

# THE CONTRACTOR-GENERAL'S ACT

## ARRANGEMENT OF SECTIONS

Acts 15 of 1983 | 17 of 1985 | 1 of 1999

1. Short title.

### PART I. *Preliminary*

2. Interpretation.

### PART II. *The Contractor-General*

3. Contractor-General Commission.

4. Functions of the Contractor-General.

5. Independence of Contractor-General.

6. Tenure of office.

7. Removal from office.

8. Disqualifications for appointment, etc.

9. Restriction on employment.

10. Filling of vacancy.

11. Remuneration of Contractor-General.

12. Pensions and gratuities.

13. Appointment of officers, etc.

14. Oath of secrecy.

### PART III. *Investigations by Contractor-General*

15. Scope of investigations.

16. Initiation of investigations.

17. Procedure in respect of investigation.

18. Evidence.

19. Restriction on disclosure of certain matters.

20. Procedure after investigation.

21. Disciplinary action against officers.

22. Proceedings of Contractor-General not to be void for want of form.

23. Privileges

### PART IIIA *National Contracts Commission*

23A. Interpretation.

23B. Establishment of Commission.

23C. Principal objects of Commission.

23D. Functions of Commission.

23E. Commission may make regulations.

23F. Sector Committees.

23G. Registration and classification.

23H. Factors affecting classification.

- 23I. Fair Treatment.
- 23J. Funds and resources of Commission.

PART IV *General*

- 24. Secrecy of information.
- 25. Performance of functions of Contractor-General by members of his staff.
- 26. Funding.
- 27. Accounts, etc.
- 28. Reports.
- 29. Offences.
- 30. Remedy under any other provision of law unaffected.
- 30A. Provisions applicable when there is no Leader of the Opposition.
- 31. Regulations.

First Schedule - (Section 12)

Second Schedule - (Section 14)

Third Schedule - (Section 23B)

**1. Short title.**

- 1. This Act may be cited as the Contractor-General Act.

**2. Interpretation.**

- 2. In This Act -

"Commission" means the National Contracts Commission established under section 23B;

"contractor" means any person, firm or entity with whom a public body enters into any agreement for the carrying out of any building or other works or for the supply of any goods or services and includes a person who carries out such works or supplies such goods or services for or on behalf of any public body pursuant to a licence, permit or other concession or authority issued or granted to that person by a public body;

"functions" includes powers and duties;

"government contract" includes any licence, permit or other concession or authority issued by a public body or agreement entered into by a public body for the carrying out of building or other works or for the supply of any goods or services;

"prescribed licence" means any licence, certificate, quota, permit or warrant issued or granted pursuant to any enactment by a public body or an officer thereof;

"public body" means -

- (a) Ministry, department or agency of government;
- (b) a statutory body or authority;

(c) any company registered under the Companies Act, being a company in which the Government or an agency of Government, whether by the holding of shares or by other financial input, is in a position to influence the policy of the company;

"sector committee" means a committee established under section 23F;

"Security Forces" means -

- (a) the Jamaica Constabulary Force;
- (b) the Jamaica Defence Force;
- (c) the Island Special Constabulary Force; and
- (d) the Rural Police.

### **3. Contractor-General Commission.**

3. (1) For the purposes of this Act there is hereby constituted a Commission of Parliament to be known as the Contractor-General.

(2) The Commission shall consist of such person or persons as shall be appointed by the Governor-General by instrument under the Broad Seal, after consultation with the Prime Minister and the Leader of the Opposition, and any person so appointed shall be known as a Contractor-General.

### **4. Functions of the Contractor-General.**

4. (1) Subject to the provisions of this Act, it shall be the function of a Contractor-General, on behalf of Parliament -

(a) to monitor the award and the implementation of government contracts with a view to ensuring that -

- (i) such contracts are awarded impartially and on merit;
- (ii) the circumstances in which each contract is awarded or, as the case may be, terminated, do not involve impropriety or irregularity;
- (iii) without prejudice to the functions of any public body in relation to any contract, the implementation of each such contract conforms to the terms thereof; and

(b) to monitor the grant, issue, suspension or revocation of any prescribed licence, with a view to ensuring that the circumstances of such grant, issue, suspension or revocation do not involve impropriety or irregularity and, where appropriate, to examine whether such licence is used in accordance with the terms and conditions thereof.

