

11/7/2023  
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Received by me  
after presentation of 4 pm.

But received by my office at about 2:30 pm



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Reference Number:

ATTORNEY-GENERAL'S CHAMBERS  
13 Hillcrest Avenue  
Kingston 6  
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July 10, 2023

The Honourable Marisa Dalrymple Philibert, MP  
Speaker of the House of Representatives  
Houses of Parliament  
Gordon House  
81 Duke Street  
Kingston

Dear Madam,

**Re: Reports Submitted Under Section 36 of the Integrity Commission Act, and Standing Orders No. 73D**

I refer to your letter dated July 4, 2023, which was addressed to the Attorney-General regarding the captioned matter. The Attorney-General instructed me to respond to your request.

**The Instructions**

These Chambers have received the following instructions from your letter, namely that the practice of the Houses of Parliament has been to table a report received from the Integrity Commission under section 36 of the Integrity Commission Act and circulate it to all parliamentarians, the media and by extension, the public. This occurs before the Integrity Commission Oversight Committee has considered the report and provided its findings to the Houses of Parliament.

**The Issue**

You have asked for legal advice regarding "how the Houses of Parliament should treat reports submitted to it by the Integrity Commission under section 36 of the Integrity Commission Act (the Act)." More specifically, these Chambers have been asked to determine whether the practice of the Houses of Parliament breaches section 36 of the Act and Standing Order 73D.

**Summary of Conclusion**

It is my opinion that the current practice of Parliament does not breach section 36 of the Act and Standing Order 73D(e).

## The Law

Section 36 of the Act provides as follows:

*"(1) The Commission may, at any time, be required by either House of Parliament to investigate a matter relating to an act of corruption and table a report thereon.*

*(2) The Commission shall, not later than three months after the end of each financial year, or within such longer period as the Parliament may approve, submit to Parliament an annual report relating generally to the execution of the functions of the Commission during the preceding financial year, which shall contain the information set out in the Second Schedule.*

*(3) The Commission may, at any time, submit a report relating to any particular matter which, in the opinion of the Commission, requires the special attention of the Parliament.*

*(4) A report submitted to Parliament shall exclude matters that may, if included, prejudice proceedings in relation to any matter referred therein and shall not contain any communication which is subject to legal professional privilege."*

Standing Order 73D provides as follows:

*"The Integrity Commission Oversight Committee shall have the duty of –*

- (a) monitoring and reviewing the performance of the functions of the Integrity Commission;*
- (b) reporting to both Houses of Parliament on any matter relating to the performance of the functions of the Integrity Commission;*
- (c) reviewing the annual report and any other report of the Commission and submitting recommendations in relation thereto to both Houses of Parliament;*
- (d) assessing the effectiveness of the Integrity Commission and the appropriateness of its procedures; and*
- (e) convening and considering a report submitted to Parliament under section 34 of the Integrity Commission Act, within thirty days of the submission of the report." Emphasis supplied.*

## Rule of Interpretation

In a recent case, Brooks JA (as he was) approved the summary of the 'rules of statutory interpretation' which were set out in Cross' Statutory Interpretation, as an accurate reflection of the major principles governing statutory interpretation. Brooks JA stated as follows:

*"The learned editors of Cross' Statutory Interpretation 3rd edition proffered a summary of the rules of statutory interpretation. They stressed the use of the natural or ordinary meaning of words and cautioned against "judicial legislation" by reading words into statutes. At page 49 of their work, they set out their summary thus:*

*"1. The judge must give effect to the grammatical and ordinary or, where appropriate, the technical meaning of words in the general context of the statute; he must also determine the extent of general words with reference to that context.*

*2. If the judge considers that the application of the words in their grammatical and ordinary sense would produce a result which is contrary to the purpose of the statute, he may apply them in any secondary meaning which they are capable of bearing.*

*3. The judge may read in words which he considers to be necessarily implied by words which are already in the statute; and he has a limited power to add to, alter or ignore statutory words in order to prevent a provision from being unintelligible, absurd or totally unreasonable, unworkable, or totally irreconcilable with the rest of the statute...."<sup>1</sup>*

## **Analysis**

Section 36(1) of the Act requires the Integrity Commission to table a report relating to matters the Parliament refers to it for investigation. Section 36(2) provides that the Integrity Commission is to submit an annual report to Parliament. Section 36(3) empowers the Integrity Commission to submit to Parliament, reports which require Parliament's special attention. Section 36(4) allows for the reports to be submitted to Parliament with specific matters excluded.

Standing Order 73D(e) is relevant to the matter at hand. The first point to note is that there is an obvious typographical error in that Standing Order 73D(e) refers to section 34 of the Act when it should be a reference to section 36. I provided advice to the Houses of Parliament on this issue in letter dated July 20, 2020, which I attach for ease of reference. Once again, I take this opportunity to urge that the Standing Order 73D(e) be corrected in keeping with the procedure in Standing Order 89.

Standing Order 73D(e) authorises the Integrity Commission Oversight Committee to convene and consider a report submitted to Parliament under section 36 of the Act. The Integrity Commission Oversight Committee has thirty days to submit its report to Parliament.

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<sup>1</sup> Paragraph 54 – Jamaica Public Service Company Limited v Dennis Meadows et al [2015] JMCA Civ 1

There is nothing in section 36 of the Act or Standing Order 73D(e) that provides for the sequence of events, that is, when the report should be tabled, circulated and submitted to the Integrity Commission Oversight Committee. The language used in section 36 which speaks to a report either being tabled or submitted does not include words to preclude tabling and circulating the report prior to submitting it to the Integrity Commission Oversight Committee.

The ordinary meaning of the words, when applied do not create any ambiguity or doubt. There is also no reason to read words into the provision requiring a report submitted by the Integrity Commission to be submitted to the Integrity Commission Oversight Committee before it is tabled and circulated because applying the rules of interpretation cited earlier, it is my opinion that the words in section 36 are clear and do not lead to an unreasonable, unintelligible or absurd result.

### **Conclusion**

It is therefore my opinion that the current practice of the Parliament, where the report is tabled and circulated prior to being submitted to the Integrity Commission Oversight Committee is not inconsistent with section 36 of the Act nor Standing Order 73D(e).

Yours faithfully,

  
Marlene Aldred  
Solicitor-General