

PARLIAMENT (INTEGRITY OF MEMBERS) ACT, 1973

Bill | Objects & Reasons | Regulation

ARRANGEMENT OF SECTIONS

Acts 33 of 1973 | 19 of 1985

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1. Short title.

1. This Act may be cited as the Parliament (Integrity of Members) Act.

2. Interpretation.

2. In this Act, unless the context otherwise requires -
"assets and liabilities" includes as assets any property whether in or outside of Jamaica and as liabilities any obligations to pay money whether in or outside of Jamaica;

"Chairman" means the Chairman of the Commission;

"child" includes a step-child, an illegitimate child or a child who has been adopted under the Children (Adoption of) Act;

"the Commission" means the Integrity Commission established under section 3;

"functions" includes duties and powers;

"member" means member of the Commission appointed in accordance with the provisions of the First Schedule;

"Parliamentarians" means Members of the House Representatives and Senators;

"Secretary" means the Secretary of the Commission;

"statutory declaration" means a statutory declaration made by a Parliamentarian pursuant to section 4.

3. Establishment of Commission.

3. (1) There shall be established for the purposes of this Act, a body to be known as the Integrity Commission.

(2) The provisions of the First Schedule shall have effect as to the constitution of the Commission and otherwise in relation thereto.

4. Duty of Parliamentarian to furnish statutory declaration to Commission.

4. (1) Every person who is or was at any time after the 26th July, 1973, a Parliamentarian shall furnish to the Commission, a statutory declaration, subject to subsection (2), of his assets and liabilities, and his income in the form set out as Form A in the Second Schedule, at such times as may be required by or pursuant to this Act.

(2) A declaration pursuant to subsection (1) shall include such particulars as are known to the declarant of the assets, liabilities and income of the spouse and children of the declarant:

Provided that -

(a) if the spouse was not living with the declarant at any time during the period in relation to which the declaration is made; or

(b) if a child of a declarant has attained the age of 21 years and was not living with the declarant at any time during the period in relation to which the declaration is made,

the particulars required to be furnished by this subsection shall be limited to assets held by the spouse or child (as the case may be) in trust for, or as agent of, the declarant; so, however, that nothing in this subsection shall be construed as precluding the Commission from requiring from a declarant any additional particulars the Commission may think fit.

(3) A statutory declaration pursuant to subsection (1) shall be furnished -

(a) in the case of a person who is a Parliamentarian on the 26th July, 1973, within three months of such date; and

(b) in the case of a person elected or appointed, as the case may be, a Parliamentarian at any time after the 26th July, 1973, within three months from the date of such election or appointment, as the case may be,

and thereafter on the 31st day of December in each year during any part of which he remains a Parliamentarian and at the end of twelve months from the date on which he ceases to be a Parliamentarian, so, however, that a declaration required to be made on the

31st day of December in any year shall be deemed to comply with the requirements of this subsection if it is made on or before the 31st March next following that date.

(4) A statutory declaration furnished pursuant to subsection (1) may be accompanied by a statement of affairs certified by a registered public accountant if the declarant so desires.

5. Functions and powers of the Commission.

5. (1) The functions of the Commission shall be -

(a) to receive and keep on record statutory declarations furnished by Parliamentarians pursuant to this Act;

(b) to examine such statutory declarations, and to request from a Parliamentarian any information relevant to a statutory declaration made by him which in their opinion would assist them in their examination;

(c) to make such independent enquiries and investigations relating to a statutory declaration as they think necessary.

(2) The Commission shall have power to summon witnesses, require the production of documents and to do all such things as it considers necessary or expedient for the purpose of carrying out its functions.

6. Duty as to secrecy and to make declaration.

6. (1) Subject to the provisions of subsection (3) and of section 13 every member and every other person having official duty under this Act, or being employed in the administration of this Act, shall regard and deal with all information, declarations, letters and other documents, and all other matters relating to a statutory declaration, as secret and confidential, and shall make and subscribe a declaration to that effect before a Justice of the Peace.