(2) For the purpose of the discharge of his functions under this Act a Contractor-General shall be entitled -

- (a) to be advised of the award and, where applicable, the variation of any government contract by the public body responsible for such contract;
- (b) subject to section 19, to have access to all books, records, documents, stores or other property belonging to government, whether in the possession of any officer of a public body or a contractor or any other person;
- (c) to have access to any premises or location where work on a government contract has been, is being or is to be carried out;
- (d) to have access to all books, records, documents or other property used in connection with the grant, issue, suspension or revocation of any prescribed licence whether in the possession of any public officer or any other person;
- (e) to have access to any premises or location where he has reason to believe that any such books, records, documents or other property as are referred to in paragraph (d) or any property which is the subject of a prescribed licence, may be found;
- (f) to enter any premises occupied by any person in order to make such enquiries or to inspect such document, record or property as he considers necessary to any matter being investigated by him; and
- (g) without prejudice to the provisions of sections 18 and 19, to retain any such document, record or other property referred to in paragraph (f).
- (3) For the purposes of subsection (2) the Contractor-General shall have power to require any public body to furnish in such manner and at such times as may be specified by the Contractor-General, information with regard to the award of any contract and such other information in relation thereto as the Contractor-General considers desirable.
- (4) For the purposes of paragraphs (d) and (e) of subsection (2) the Contractor-General shall have power to require any public officer or any other person to furnish in such manner and at such times as may be specified by the Contractor-General, information with regard to the grant, issue, suspension or revocation of any prescribed licence and such other information in relation thereto as the Contractor-General considers desirable.

## **5. Independence of Contractor-General.**

5. (1) In the exercise of the powers conferred upon him by this Act, a Contractor-General shall not be subject to the direction or control of any other person or authority.

(2) Nothing in subsection (1) shall be construed as preventing the assignment to a Minister of responsibility for such aspects of the administration of this Act as are necessary or desirable to facilitate liaison between Parliament and a Contractor-General.

## **6. Tenure of office.**

6. (1) Subject to the provisions of this Act, any person appointed Contractor-General shall hold office for a period of seven years and may be re-appointed for periods not exceeding five years at a time.

(2) A person appointed Contractor-General may at his own request be relieved of office by the Governor-General and shall in any case, subject to the provisions of subsections (3) and (4), vacate office on attaining the age of seventy years.

(3) The Governor-General may, after consultation with the Prime Minister and the Leader of the Opposition, permit a Contractor-General to continue in office until he has attained such later age, not exceeding seventy-five years, as may (before the Contractor-General has attained the age of seventy years) have been agreed between the Governor-General and the Contractor-General.

(4) Notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office, a Contractor-General may continue in office for such period after attaining that age as the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition, may specify, in order to enable the Contractor-General to give his decision or do any other thing in relation to any investigation he was conducting before he attained that age.

(5) Nothing done by a Contractor-General shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

#### **7. Removal from office.**

7. (1) A Contractor-General may be removed from office only for -

(a) inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause); or

(b) misbehaviour; or

(c) trading with the Government of Jamaica without the prior approval, by resolution, of each House of Parliament,

and shall not be so removed except in accordance with the provisions of this section.

(2) For the purposes of this section a Contractor-General trades with the Government of Jamaica if, while holding office as such, he becomes party to, or is a partner in a firm or a director or manager of a company which to his knowledge becomes a party to any contract with the Government of Jamaica for or on behalf of the public service.

