIC LIFE ACT, 2007.

Interpretation.

2.—(1) In this Act —

“assets” means all property beneficially held whether in or out of Grenada;

“Chairperson” means the Chairperson of the Integrity Commission appointed pursuant to section 4;

“Commission” means the Integrity Commission established pursuant to section 4;

“Court” means the High Court;

“declaration” means a declaration filed by a person in public life pursuant to section 28;

“Deputy Chairperson” means the Deputy Chairperson of the Commission appointed pursuant to section 15;

“Disciplinary Tribunal” means a Tribunal appointed pursuant to section 9 (3);

“document” means in addition to a document in writing—

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any disc, tape, sound track or other device in which sounds or other data not being visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced therefrom;

“faith based organizations” means all religious denominations in Grenada;

“income” includes—

- (a) money derived from whatever source or acquired in or out of Grenada;
- (b) all receipts by way of salary, fees, wages, requisitions, profits, grants, emoluments, rents, interests, commissions, bonus, pensions or annuity and all income derived pursuant to the provisions of the Income Tax Act;

“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;

“Investigatory Tribunal” means the Investigatory Tribunal appointed pursuant to section 36;

“liabilities” means all the obligations of a person in public life to pay or to transfer money to others whether in the State or elsewhere;

“member” means a member of the Commission;

“Minister” means the Minister responsible for Legal Affairs;

“person in public life” means a person referred to in Schedule I;

“prescribed” means prescribed by Regulations;

“property” means any money or other movable, immovable, corporeal or incorporeal thing whether situated in Grenada or elsewhere and includes any rights, privileges, claims, securities and any interest therein and all proceeds thereof;

“public body” means—

- (a) a corporation established by an Act of Parliament for the purpose of providing a public function and any subsidiary company thereof registered pursuant to the provisions of the Companies Act;
- (b) a Department or Ministry of the Government;
- (c) any authority, board, commission, committee or other similar body providing a public function;
- (d) the Government; or
- (e) the House of Representatives and the Senate;

“public function” means any activity performed a single time or continually, whether or not payment is received for it, and which is carried out by—

- (a) a person, for or on behalf of or under the direction of a Ministry, Department of Government, a statutory body, local government authority or a government company;
- (b) a body, whether public or private providing public utilities including the provision of water, electricity or communications; or
- (c) a member of the House of Representatives or the Senate in that capacity;

“public officer” has the meaning assigned to it pursuant to section 111 of the Constitution;

“Public Service Commission” means the Public Service Commission established pursuant to section 83 of the Constitution;

“spouse” in relation to a person in public life means a person to whom the person in public life is—

- (a) married; or
- (b) cohabiting with for a continuous period of five years;

during the period in which a declaration is required to be filed, but does not include a person with whom the person in public life has made a separation agreement, or whose support obligations and family property have been dealt with by an order of the Court;

“State” means the State of Grenada.

Application of
Act.

3. This Act shall apply to every person in public life.

PART II

ESTABLISHMENT OF INTEGRITY COMMISSION

Establishment of
Commission.

4. —(1) There is hereby established a Commission to be called the Integrity Commission.

(2) The Commission shall consist of the following persons appointed by the Governor-General as follows—

- (a) a Chairperson, who shall be a retired Judge or an attorney-at-law of at least fifteen years standing;
- (b) a certified or chartered accountant;
- (c) an attorney-at-law of at least seven years standing;
- (d) one person, on the recommendation of the Prime Minister;
- (e) one person, on the recommendation of the Leader of the Opposition; and
- (f) two persons after consultations by the Governor-General with faith based organizations.

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

(4) A member shall, before assuming the functions of his or her office, make and subscribe to the oath of office and the oath of secrecy before the Governor-General in the Form provided in Schedule II.

5.—(1) A person shall not become, or continue to be, appointed as a member of the Commission if the person—

Disqualification
from member-
ship of the
Commission.

- (a) is affected by bankruptcy action;
- (b) is or has been convicted of an indictable offence;
- (c) is or has been, convicted of an offence pursuant to the provisions of this Act;
- (d) is a person in public life other than as a member of the Commission;
- (e) is a member of the House of Representatives or of the Senate;
- (f) has at any time during the three years preceding his or her appointment, held office in a political party; or
- (g) would otherwise be disqualified to be a member of the House of Representatives or of the Senate.

(2) For the purposes of subsection (1) (a), a person is affected by bankruptcy action if the person—

- (a) is bankrupt;
- (b) has compounded with his or her creditors; or
- (c) as a debtor, has otherwise taken or applied to take advantage of any law relating to bankruptcy.

Tenure of office. 6. A member of the Commission shall hold office for a period not exceeding three years and shall be eligible for re-appointment.