(2) Every person required under subsection (1) to deal with the matters specified therein as secret and confidential who at any time communicates or attempts to communicate such information or anything contained in such declarations, letters, or other documents to any person -

(a) other than a person to whom he is authorized under this Act to communicate it; or

(b) otherwise than for the purposes of this Act, shall be guilty of an offence and be liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) Any person who receives any information or anything contained in such declarations, letters or other documents as aforesaid knowing, or having reasonable ground to believe, at the time when he receives it, that it is communicated to him in contravention of this Act, shall be guilty of an offence unless he proves that the communication to him of the

information or of anything contained in any declaration, letters or other documents was contrary to his desire.

(4) A person guilty of an offence under subsection (3) shall be liable on summary conviction in a Resident Magistrate's Court -

(a) if the information or anything contained in a declaration, letter or other document is published, to a fine of ten thousand dollars or to imprisonment for a term not exceeding four years or to both such fine and imprisonment; or

(b) in any other case, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and Imprisonment.

(5) No obligation as to secrecy imposed on persons under this Act, or under any statute or otherwise on persons employed in relation to income tax, shall prevent information obtained pursuant to this Act from being disclosed to the Commissioner of Income Tax by or under the authority of the Commission, or information obtained in connection with the assessment or collection of income tax from being disclosed to the Commission by or under the authority of the Commissioner of Income Tax.

7. Commission may require further information and conduct enquiries.

7. (1) Where the Commission, upon examination of a statutory declaration furnished pursuant to section 4, are of the opinion that further investigation is necessary, they may, in writing, request the Parliamentarian concerned to furnish such further documents, information, or otherwise as they may require, within such time as they may specify, or may, in writing, require the Parliamentarian to attend on the Commission at such time as may be specified by the Commission, for the purpose of the Commission conducting an enquiry into the matter.

(2) Where a Parliamentarian is required to attend on the Commission pursuant to subsection (1), he shall have the right to be accompanied, and represented by, an attorney-at-law and a registered public accountant and, for the purposes of such enquiry, may require the Commission to summon such witnesses as he thinks necessary.

8. Issue of summons.

8. (1) Any summons to attend, to give evidence or to produce documents before the Commission shall be notified to the person required to attend or to produce the document and shall be issued under the hand of the Secretary or of any member of the Commission.

(2) A summons under this section shall be in the form set out in Form B in the Second Schedule and may be served on the person mentioned therein either by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode in Jamaica, with some adult person.

(3) A summons under this section may be served by any person deputed by the Commission or by a Constable.

9. Witnesses may be examined on oath.

9. The Commission may require that any facts, matters or things relating to the subject of enquiry be verified or otherwise ascertained by the oral examination of witnesses; and may cause any such witnesses to be examined upon oath which the Chairman or the Secretary is hereby authorized to administer.

10. Duty and privileges of witnesses.

10. (1) All persons summoned to attend and give evidence or to produce any paper, book, record or document before the Commission -

(a) shall be bound to obey the summons served upon them;

(b) shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same right or privilege as before a court of law;

(c) shall be entitled, on attending, to be paid their expenses, including travelling expenses, at the rates prescribed by the Witnesses' Expenses Act for witnesses who are entitled to have their expenses paid from public funds:

Provided that the Commission may disallow the whole or any part of such expenses in any case, if they think fit.

(2) Any person who -

(a) without sufficient cause, fails or refuses to attend before the Commission in obedience to a summons issued under this Act, or fails or refuses to produce any paper, book, record or document which he was required by such summons to produce; or

(b) being a witness, leaves a meeting of the Commission without the permission of the Commission; or

(c) being a witness, refuses without sufficient cause, to answer any question put to him by or with the permission of the Commission; or

(d) wilfully obstructs or interrupts the proceedings of the Commission, shall be liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding five hundred dollars or in default of payment thereof to imprisonment for a term not exceeding six months.

11. Protection of disclosures to the Commission.

11. The records of the Commission and any information revealed by the evidence of a witness before the Commission shall not be produced or disclosed to any court other than to such extent as may be necessary for the purposes of proceedings relating to a charge under section 6 or section 15 of this Act or under the Perjury Act.