(3) If the question of the removal from office of a Contractor-General has been referred to a tribunal appointed under subsection (4) and the tribunal has recommended to the Governor-General that the Contractor-General ought to be removed from office, the Governor-General shall, by instrument under the Broad Seal, remove the Contractor-General from office.

(4) If each House of Parliament by resolution decides that the question of removing a Contractor-General from office ought to be investigated then -

(a) the Governor-General shall appoint a tribunal, which shall consist of a chairman and not less than two or more than five other members from among persons who hold or have held the office of a Judge of a court having unlimited jurisdiction in civil and criminal matters or a court having jurisdiction in appeals from any such court; and

(b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether the Contractor-General ought to be removed from

office for inability as aforesaid or for misbehavior or for trading as aforesaid.

(5) The provisions of sections 8 to 16 (inclusive) of the Commissions of Enquiry Act shall apply *mutatis mutandis* in like manner in relation to tribunals appointed under subsection (4) or, as the context may require, to the members thereof, as they apply in relation to the Commissions or Commissioners appointed under that Act.

(6) Where the question of removing a Contractor-General from office has been referred to a tribunal the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition, may suspend the Contractor-General from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General after consultation as aforesaid and shall in any case cease to have effect if the tribunal advises the Governor-General that the Contractor-General ought not to be removed from office.

### **8. Disqualifications for appointment, etc.**

8. (1) No person shall be qualified to be appointed as Contractor-General who -

(a) is a member of the Senate or of the House of Representatives;

(b) is an undischarged bankrupt;

(c) has been convicted of any offence involving dishonesty or moral turpitude; or

(d) is a party to, or partner in a firm, or a director or manager of a company which to his knowledge is a party to any contract with the Government of Jamaica for or on behalf of the public service unless, prior to his appointment, he has disclosed to the Governor-General the nature of such contract and his interest or the interest of such firm or company therein.

(2) A Contractor-General shall vacate his office if any circumstances arise that, if he were not Contractor-General, would, by virtue of subsection (1), cause him to be disqualified for appointment as such.

### **9. Restriction on employment.**

9. A person appointed Contractor-General shall devote his full time to the appointment and shall not accept paid employment in any other capacity during any period in which he holds office as Contractor-General.

#### **10. Filling of vacancy.**

10. (1) Where a vacancy arises in the office of Contractor-General the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition, may designate someone to act in that office during such vacancy, until an appointment is made.

(2) Where, by reason of illness, absence from the Island or other sufficient cause a person appointed Contractor-General is unable to perform the functions of his office, he may appoint a member of his staff to perform those functions for a period not exceeding two months and shall forth with inform the Governor-General of the appointment, but if a Contractor-General is unable or fails to appoint such a person or if it is necessary that such a person be appointed for a period exceeding two months, the Governor-General after consultation with the Prime Minister and the Leader of the Opposition, may appoint such person as he thinks fit, being a person qualified under this Act, to perform those functions.

#### **11. Remuneration of Contractor-General.**

11. (1) Subject to subsection (2), a Contractor-General shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law or by a resolution of the House of Representatives, such emoluments being not less than the emoluments which may, from time to time, be payable to a Puisne Judge.

(2) The emoluments and terms and conditions of service of a Contractor-General, other than allowances that are not taken into account in computing pensions, shall not be altered to his disadvantage during the period of his appointment or reappointment, as the case may be.

(3) The emoluments for the time being payable to a Contractor-General by virtue of this Act shall be charged on and paid out of the Consolidated Fund.

#### **12. Pensions and gratuities.**

12. The provisions of the First Schedule shall have effect with respect to the pension and other benefits to be paid to or in respect of a person who has held the office of Contractor-General.

#### **13. Appointment of officers, etc.**

13. (1) A Contractor-General may appoint and employ for the purposes of this Act, at such remuneration and on officers, such terms and conditions as may be approved by the Commission constituted under subsection (2), such officers and agents as he considers necessary to assist him in the proper performance of his functions under this Act.