Resignation of member. 7.—(1) A member other than the Chairperson, may at any time resign his or her office by instrument in writing addressed to the Governor-General and transmitted to the Chairperson; and from the date specified in the instrument of resignation, that person shall cease to be a member of the Commission.

(2) The Chairperson may at any time resign his or her office by instrument in writing addressed to the Governor-General and from the date specified in the instrument of resignation, he or she shall cease to be a member of the Commission.

Vacation of office. 8. A member of the Commission is taken to have vacated his or her office if the member—

- (a) resigns his or her position on the Commission pursuant to section 7;
- (b) cannot continue as a member pursuant to section 5;
- (c) is absent without the permission of the Commission, from three consecutive meetings of the Commission and he or she has not been given due notice;
- (d) at the expiration of three years from the date of the appointment of the member;
- (e) on the death of the member;
- (f) if the member is appointed as a public officer;

- (g) if the member takes up an appointment in a political party;
- (h) if the member is nominated for election as a representative in the House of Representatives or in the Senate.

9.—(1) A member may be removed from office only for the inability to exercise the functions of his or her office whether arising from infirmity of mind or body or any other cause or for misbehavior and shall not be so removed except in accordance with the provisions of this section.

Removal from office of member of the Commission.

(2) Subject to subsection (3), a member of the Commission shall be removed from office by the Governor-General, if the question of his or her removal has been referred to the Disciplinary Tribunal appointed pursuant to subsection (3) and the Disciplinary Tribunal has recommended to the Governor-General that the member ought to be removed from office in accordance with the provisions of subsection (1).

(3) Where the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition, considers the question of removing a member of the Commission pursuant to the provisions of this section, the Governor-General shall appoint a Disciplinary Tribunal which shall consist of the following—

- (a) a Judge of the High Court;
- (b) the Chief Magistrate; and
- (c) an attorney-at-law of at least fifteen years standing.

(4) The Disciplinary Tribunal appointed pursuant to subsection (3) shall inquire into the matter and report on the facts thereof to the Governor-General and shall recommend to him or her whether the member shall be removed from office.

(5) The Disciplinary Tribunal shall give the member an opportunity to show cause as to why he or she should not be removed from office.

(6) Where the question of removing a member has been referred to a Disciplinary Tribunal pursuant to the provisions of this section, the Governor-General may suspend the member from the exercise of his or her functions of his or her office pending the hearing and determination of the matter.

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

Vacancy in membership of the Commission.

10. If a vacancy occurs in the membership of the appointed members, that vacancy shall be filled by the appointment of another person from the same category which that person was appointed in the first instance.

Publication in the *Gazette*.

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

Functions of the Commission.

12. —(1) The Commission shall—

- (a) carry out those functions and exercise the powers pursuant to the provisions of this Act;
- (b) receive, examine and retain all declarations filed pursuant to the provisions of the Act;

- (c) make such inquiries as it considers necessary in order to verify or determine the accuracy of a declaration filed pursuant to the provisions of this Act;
- (d) receive and investigate complaints regarding any alleged breaches of the provisions of this Act or the commission of or any suspected offence under the provisions of the Prevention of Corruption Act;
- (e) investigate the conduct of any person falling under the purview of the Commission which, in the opinion of the Commission, may be considered dishonest or conducive to corruption;
- (f) examine the practices and procedures of public bodies;
- (g) instruct, advise and assist the heads of public bodies with respect to changes in practices or procedures which may be necessary to reduce the occurrence of corrupt practices;
- (h) carry out programmes of public education intended to foster an understanding of the standard of integrity;
- (i) perform such other functions and exercise such powers as are required pursuant to the provisions of this Act.

(2) In the exercise of its functions under this Act, the Commission—

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- (a) shall not be subject to the direction or control of any person or authority;
 - (b) may in all cases where it considers it appropriate to do so, make use of the services or draw on the expertise of any law enforcement agency or the Public Service;
 - (c) shall have the power to authorize investigations, summon witnesses, require the production of any reports, documents or other relevant information, and to do all such things as it considers necessary or expedient for the purpose of carrying out its functions pursuant to the provisions of this Act.

Powers and independence of the Commission.

13. The Commission shall have the same powers, rights and privileges as a commission of inquiry appointed pursuant to the provisions of the Commissions of Inquiry Act.

Proceedings and meetings of the Commission.

14.—(1) Meetings of the Commission shall be held at the times and place as the Chairperson shall decide.

(2) Notwithstanding subsection (1), the Chairperson shall call a meeting if asked, in writing, to do so by the Minister or by three members of the Commission.

Election of Deputy Chairperson of the Commission.

15.—(1) At the first meeting of the Commission, the members of the Commission shall elect a Deputy Chairperson from among its membership.

