

BAHAMAS

The Bahamas signed on to the Convention on 2nd June 1998 and ratified it on 9th March 2000. To date The Bahamas has substantially implemented the Convention and has enacted laws to prevent, detect and eradicate corruption.

The measures taken by The Bahamas to implement the provisions of the Convention are as follows -.

Prevention of Bribery Act. This Act applies to all public officers, as well as any employee or member of a public body.

General Orders are rules of conduct and policies that govern the Public Service and include rules that prevent corruption and conflicts of interest.

The Code of Ethics for Ministers and Parliamentary Secretaries provides standards for Cabinet Ministers and Parliamentary Secretaries. This Code is monitored by the Prime Minister but a bill is being drafted to give statutory effect to the provision of the Code.

The Official Secrets Act applies to all persons in the public service and makes it an offence for public officers to communicate, retain or fail to take reasonable care of information received during their service. This extends to public officers even after they have left the public service.

The Powers and Privileges (Senate and House of Assembly) Act, prohibits a Senator or a Member of Parliament from accepting agreeing to accept or attempting any bribe compensation or benefit for speaking, voting or acting as such Senator or Member of Parliament in proceedings of the Senate or House of Assembly or a committee or refraining from so doing.

The Constitution of The Bahamas disqualifies a person from being appointed a Senator or elected to the House of Assembly who-

- i. has been adjudged or otherwise declared bankrupt under any law in force in The Bahamas and has not been discharged; or
- ii. is interested in any government contract and has not disclosed to the Governor-General the nature of such contract and of his interest therein.

There is an **Auditor General** who is responsible for examining, enquiring into and auditing the accounts of all accounting officers and persons responsible for the collection, receipt, custody or disposal of public monies and reporting any irregularities. .

The Commission of Inquiry Act provides that The Governor-General can appoint a Commission to inquire into and report on any matter stated as the subject of inquiry if he thinks it will be for the public benefit. In that regard it is possible for a Commission to inquire into allegations of corruption involving public officials.

The Penal Code provides for the offences of corruption of public officers.

The Manual of Procedure in the Business of the House of Assembly which provides that a Committee of Public Accounts be established for the examination of the accounts showing appropriation of the sums granted by the legislature to meet the public expenditure of The Bahamas. It is mandatory that the committee report at least once every session. This Committee is dominated by members of the opposition party.

The Financial Administration and Audit Act deals with the failure of public officers to collect any moneys owing to the Government or the improper payment of public moneys or for any payment of such moneys which is not duly vouched. In these cases the Financial Secretary may surcharge against the said person the loss or such lesser amount as the Financial Secretary may determine.

The Public Disclosure Act imposes an obligation on Senators and Members of Parliament to declare their assets income and liabilities on an annual basis. The declaration includes the assets income and liabilities of the Member of Parliament or Senator, their spouse and dependent children.

Where any person fails to furnish the Commission with a declaration or the commission is not satisfied with any aspect of a declaration after examination and enquiries, it shall report the matter to the Prime Minister and the Leader of the Opposition.

The Act further imposes a duty on senior public officers. to declare their assets income and liabilities.

The Commission publishes a summary of the declaration of members of Parliament and Senators in the Official Gazette.

The Parliamentary Elections Act, provides that a person shall not be validly nominated unless a declaration by him to best of his knowledge, estimation or endeavors as the circumstances permit of the assets, income and liabilities in the prescribed form as pertaining to himself, his spouse and his children.

The Act further provides that the Returning Officer shall publish a copy of the declaration.

OVERSIGHT BODIES

Public Service Commission oversees the appointment, dismissal and disciplinary proceedings against public officers

The Police Service Commission oversees appointment, dismissal and disciplinary proceedings against police officers.

The Judicial and Legal Service Commission oversees the appointment dismissal and disciplinary proceedings against public legal officers.

The Public Disclosure Commission examines the declarations of assets income and liabilities submitted by Members of Parliament and Senators and senior public officers.