(2) The Commission referred to in subsection (1) shall consist of -

(a) the Speaker, as chairman;

(b) the President of the Senate;

(c) the person designated by the Prime Minister as Leader of Government business in the House of Representatives;

(d) the person designated by the Leader of the Opposition as Leader of Opposition business in the House of Representatives; and

(e) the Minister responsible for the public service.

(3) The Governor-General may, subject to such conditions as he may impose, approve of the appointment to the staff of a Contractor-General, of any officer in the service of the Government, provided that in relation to pension, gratuity, allowances and other rights as a public officer, such officer shall be deemed to be in the service of the Government while so employed.

(4) If more than one person is appointed Contractor-General, without prejudice to the independence of any other Contractor-General, the Governor-General may designate one of them to have supervision of the staff and administration of affairs.

#### **14. Oath of secrecy.**

14. Every person appointed to the staff of a Contractor-General shall, before he performs any function assigned to him under or by virtue of this Act, take and subscribe an oath to be administered by the Contractor-General, in the form set out in the Second Schedule.

#### **15. Scope of investigations.**

15. (1) Subject to subsection (2), a Contractor-General may, if he considers it necessary or desirable, conduct an investigation into any or all of the following matters -

(a) the registration of contractors;

(b) tender procedures relating to contracts awarded by public bodies;

(c) the award of any government contract;

(d) the implementation of the terms of any government contract;

(e) the circumstances of the grant, issue, use, suspension or revocation of any prescribed licence;

(f) the practice and procedures relating to the grant, issue, suspension or revocation of prescribed licences.

(2) A Contractor-General shall not, without the prior approval of the Secretary to the Cabinet acting at the direction of the Cabinet, investigate -

(a) any government contract or any matters concerning any such contract entered into for purposes of defence or for the supply of equipment to the Security Forces; or



(b) the grant or issue of any prescribed licence for the purposes of defence or for the supply of equipment to the Security Forces,

and any report or comment thereon by the Contractor-General shall be made only to the Cabinet.

**16. Initiation of investigations.**

16. An investigation pursuant to section 15 may be undertaken by a Contractor-General on his own initiative or as a result of representations made to him, if in his opinion such investigation is warranted.

**17. Procedure in respect of investigation.**

17. (1) A Contractor-General may adopt whatever procedure he considers appropriate to the circumstances of a particular case and, subject to the provisions of this Act, may obtain information from such person and in such manner and make such enquiries as he thinks fit.

(2) Nothing in this Act shall be construed as requiring a Contractor-General to hold any hearing and, no person shall be entitled as of right to comment on any allegations or to be heard by a Contractor-General.

(3) Regulations made under this Act may prescribe the practice and procedure to be adopted at any hearing.

(4) Where, for the purposes of an investigation, a Contractor-General requires a person to attend before him, that person shall be entitled to be paid, according to the scale set out in the First Schedule to the Witnesses' Expenses Act, expenses incurred by him by reason of such attendance and by way of compensation for the trouble and loss of time suffered by him.

**18. Evidence.**

18. (1) Subject to the provisions of subsection (5) and section 19 (1), a Contractor-General may at any time require any officer or member of a public body or any other person who, in his opinion, is able to give any assistance in relation to the investigation of any matter pursuant to this Act, to furnish such information and produce any document or thing in connection with such matter as may be in the possession or under the control of that officer, member or other person.

(2) Subject as aforesaid, a Contractor-General may summon before him and examine on oath -

(a) any person who has made representations to him; or

(b) any officer, member or employee of a public body or any other person who, in the opinion of the, Contractor-General is able to furnish information relating to the investigation,

and such examination shall be deemed to be a judicial proceeding within the meaning of section 4 of the Perjury Act.

(3) For the purposes of an investigation under this Act, a Contractor-General shall have the same powers as a Judge of the Supreme Court in respect of the attendance and examination of witnesses and the production of documents.