(2) The Deputy Chairperson shall act as Chairperson of the Commission—

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- (a) during a vacancy in the office of Chairperson;
or
 - (b) during all periods when the Chairperson is absent from duty or, for any other reason, is unable to perform the functions of his or her office.

16. The quorum for a meeting of the Commission shall be ^{Quorum.} five.

17. —(1) The Chairperson shall preside at all meetings of ^{Presiding at} the Commission at which he or she is present. ^{meetings.}

(2) If the Chairperson is absent from a meeting of the Commission, but the Deputy Chairperson is present, the Deputy Chairperson shall preside.

(3) If the Chairperson and the Deputy Chairperson are both absent from a meeting of the Commission, the members shall select a member present at the said meeting to preside.

18.—(1) All decisions of the Commission shall be decided ^{Conduct of} by a majority of members present and voting at the meeting ^{meetings of the} and, in the event of an equality of votes, the Chairperson shall ^{Commission.} have a casting vote.

(2) A resolution is validly made by the Commission, even if it is not passed at a meeting of the Commission, if—

- (a) a majority of the members give written agreement of the resolution; and
- (b) notice of the resolution is given under the procedures approved by the Commission.

Secretary and
staff of the
Commission.

19.—(1) There shall be a Secretary to the Commission who shall be a public officer.

(2) The duties of the Secretary shall be—

- (a) to attend the meetings and proceedings 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.

(3) The Commission shall be provided with adequate staff for the prompt and efficient discharge of its functions and powers pursuant to the provisions of the Act.

(4) A person appointed pursuant to the provisions of this section or authorized to perform any functions pursuant to the provisions of this Act, shall before assuming his or her functions, make and subscribe the oath of office and the oath of secrecy in the Form provided in Schedule II.

Remuneration
and staff of the
Commission.

20. The salaries and allowances of the members and staff of the Commission shall be determined by resolution of the House of Representatives.

Leave of absence
for a member of
the Commission.

21.—(1) The Governor-General may approve a leave of absence for a member of the Commission for a period not exceeding three months.

(2) Pursuant to subsection (1) the Governor-General may appoint another person to act in the office of the member while the member is absent on approved leave.

(3) A person appointed pursuant to subsection (2) shall belong to the same category of persons to which the member who has been granted leave belongs.

22. The funds of the Commission shall consist of such Funds of the Commission. funds as may be appropriated to the Commission by Parliament.

23. The Commission shall keep proper records of its Accounts of the Commission. accounts in accordance with generally accepted international accounting standards and principles, and shall prepare and retain financial statements in respect of each financial year.

24.—(1) The Commission shall as soon as is practicable Audit. after each financial year, have its accounts audited annually by the Director of Audit or an auditor appointed by the Director of Audit, in accordance with generally accepted international accounting standards and principles.

(2) The Commission and its employees shall grant to the auditor appointed pursuant to subsection (1), access to any information or documents which the auditor may deem necessary and the auditor may require the person holding or accountable for such document to appear, make a signed statement or provide such information in relation to the document as the auditor deems necessary.

(3) A person who is required to appear, make a signed statement or to provide information pursuant to subsection (2) and who fails to comply, commits an offence and upon summary conviction is liable to a fine not exceeding

five thousand dollars or to a term of imprisonment not exceeding two months or to both, and to revocation of his or her appointment as a member or staff of the Commission.

Report of Auditor.

25. An auditor appointed pursuant to section 24 shall as soon as practicable and not later than three months after the end of each financial year, submit copies of the audited financial statement of the Commission.

Annual report.

26.—(1) Subject to subsection (2), and not later than three months after the end of each financial year, the Commission shall submit to the Minister, an annual report on the work and activities of the Commission for that financial year and the Minister shall not later than one month after receipt of that report, lay the same before the House of Representatives.

(2) The annual report pursuant to subsection (1) shall be accompanied by the report submitted by the auditor pursuant to section 25.

(3) A summary of the annual report pursuant to subsection (1) shall be published in the *Gazette* and the entire annual report shall be made available to any person on payment of the prescribed fee to the Commission.

Seal of the Commission.

27.—(1) The seal of the Commission shall be such device as the Commission shall determine and shall where the Commission so directs, be kept in the custody of the Secretary to the Commission.

(2) The affixing of the seal shall be authenticated by the signature of the Chairperson, or the Deputy Chairperson, and the Secretary or such other person authorised on his or her behalf by a resolution of the Commission.

PART III

FINANCIAL DISCLOSURE

28.—(1) Subject to subsection (2), and section 30, every person in public life shall file a declaration to the Commission in the Form set out in Schedule III of this Act.

Duty of person in public life to furnish declaration.