12. Commission to make report.

12. (1) Where any person fails to furnish the Commission with a statutory declaration which he is required to furnish in accordance with this Act, or where the Commission examine a statutory declaration and any related information or documents, or conduct an enquiry into any such statutory declaration, and are not satisfied with any aspect thereof, the Commission shall report the matter (setting out such details and particulars as the Commission in their discretion think fit) to the Prime Minister, the Leader of the opposition, the Speaker of the House, and the President of the Senate (hereinafter referred to as "Parliamentary Leaders").

(2) Any Parliamentary Leader to whom a report is made pursuant to subsection (1) may take such action thereon as he thinks appropriate in any particular case and without prejudice to the generality of the foregoing, may -

(a) publish any information furnished to him by the Commission; or

(b) authorize any member or any other person having official duty under this Act or being employed in the administration of this Act to furnish information to the Director of Public Prosecutions, any officer of the court, the police or any other person specified by the Parliamentary Leader.

13. Protection of persons where information published pursuant to section 12.

13. (1) Any person, being a defendant in any civil or criminal proceedings instituted for or on account of or in respect of the publication by such person or by his servant of any matter published by order or under the authority of a Parliamentary Leader pursuant to section 12, may, on giving to the plaintiff or prosecutor, as the case may be, twenty-four hours' written notice of his intention, bring before the court in which such civil or criminal proceedings are being held a certificate under the hand of a Parliamentary Leader stating that the matter in respect whereof the civil or criminal proceedings have been instituted were published by such person or by his servant by order or under the authority of the Parliamentary Leader and such court shall thereupon immediately stay such civil or criminal proceedings and the same and every process issued therein shall be deemed to be finally determined.

(2) In any civil or criminal proceedings instituted for publishing any extract from or abstract of any publication of a Parliamentary Leader pursuant to section 12, if the court or jury, as the case may be, is satisfied that such extract or abstract was published *bona fide* and without malice, judgment or verdict, as the case may be, shall be entered for the defendant or accused.

14. Regulations.

14. The Commission may make regulations -

(a) prescribing the manner in which enquiries may be carried out and any matters incidental to or consequential on such enquiries;

(b) amending the forms specified in the Second Schedule;

(c) prescribing the period within which any information required by the Commission should be furnished;

(d) prescribing any matter or thing, whether similar to the above or not, in respect of which it may be expedient to make regulations for the purpose of carrying this Act into effect.

15. Offences.

15. (1) Any person who -

(a) fails, without reasonable cause, to furnish to the Commission a statutory declaration which he is required to furnish in accordance with the provisions of this Act;

(b) knowingly makes any false statement in any such statutory declaration;

(c) fails, without reasonable cause, to give such information as the Commission may require under section 7;

(d) fails, without reasonable cause, to attend an enquiry being conducted by the Commission under section 7; or knowingly gives any false information in such enquiry,

shall be guilty of an offence, and shall, on summary conviction thereof in a Resident Magistrate's Court, be liable to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment, and where the offence involves the deliberate non-disclosure of a Parliamentarian's property the Court may, in addition to the imposition of a fine or term of imprisonment or both -

(i) if the property involved is situated within the Island, declare that it be forfeited to the Crown;

(ii) if the property involved is situated outside the Island, order that an amount equivalent to the value of such property (the value to be assessed as directed by the Court), be paid by the Parliamentarian concerned to the Crown.

(2) Payment of all sums due to the Crown pursuant to paragraph (ii) of subsection (1) may be enforced in like manner as a debt due to the Crown and any proceedings thereon on behalf of the Crown may be taken summarily in a Resident Magistrate's Court, without limit of amount.

16. Fiat of the Director of Public Prosecutions.

16. A prosecution for an offence under section 6 or section 15 shall not be instituted without the written sanction of the Director of Public Prosecutions.