(4) Any obligation to maintain secrecy or any restriction on the disclosure of information or the production of any document or paper or thing imposed on any person and by or under the Official Secrets Act, 1911 to 1939 of the United Kingdom (or any Act of the Parliament of Jamaica replacing the same in its application to Jamaica) or, subject to the provisions of this Act, by any other law (including a rule of law) shall not apply in relation to the disclosure of information or the production of any document or thing by that person to a Contractor-General for the purpose of an investigation; and accordingly, no person shall be liable to prosecution by reason only of his compliance with a requirement of the Contractor-General under this section.

(5) No person shall, for the purpose of an investigation, be compelled to give any evidence or produce any document or thing which he could not be compelled to give or produce in proceedings in any court of law.

**19. Restriction on disclosure of certain matters.**

19. (1) Where the Secretary to the Cabinet at the direction of Cabinet -

(a) gives notice that the disclosure by a Contractor-General of any document or information specified in the notice, or any class of document or information so specified, would -

(i) involve the disclosure of the deliberations or proceedings of the Cabinet, or any committee thereof, relating to matters of a secret or confidential nature and is likely to be injurious to the public interest; or

(ii) prejudice the relations of Jamaica with the government of any other country or with any international organization; or

(iii) prejudice the detection of offences, a Contractor-General or any member of his staff shall not communicate to any person for any purpose any document or information specified in the notice or any document or information of a class so specified;

(b) certifies that the giving of any information or the answering of any question or production of any document or thing would prejudice the security or defence of Jamaica, a Contractor-General shall not further require such information or answer to be given or such document or thing to be produced.

(2) Except as provided in subsection (1), no law which authorizes or requires the refusal to answer any question or the withholding of any information or document or thing on the ground that the answering of the question or the disclosure of the information, document or thing would be injurious to the public interest, shall apply in respect of any investigation by or proceedings before a Contractor-General.

## **20. Procedure after investigation.**

20. (1) After conducting an investigation under this Act, a Contractor-General shall, in writing, inform the principal officer of the public body concerned and the Minister having responsibility therefor of the result of that investigation and make such recommendations as he considers necessary in respect of the matter which was investigated.

(2) If any report of a Contractor-General reflects adversely upon any person the Contractor-General shall, so far as practicable, inform that person of the substance of the report.

## **21. Disciplinary action against officers.**

21. If a Contractor-General finds, during the course of his investigations or on the conclusion thereof that there is evidence of a breach of duty or misconduct or criminal offence on the part of an officer or member of a public body, he shall refer the matter to the person or persons competent to take such disciplinary or other proceeding as may be appropriate against that officer or member and in all such cases shall lay a special report before Parliament.

## **22. Proceedings of Contractor-General not to be void for want of form.**

22. The proceedings of a Contractor-General shall not be rendered void for want of form.

## **23. Privileges.**

23. (1) Except in the case of proceedings for an offence under section 29 (c), no proceedings whatsoever shall lie against a Contractor-General or any person concerned with the administration of this Act, for anything he may do or report or say in the performance of his functions under this Act.

(2) Anything said or information supplied or any document or thing produced by any person for the purpose or in the course of any investigation by or proceedings before a Contractor-General under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(3) For the purposes of the Defamation Act, any report made by a Contractor-General under this Act and any fair and accurate comment thereon shall be deemed to be privileged.

## **23A. Interpretation.**

23A. In this Part "prospective contractor" means any person, firm or entity proposing to obtain the award of a government contract.

## **23B. Establishment of Commission.**

23B. (1) There is hereby established for the purposes of this Act a body to be called the National Contracts Commission.

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

**23C. Principal objects of Commission.**

23C. The principal objects of the Commission are the promotion of efficiency in the process of award and implementation of government contracts and ensuring transparency and equity in the awarding of such contracts.

