

A BILL

ENTITLED

AN ACT to Promote and enhance standards of ethical conduct for parliamentarians, public officials and other persons by consolidating laws relating to the prevention of corruption and the award, monitoring and investigating of government contracts and prescribed licences and to provide for the Establishment of a single body to be known as the Integrity Commission to promote and strengthen the measures for the prevention, detection, investigation and prosecution of acts of corruption; to repeal the Parliament (Integrity of Members) Act and to provide for other related matters.

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

PART I—*Preliminary*

Short title
and
commence-
ment.

1. This Act may be cited as the Integrity Commission Act, 2017, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Interpreta-
tion.

2. In this Act, unless the context otherwise requires—

“act of corruption” means an act which constitutes—

- (a) an offence under the *Corruption (Prevention) Act*; or
- (b) an offence relating to the conduct of any person that constitutes an abuse or a misuse of his office (whether or not within the public sector) for the purpose of conferring a benefit or an advantage to himself or another person, being an offence arising under the common law or any enactment;

“appointed day” means the day on which this Act comes into operation;

“assets and liabilities” includes, as assets, any property whether in or outside of Jamaica, and, as liabilities, any obligation to pay money in or outside of Jamaica;

“Chairman” means the Chairman of the Commission appointed under section 11;

“child” means a person under the age of eighteen years;

“Commission” means the Integrity Commission established under Part II;

“Commissioner” means a member of the Commission appointed under section 8;

“Committee” means the Integrity Commission Oversight Committee established under the Standing Orders of the House of Representatives of Jamaica, 1964 as may be amended from time to time;

“complainant” means a person who makes a complaint under Part IV;

“contractor” means any person, firm or entity—

- (a) with whom a public body enters into a government contract; or
- (b) to whom, in the case of a licence, permit or other concession or authority, a public body issues a government contract;

“Director” means the Director of a Division;

“Division” means a Division of the Commission;

“document” means, in addition to a document in writing, any thing or manner in which information of any description is recorded or stored;

“emoluments” means the salary and other benefits derived from the service of employee;

“Executive Director” means the Executive Director of the Commission appointed under Part IIB;

“Financial Investigations Division” means the Financial Investigations Division established under section 4 of the *Financial Investigations Division Act*;

“functions” includes powers and duties;

“government contract” means an agreement entered into by a public body for—

- (a) the carrying out of building or other works;
- (b) the supply of goods or services; or
- (c) the sale or purchase of any property,

and includes any prescribed licence, issued by a public body;

“investigation” means any inquiry, hearing or investigation conducted by the Commission pursuant to any enactment;

“judicial office” means any of the following offices—

- (a) Chief Justice;
- (b) President of the Court of Appeal;
- (c) Judge of the Court of Appeal;
- (d) Registrar of the Court of Appeal;
- (e) Judge of the Supreme Court;
- (f) Master of the Supreme Court;
- (g) Registrar of the Supreme Court;
- (h) Judge of the Parish Court;

“parliamentarian” means a member of the House of Representatives or a member of the Senate;

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

“property” means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets;

“public body” means—

- (a) a Ministry, department or agency of Government;
- (b) a Municipality or Municipal Corporation;
- (c) a statutory body or authority;
- (d) an entity the governing body of which is appointed by a Minister;
- (e) a company registered under the *Companies Act*, being a company in which the Government or an agency of Government holds at least fifty percent of the voting shares of the company;

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

- (a) a public official; or
- (b) a person for, or on behalf of, or under the direction of a public body;

“public official” means—

- (a) any person holding an executive or an administrative or a judicial office, or a parliamentarian, whether appointed or elected, whether permanent or temporary, or whether paid or unpaid;
- (b) any other person who is employed to a public body; and
- (c) any member of the Security Forces;

“Security Forces” means—

- (a) the Jamaica Constabulary Force;
- (b) the Jamaica Defence Force; and
- (c) the Rural Police;

“single man” or “single woman,” used with reference to the definition of “spouse,” includes a widow or widower, as the case may be, or a divorcee;

“spouse” includes—

- (a) in relation to a single man, a single woman who, for a period of not less than five years, has cohabited with the single man as if she were in law his wife; and
- (b) in relation to a single woman, a single man who, for a period of not less than five years, has cohabited with the single woman as if he were in law her husband;

“statutory declaration” or “declaration” means a statutory declaration submitted under Part V.