PARTICIPATION BY CIVIL SOCIETY (ARTICLE III, NUMBER II)

There is no formal mechanism to consult civil society. However it is a common practice for public bodies to hold town meetings and also to invite comments from civil society on certain issues.

Any member of the public may make a written complaint to the Public Disclosure Commission in relation to the summary of declaration of Senators and Members of Parliament published by the Public Disclosure Commission.

The public may also submit reports to the Police Complaints Unit concerning corruption by Police Officers.

Recently a **Constitutional Commission** has been established to review the provisions of the Constitution. In this regard town meeting have been held throughout The Bahamas. Some of the issues being considered by the Commission are the election of members of parliament, appointment of Senators and the Code of Conduct for elected officials.

ASSISTANCE AND COOPERATION

The Mutual Legal Assistance (Criminal Matters) Act provides for legal assistance in criminal matters from other countries who have a treaty with The Bahamas. The assistance would include acts of corruption as long as they were not of a political nature.

For countries where there is no treaty with The Bahamas requests for assistance are executed under the **Criminal Justice (International Cooperation) Act**

Corruption is an extraditable offence under **The Extradition Act**

Since the last report was made by The Bahamas there has been some significant developments.

Recently a **Constitutional Commission** has been established to review the provisions of the Constitution. In this regard town meeting have been held throughout The Bahamas to hear the views of civil society. Some of the issues being considered by the Commission are the election of Members of Parliament, qualification of Members of Parliament, appointment of Senators and the Code of Conduct for elected officials.

In the meantime a bill is being drafted to give statutory effect to the provisions of **the Code of Ethics for Cabinet Ministers and Parliamentary Secretaries**. This Code provides standards for the conduct of affairs of Cabinet Ministers to avoid conflict of interest, abuse of power, enrichment of Ministers and corruption by the solicitation or acceptance of personal gifts or loans from organizations or individuals who are seeking to obtain or retain the patronage or favour of the Government..

The Code provides, inter alia

- i. Prohibits private work by Ministers;
- ii. A Minister must not hold any other public office or serve as director and or officer of public or private companies or associations except personal or family holding companies that are not involved in any business or trade, and religious or non profit organizations. The Prime Minister should be advised of these exceptions and his approval obtained.
- iii. A Minister who previously engaged in a profession or business is not necessarily required to dispose of his interest in the relevant entity, but he shall remove his name from all business letterheads or amend it to reflect his inactive status and cease to participate in the profits except for an amount due to him in return for his previous investment. Ministers must avoid recommending their former firms or businesses to persons seeking the governments favour or continued favour;
- iv. Ministers who hold shares in companies that have contractual relationships with the Government must divest themselves of such interest upon assuming office, where disposal is impractical it should be brought to the attention of the Prime Minister who, if satisfied that disposal is impractical will generally advise the Minister to divest himself of his interest by transferring the same to a "Blind Trust". Such a trust should be administered by a trustee not related to the Minister.

- v. A Minister should not use “insider information” to make speculative investments in the securities market or to obtain some advantage for himself in advance of an imminent change in Government policy or revenue measures.
- vi. Whenever Cabinet is due to discuss any matter that could affect the private interest of a Minister that Minister should declare his interest and withdraw from the meeting for the duration of their discussion.
- vii. Ministers should not accept gifts that might be perceived to create an obligation to the donor.
- viii. Ministers must avoid using their ministerial status or influence for the enrichment of themselves or their families.

In February 2004 a **Commission of Inquiry** was established to investigate allegation of corruption involving officers from the Royal Bahamas Police Force and the Royal Bahamas Defence Force in the disappearance of dangerous drugs. This Commission has heard evidence over a period of three months and are now in the process of preparing its report which should be submitted before the end of August.

The Bahamas has received and executed one request for mutual legal assistance in a criminal matter dealing with corruption of high level public officials from a member country of the OAS. This request has been completed and charges have been laid in the requesting country.