**23D. Functions of Commission.**

23D. (1) The functions of the Commission shall be to carry out such activities as may be necessary to give effect to the principal objects specified in section 23C and to perform such other functions as may be conferred on the Commission under this or any other enactment, and without limiting the generality of the foregoing, such functions shall include –

- (a) examining applications for the award of government contracts;
- (b) approving or overseeing the award of government contracts within the specified limits;
- (c) in the case of government contracts above the specified limits, making recommendations to the Cabinet regarding the award of such contracts;
- (d) registering prospective contractors for the purposes of this Part and classifying such contractors according to the level and scope of government contracts to which such registration applies;
- (e) establishing and keeping up-to-date lists of contractors so registered, distinguished according to the category of work for which they have been registered;
- (f) continuously assessing the financial and human resources, technical, financial and managerial capacity and performance of contractors;
- (g) making recommendations to the Cabinet for improving the efficiency of the procedures for the granting and implementation of government contracts;
- (h) overseeing the activities of sector committees.

(2) The Commission may do anything or enter into any transaction which it considers necessary or desirable for the proper performance of its functions.

(3) For the purposes of subsection (1), a government contract is within the specified limit if the contract sum does not exceed such amount as may be approved by the Cabinet from time to time and published in the *Gazette*.

**23E. Commission may make regulations.**

23E. (1) The Commission may make regulations prescribing –

- (a) the qualifications required of prospective contractors for registration and classification under this Part;
- (b) the procedure for the submission of tenders for government contracts;

- (c) the requirement for contractors to enter into performance bonds;
  - (d) competitive bidding in relation to government contracts.
  - (e) the circumstances in which registration may be cancelled and the procedure for such cancellation.
- (2) Regulations under subsection (1) shall be subject to negative resolution.

**23F. Sector Committees.**

23F. (1) The Commission may establish such number of sector committees as it considers necessary for the purpose of assisting the Commission in the carrying out of its functions under this Part.

- (2) The primary function of each sector committee shall be to approve the award of government contracts within the limits specified pursuant to section 23D(2).
- (3) Subject to the provisions of this Act, each sector committee shall be subject to the general direction and control of the Commission.
- (4) No action, suit or prosecution or other proceedings shall be brought or instituted personally against any member of a sector committee for any act done or omitted to be done in good faith in pursuance or execution or intended execution of this Act.
- (5) Where any member of a sector committee is exempt from liability by reason only of the provisions of subsection (4), the Commission shall be liable to the extent that it would have been if that member were an employee or agent of the Commission.

**23G. Registration and classification.**

23G. (1) Any person, firm or entity desirous of being registered and classified for the purposes of this Part may apply to the Commission in the prescribed manner for such registration and classification.

- (2) If the Commission is satisfied that an applicant meets the prescribed requirements, it may issue to that applicant a certificate of registration and classification in the prescribed form.
- (3) Where the Commission refuses an application for registration and classification it shall notify the applicant in writing of the reasons for such refusal.
- (4) The Commission may cancel the registration of any person, firm or entity in accordance with regulations made under section 23E (e).

**23H. Factors affecting classification.**

23H. For the purposes of classifying prospective contractors, the Commission shall take into account the following factors –

- (a) financial soundness;

- (b) technical and managerial competence and experience;
- (c) general level of expertise;
- (d) specialization in the supply of the relevant goods or services or in the carrying out of the relevant works;
- (e) equipment and other resources.

### **23I. Fair Treatment**

23I. The Commission shall ensure as far as possible that –

- (a) the tendering process for government contracts is conducted in an open manner;
- (b) reasonable notification is given of the proposed award of any government contract.

### **23J. Funds and resources of Commission.**

23J. (1) The funds and resources of the Commission shall be provided from funds vested in the office of the Contractor-General under this Act.

(2) Subject to the approval of the Cabinet, fees may be charged for services rendered by the Commission under this Act.