17. Expenses incurred in preparation of statutory declarations, etc., tax deductible.

17. For the purposes of subsection (1) of section 13 of the Income Tax Act, any disbursements and expenses incurred in a year of assessment by a Parliamentarian in connection with the preparation of a statutory declaration or other document required to

be furnished by him for the purposes of this Act shall be deemed to be incurred by him wholly and exclusively in acquiring his income for that year of assessment.

FIRST SCHEDULE (Section 3)

1. The Commission shall consist of -

(a) the Auditor-General;

(b) four other persons (hereinafter referred to as "appointed members") appointed by the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition' from the following categories of persons -

(i) members of the Privy Council;

(ii) the president or any past president of the Institute of Chartered Accountants of Jamaica;

(iii) retired Judges of Appeal or retired Judges of the Supreme Court;

(iv) persons who have held the post of Commissioner of Income Tax, Financial Secretary or Auditor-General.

2. The appointed members shall be appointed by instrument in writing and shall, subject to the provisions of this Schedule, hold office for such period not being less than two years nor more than five years, as the Governor-General may direct in the instrument of appointment.

3. Every appointed member shall be eligible for reappointment.

4. (1) The Governor-General shall appoint one of the members to be Chairman of the Commission.

(2) The Chairman shall preside at all meetings of the Commission at which he is present, and in the case of the Chairman's absence from any meeting, the members present and forming a quorum shall elect one of their number to preside at that meeting

5. If any member is absent or unable to act the Governor-General may appoint any person to act in the place of that member. so, however that such appointment shall be made in the same manner and from among any of the categories of persons as would be required in the case of a substantive appointment.

6. (1) Any appointed member other than the Chairman may at any time resign his office by instrument in writing addressed to the Governor-General and transmitted through the Chairman and from the date of receipt by the Governor-General of such instrument. that person shall cease to be a member.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Governor-General and such resignation shall take effect as from the date of receipt by the Governor-General of that instrument.

7. (1) The Governor-General after consultation with the Prime Minister and the Leader of the Opposition may at any time revoke the membership of any appointed member.

(2) Without prejudice to the generality of sub-paragraph (1), a recommendation pursuant to that sub-paragraph shall have regard to any representations made by a Parliamentarian showing cause why, a person should not remain a member of the Commission.

8. If any vacancy occurs in the membership of the appointed members, such vacancy shall be filled by the appointment of another appointed member, so, however, that such appointment shall be made in the same manner and from any of the categories of persons as would be required in the case of the original appointment.

9. The names of all members of the Commission as first constituted and every change therein, shall be published in the *Gazette*.

10. The funds of the Commission shall consist of such funds as may from time to time be placed at their disposition for the purposes of this Act by Parliament, and such other moneys as may be lawfully paid to the Commission.

11. The Commission shall keep proper accounts of their receipts, payments, assets and liabilities and such accounts shall be audited annually by an auditor appointed in each year by the Commission with the approval of the Prime Minister.

12. The Commission shall on or before the 31st day of October in each year submit to the Prime Minister for approval their estimates of revenue and expenditure in respect of the period commencing on the 1st day of April next following and ending on the 31st day of March of the subsequent year.

13. (1) The Commission shall appoint and employ at such remuneration and on such terms and conditions as they think fit, a Secretary and such other officers and servants as they think necessary for the proper carrying out of the provisions of this Act:

Provided that no salary in excess of five thousand dollars shall be assigned to any post without the prior approval of the Prime Minister.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any officer in the service of the Government to any office with the Commission and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and in relation to other rights as a public officer, be treated as continuing in the service of the Government.

14. (1) The seal of the Commission shall be kept in the custody of the Chairman and shall be affixed to instruments pursuant to a resolution of the Commission in the presence of the Chairman and any other member.

(2) The seal of the Commission shall be authenticated by the signatures of the Chairman and one other member.

(3) All documents other than those required by law to be under seal made by and all decisions of the Commission may be dignified under the hand of the Chairman or the Secretary.

15. (1) The Commission shall meet at such times as may be expedient for the carrying out of its functions and such meetings shall be held on such days and at such place as the Chairman may determine.