(2) Notwithstanding the provisions of subsection (1), the Commission may, in any particular case, for good cause, extend the time for the furnishing of a declaration for a period not exceeding three months.

(3) Where a person in public life, fails to file a declaration in accordance with this section or without reasonable cause, fails to furnish particulars in accordance with section 35, the Commission shall publish such fact in the *Gazette* and at least one weekly newspaper in circulation in Grenada.

(4) The Commission may, at anytime, after the publication made pursuant to subsection (3), make an *ex parte* application to the Court for an order directing the person in public life to comply with the provisions of the Act and the Court may, in addition to making such an order, impose such conditions as it thinks fit.

(5) A person who fails to comply with a direction of the Court pursuant to subsection (4), commits an offence and is liable on conviction to a fine not exceeding sixty thousand dollars or to a term of imprisonment not exceeding two years.

29.—(1) A person who is a person in public life on the date of commencement of this Act shall within three months from the date of commencement of this Act, file a declaration pursuant to section 28 and thereafter, on or before the 31st day of March of each year during any part of which he or she remains a person in public life.

Filing of declaration.

(2) A person who becomes a person in public life after the date of commencement of this Act shall file a declaration pursuant to section 28, within three months of he or she becoming a person in public life and thereafter on or before the 31st day of March of each year during which he or she remains a person in public life.

(3) Where a person ceases to be a person in public life he or she shall furnish a declaration at the end of six months from the date on which he or she ceases to be a person in public life.

(4) Where a person in public life dies, the declaration which he or she would have been required to file had he or she lived, shall not be filed.

Procedure for
filing of
declaration by
member of
Commission
and Director
of Public
Prosecutions.

30.—(1) Every member shall file a declaration in the Form provided in Schedule III, with the Governor-General before he or she assumes office and thereafter on or before the 31st day of March of each year, during which he or she remains a member.

(2) The Director of Public Prosecutions shall file a declaration with the Governor-General in the manner provided in section 29 and in the Form provided in Schedule III.

(3) The Governor-General shall appoint an auditor to examine and verify the contents and accuracy of a declaration filed pursuant to sub-sections (1) and (2), and the auditor so appointed shall, subject to subsection (4), submit a report to the Governor-General containing such recommendations which he or she may deem necessary.

(4) The auditor shall examine every declaration filed pursuant to this section in order to ensure that such declaration complies with the requirements of this Act.

31.—(1) The Governor-General may, based upon a request made by the auditor appointed pursuant to section 30, request from a member or the Director of Public Prosecutions, such additional information or explanation relevant to a declaration filed, which would assist the auditor in verifying the contents and accuracy of the declaration.

Request for further particulars of member or Director of Public Prosecutions.

(2) Where a member or the Director of Public Prosecutions—

- (a) fails to file a declaration pursuant to section 29, or
- (b) fails to provide any additional information when requested so to do pursuant to subsection (1);

the Governor-General shall request the Attorney General to make an application ex-parte to the Court, to seek to have the member or the Director of Public Prosecutions to comply with the provisions of paragraph (a) or (b), and the Court may, in addition to making such an order, impose such conditions as it thinks fit.

(3) A member who fails to comply with an order of the Court commits an offence and is liable on conviction to a fine not exceeding sixty thousand dollars or to a term of imprisonment not exceeding two years and shall be removed as a member of the Commission in accordance with the provision of this Act.

(4) Where the Director of Public Prosecutions fails to comply with an order of the Court, the matter shall be reported by the Governor-General to the Judicial Legal and Services Commission who shall take such steps as deemed necessary pursuant to section 86 of the Constitution.

Trust property. **32.** Where a person in public life holds property in trust for another person, he or she shall so state this in his or her declaration.

Income assets
and liabilities of
agent. **33.** For the purposes of a declaration, the income assets and liabilities of a person in public life include the income, assets and liabilities acquired, held or incurred by another person as his or her agent on his or her behalf.

Blind Trusts. **34.—(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 at the date of so filing.

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

- (a) all or part of his or her assets are conveyed to the trust company for its management, administration and control in its absolute discretion without recourse or report to the person beneficially entitled to those assets;
- (b) income derived from the management of the assets are not to be communicated to him or her, until he or she ceases to be a person in public life;
- (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 is 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 the State and is carrying on business in the State;
- (b) no more than ten percent of the issued shares in the trust company or its affiliate is held by the person in public life entering into an agreement with it, or by any 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 purposes 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.

35.—(1) The Commission shall examine every declaration that is filed with it and shall ensure that such declaration complies with the requirements of this Act.

Request for
further
particulars.

(2) The Commission may upon the examination of a declaration furnished to it, request from the person in public life, any information or explanation relevant to a declaration which in the opinion of the Commission, would assist it in its examination.