### **24. Secrecy of information.**

24. (1) A Contractor-General and every person concerned with the administration of this Act shall regard as secret and confidential all documents, information and things disclosed to them in the execution of any of the provisions of this Act, except that no disclosure –

- (a) made by a Contractor-General or any person aforesaid in proceedings for an offence under section 29 of this Act or under the Perjury Act, by virtue of section 18 (2) of this Act; or
  - (b) which a Contractor-General thinks necessary to make in the discharge of his functions or for the purpose of executing any of the provisions of sections 20, 21 and 28, shall be deemed inconsistent with any duty imposed by this subsection.
- (2) Neither a Contractor-General nor any such person aforesaid shall be called upon to give evidence in respect of, or produce, any document, information or thing, aforesaid in any proceedings other than proceedings mentioned in subsection (1).
- (3) Nothing in this section shall prevent disclosure by any person of information furnished to him pursuant to section 20.

### **25. Performance of functions of Contractor-General by members of his staff.**

25. (1) Without prejudice to the provisions of section 10 (2), the functions of a Contractor-General, except those under sections 20, 21, 27 (2) and 28, may be performed by any member of his staff authorized for that purpose by the Contractor-General.

(2) Nothing in subsection (1) shall be construed as affecting the responsibility of a Contractor-General for functions performed on his behalf pursuant to subsection (1).

## **26. Funding.**

26. The funds of the office of Contractor-General shall consist of -

(a) such sums as may from time to time be appropriated by Parliament for the purposes of the office of Contractor-General; and

(b) all other moneys which may in any manner become payable to or vested in a Contractor-General in respect of any matter incidental to his functions.

## **27. Accounts, etc.**

27. (1) The accounts and financial transactions of the office of Contractor-General shall be audited annually by the Auditor-General and a statement of accounts so audited shall form part of the annual report referred to in section 28.

(2) A Contractor-General shall, before a date specified by the Minister -

(a) submit to the Minister a statement of accounts in a form satisfactory to the Minister and audited in accordance with the provisions of subsection (1);

(b) submit to the Minister for approval estimates of revenue and expenditure for the ensuing financial year.

(3) In this section "Minister" means the Minister responsible for finance.

## **28. Reports.**

28. (1) A Contractor-General may at any time be required by Parliament to submit a report to Parliament in respect of any matter being investigated by him.

(2) A Contractor-General shall submit to Parliament an annual report relating generally to the execution of his functions and may at any time submit a report relating to any particular matter or matters investigated, or being investigated, by him which, in his opinion, require the special attention of Parliament.

(3) Reports under this section shall be submitted to the Speaker of the House of Representatives and the President of the Senate who shall, as soon as possible, have them laid on the Table of the appropriate House.

(4) A Contractor-General may, in the public interest, from time to time publish in such manner as he thinks fit, reports relating to such matters as are mentioned in subsection (2) and any case which is the subject of a special report under section 21, but no such report shall be published until after it has been laid pursuant to subsection (3).

## **29. Offences.**

29. Every person who -

(a) wilfully makes any false statement to mislead or misleads or attempts to mislead a Contractor-General or any other person in the execution of his functions under this Act; or

(b) without lawful justification or excuse -

(i) obstructs, hinders or resists a Contractor-General or any other person in the execution of his functions under this Act; or

(ii) fails to comply with any lawful requirement of a Contractor-General or any other person under this Act; or

(c) deals with documents, information or things mentioned in section 24 (1) in a manner inconsistent with his duty under that subsection,

shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

### **30. Remedy under any other provision of law unaffected.**

30. (1) A Contractor-General may initiate or continue any investigation and report thereon pursuant to this Act notwithstanding any legal proceedings relating to the subject matter of the investigation.

(2) Nothing in subsection (1) shall be construed as preventing a court from ordering the Contractor-General not to publish a report or part thereof if the court is of opinion that such publication is likely to prejudice any proceedings pending before the court.

### **30A. Provisions applicable when there is no Leader of the Opposition.**

30A. Where pursuant to any provision of this Act, the Governor-General is directed 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,

the Governor-General shall act as if the reference in such provision to the Leader of the Opposition were a reference to such person as the Governor-General, in his discretion, considers appropriate.