Principal
objects of
Act.

3. The principal objects of this Act are to—

- (a) further encourage and promote propriety and integrity among persons exercising public functions in Jamaica;
- (b) promote and strengthen measures for the prevention, detection, investigation and prosecution of acts of corruption;
- (c) ensure that government contracts are awarded, varied, renewed or terminated impartially, on merit and in a financially prudent manner; and
- (d) enhance public confidence that acts of corruption and impropriety committed by persons exercising public functions will be appropriately investigated and dealt with in a manner which achieves transparency, accountability and fairness.

Remedy
under other
provision of
law
unaffected.

4.—(1) Nothing in this Act shall prevent a member of the Jamaica Constabulary Force or any other body having investigative powers under any other enactment from commencing or continuing an investigation into any complaint, information, notification or other matter.

(2) If either before or after the commencement of an investigation pursuant to subsection (1), the Commissioner of Police or the head of any body having investigative powers forms the view that the complaint, information or notification should be investigated by the Commission, the Commissioner of Police or the head may request the Commission to do so.

PART IIA. *Integrity Commission Establishment*

Establishment
of
Commission.

5.—(1) There is hereby established, for the purposes of this Act, a Commission of Parliament to be known as the Integrity Commission.

(2) The Commission shall be a body corporate for the purposes of section 28 of the *Interpretation Act*.

(3) The Commission shall be constituted in the manner provided for in section 8.

(4) The Commission shall—

- (a) subject to sections 34(3) and 36(4), be ultimately responsible and accountable to Parliament for all matters relating to the functions of the Commissioner: and
- (b) monitor and report to Parliament on the operation and effectiveness of the provisions of this Act.

6.—(1) Subject to the provisions of this Act, the functions of the Commission shall be to—

Functions of
the
Commission
generally.

- (a) investigate alleged or suspected acts of corruption and instances of non-compliance with the provisions of this Act;
- (b) prosecute acts of corruption and offences committed under this Act;
- (c) take necessary and effective measures for the prevention and detection of corruption within public bodies;
- (d) examine the practices and procedures of public bodies and make recommendations, in relation to the revision of those practices and procedures, which in the opinion of the Commission may reduce the likelihood or the occurrence of acts of corruption;
- (e) receive complaints in relation to alleged or suspected acts of corruption and non-compliance with the provisions of this Act;
- (f) monitor and where necessary investigate the award, implementation and termination of government contracts;
- (g) prepare codes of conduct and other advisory material relating to corruption and guide public bodies in respect of matters within the purview of this Act;
- (h) monitor current legislative and administrative practices in the fight against corruption;
- (i) advise the Minister on the adoption of international best practices relating to the prevention of corruption;

- (j) co-ordinate the implementation of an anti-corruption strategy;
- (k) collaborate or co-operate with other persons or bodies, whether in Jamaica or outside of Jamaica, duly authorized to prevent, combat and investigate acts of corruption, so as to implement an integrated approach to the eradication of corruption;
- (l) advise the Minister on such legislative reform as the Commission considers necessary to reduce the likelihood or the occurrence of acts of corruption;
- (m) compile and publish statistics relating to the investigation, prosecution and conviction of offences relating to acts of corruption;
- (n) determine the extent of financial loss and such other losses to public bodies, private individuals and organizations, including losses sustained by the private sector, as a result of acts of corruption;
- (o) adopt and strengthen mechanisms for educating the public in matters relating to corruption;
- (p) deal with any matter referred to it by the Committee; and
- (q) carry out such other functions as may be assigned to it under this Act or any other enactment.