(2) A quorum of the Commission shall be three.

(3) The decision of the Commission shall be by a majority of votes and, in addition to an original vote, the Chairman shall have a casting vote in any case in which the voting is equal

(4) Minutes in proper form of each meeting of the Commission shall be kept.

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

16. No member shall be personally liable for any act or default of the Commission done or omitted to be done in good faith in the course of the operations of the Commission.

17. There shall be paid from the funds of the Commission to the Chairman and members such Enumeration, whether by way of honorarium, salary or fees and such allowances as may be approved by resolution of the House of Representatives and the Senate.

18. The office of Chairman or an appointed member shall not be a public office for the purposes of Chapter V of the Constitution.

19. Where, pursuant to the provisions of this Schedule, the Governor- General is required to act after consultation with the Leader of the opposition and -

(a) there is no person holding the office of Leader of the Opposition; or

(b) the holder of that office is unwilling or, by reason of his illness or absence from Jamaica, unable to perform his functions in that regard,

those provisions shall be construed as if the reference to the Leader of the opposition were a reference to such person as the Governor-General, in his discretion, considers appropriate.

SECOND SCHEDULE (Section 4)

FORM A

STATUTORY DECLARATION OF ASSETS,

LIABILITIES AND INCOME

THE PARLIAMENT (INTEGRITY OF MEMBERS) ACT

Declaration of assets and liabilities as 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 declarant, 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 4 the declaration is to be made.

(c) Where the space in this Form is inadequate a separate sheet of paper maybe 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

Names Date of Birth Addresses

Signature of Declarant

PARTICULARS OR ASSETS HELD BY DECLARANT, SPOUSE AND CHILDREN

BANK ACCOUNTS¹. To be supported by Bank Statement or Letter from Bank confirming balances.

Names and Address of Banks In whose Account	In whose Name	Account Number	Balance in
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2. CASH IN EXCESS of \$1,000 HELD OTHER THAN IN BANK BY DECLARANT, SPOUSE AND CHILDREN

Where held Amount In whose Name held Amount

3. BONDS, STOCKS, SHARES AND SIMILAR INVESTMENTS Including any such property over which a right of disposition resides in the Declarants, Spouse and Children.

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

Signature of Declarant

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

DESCRIPTION	Where situated			In whose name held	Purchase price
	Estimated current market value				
General	Vol	Fol	Acres	Rds	Perches

.....
Signature of Declarant

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

Type of Investment	In whose name held	Amount invested in project	Term	Interest
Rate	Annual Income			

6. PARTICULARS OF MOTOR VEHICLES OWNED BY, 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

Signature of Declarant

8. LIFE INSURANCE POLICIES HELD BY DECLARANT, SPOUSE AND CHILDREN

Insurance Company Type of Policy Date Issued Date of 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
Estimated Market Value

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

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

Type of Income review	Recipient's Name	Source	Gross Amount for period under review
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12. PARTICULARS OF LIABILITIES (INCLUDING GUARANTEES) OF DECLARANT, SPOUSE AND CHILDREN

Certificate from creditor or party to which guarantee given, should be provided

Nature of Liability	Person Liable	To whom Liable	Amount
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Signature of Declarant

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 of Disposal	Acquisition or Disposal	Cost of Acquisition	Price
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I do solemnly and sincerely declare that the particulars given by me herein are, to the best of my knowledge, true, accurate and complete.

Signature of Declarant

Signed at

This _____ day of _____ before _____

Justice of the Peace for the Parish
of _____

THE PARLIAMENT (INTEGRITY OF MEMBERS) ACT

SUMMONS TO WITNESS

To _____
(Name of person summoned, and

_____ his address and calling, if known).

You are hereby summoned to appear before the Integrity Commission at _____ on the _____ day of _____

(Place)

19____, at _____ o'clock and to give evidence respecting

_____ (State matter being enquired into)

And you are required to bring with you _____

_____ (Specify papers, books, records and documents required).

Therefore fail not at your peril.

Given under the hand of

Secretary/Member of the

Commission this _____ day of _____ 19____