### **31. Regulations.**

31. The Minister may make regulations to provide for any matter in respect of which it may be necessary or desirable to make regulations for the better carrying into effect of the provisions of this Act, and, without prejudice to the generality of the foregoing, such regulations may provide for -

(a) any matter required by this Act to be prescribed; and



(b) the circumstances in which and the manner in which information relating to government contracts shall be furnished to the Contractor-General.

### **THIRD SCHEDULE (Section 23B)**

#### *National Contracts Commission*

##### *Constitution of Commission.*

1. The Commission shall consist of the following members, appointment by the Governor-General by instrument in writing –

(a) six *ex-officio* members, of whom –

(i) one shall be selected from a panel of three persons nominated by the Contractor-General who shall be the Chairman;

(ii) five other *ex-officio* members designated by the Cabinet, who shall be employees of public bodies, provided that not less than three shall be Public Officers;

(b) one member selected from a panel of five persons nominated by the Joint Consultative Committee of the Building Industry, or by any body performing similar functions which may replace it by whatever name called; and

(c) one member selected from a panel of five persons nominated by the Professional Societies Association of Jamaica, or by any body performing similar functions which may replace it by whatever name called.

##### *Tenure of office*

2. Each member of the Commission shall, subject to the provisions of this Schedule, hold office for a period of seven years and shall be eligible for re-appointment.

##### *Temporary appointments*

3. The Governor-General may appoint any person to act temporarily in the place of any member of the Commission, in the case of the absence or inability to act of such member.

##### *Vacancy.*

4. (1) The office of a member of the Commission shall become vacant –

(a) if he resigns his office;

(b) if his appointment is terminated in accordance with this Schedule.

(2) If any vacancy occurs in the membership of the Commission, such vacancy shall be filled by the appointment of another member, who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed, so, however, that such appointment shall be made in the same manner and from the same category of persons as the appointment of the previous member.

*Gazetting of appointments.*

5. The names of all the members of the Commission as first constituted and every change of membership thereof shall be published in the *Gazette*.

*Resignation from office.*

6. A member of the Commission 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 the receipt by the Governor-General of such instrument the member shall cease to hold office.

*Termination of appointment.*

7. The appointment of a person as a member of the Commission may be terminated if that person –

- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
- (b) becomes bankrupt or compounds with, or suspends payment to, his creditors;
- (c) is convicted of any offence involving dishonesty;
- (d) is convicted and sentenced to a term of imprisonment or to death.

*Procedure and meetings.*

8. (1) The Commission shall meet at least once every three months and subject thereto, as often as may be necessary or expedient for the performance of its functions under this Act, and such meetings may be held at such places and times and on such days as the Commission may determine.

(2) The Chairman shall preside at all meetings of the Commission and if the Chairman is absent from a meeting the members present shall elect another member to preside at that meeting.

(3) Five members shall constitute a quorum of the Commission.

(4) The decisions of the Commission shall be by a majority of votes and in addition to an original vote, the Chairman or other member presiding at the meeting shall have a casting vote in any case in which the voting is equal.

(5) Subject to any provisions of this Act to the contrary, the Commission may regulate its own proceedings.

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

(7) Minutes in proper form of each meeting of the Commission shall be kept and shall be confirmed as soon as practicable at a subsequent meeting.

*Remuneration of members.*

9. There shall be paid to the members of the Commission such remuneration whether by way of salary, honorarium, travelling or other allowances as the Cabinet may determine.

*Seal and authentication of documents.*

10. (1) The seal of the Commission shall be kept in the custody of the Chairman or of any officer authorized by the Commission in that behalf, and shall be authenticated by the signatures of the Chairman and another member authorized to act in that behalf.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Commission may be signified under the hand of the Chairman or any other member authorized in that behalf.

*Protection of members.*

11. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member for any act done or omitted to be done in good faith in pursuance or execution or intended execution of this Act.

(2) Where any member of the Commission is exempt from liability by reason only of the provisions of this paragraph, the Commission shall be liable to the extent that it would have been if that member were an employee or agent of the Commission.