(2) In addition to its functions under subsection (1), the Commission shall be responsible for developing the strategic direction of the Commission and the policies in support thereof.

(3) In the exercise of its powers and performance of its functions under this Act, the Commission—

- (a) shall not be subject to the direction or control of any other person or authority other than the Court by way of judicial review;
- (b) shall act independently, impartially, fairly and in the public interest; and
- (c) shall have the power to do all such things as it considers necessary or expedient for the purpose of carrying out its functions.

7.—(1) The Commission may, in the performance of its functions, work in co-operation with any person or body as it may deem appropriate.

Co-operation
between
other bodies
and
agreement
and
arrangements.

(2) A person or body shall co-operate with the Commission in the exercise of the functions conferred on the Commission under this Act or any other enactment.

(3) The Court may, on an application made by the Commission without notice, order any person or body to provide to the Commission any information or document which the Court deems necessary to assist the Commission in carrying out its functions under this Act.

(4) Any information or document disclosed by a person or body under subsection (3) shall not be used in any criminal proceedings against such person or body, save and except in criminal proceedings for an offence relating to the provision of false or misleading information.

(5) A person or body against whom an order is made pursuant to subsection (3) shall provide such information or produce such documents which may be in the possession of such person or body or which they may lawfully procure.

(6) Nothing in subsection (3) shall restrict the obligation arising under subsection (2).

(7) Information or documents provided under this section shall be in such form and manner as the Commission may direct and any information or document required to be produced, exchanged or shared may be produced, exchanged or shared electronically.

(8) Notwithstanding any provision in any law, and subject to subsection (10), no obligation as to secrecy or other restriction upon the disclosure of information implemented by law or otherwise, shall prevent a person or body from disclosing any information or producing any document to the Commission in accordance with this section.

(9) Notwithstanding any provision to the contrary under this Act or any other law, the Commission shall disclose to a

competent authority any information or document that is necessary to assist the competent authority in the investigation and prosecution of offences relating to—

- (a) acts of corruption;
- (b) financial crimes; or
- (c) revenue collection.

(10) Notwithstanding any provision to the contrary under this Act or any other law, a competent authority shall disclose to the Commission any information or document that is necessary to assist the Commission in the investigation and prosecution of offences relating to—

- (a) acts of corruption;
- (b) financial crimes; or
- (c) revenue collections.

(11) Nothing in this section shall require a person or body to provide information or produce any document which a person would be entitled to refuse to provide on the grounds of legal professional privilege.

(12) Subject to the provisions of this Act, the Commission may, with the approval of the Minister, enter into a memorandum of understanding or other agreement with—

- (a) a competent authority; or
- (b) a foreign agency whose functions are similar to the functions of the Commission under this Act,

regarding the sharing or exchange of information with the Commission relating to the prevention, detection and investigation of an act of corruption.

(13) A request for the sharing or exchange of information pursuant to a memorandum of understanding or other agreement or arrangement between the Commission and a foreign agency pursuant to subsection 11(b) shall be made through the Financial Investigations Division.

(14) Notwithstanding the provisions of subsections (9), (10), (12) or (13) the Commission may decline to facilitate the sharing or exchange of information unless—

- (a) the competent authority or foreign agency agrees to undertake to make such contribution towards the cost of the exercise as the Commission considers appropriate;
- (b) the Commission is satisfied that the competent authority or the foreign agency, as the case may be, is subject to adequate legal restrictions on further disclosures, including the provision to the Commission of—
 - (i) an undertaking of confidentiality on the part of the competent authority or the foreign agency;
 - (ii) an undertaking by the competent authority or the foreign agency, not to disclose the information provided, without consent of the Commission; and
- (c) the Commission is satisfied that the information required by the competent authority or the foreign agency is required for the purpose of the function of the competent authority or foreign agency, including the conduct of investigations and civil or criminal proceedings to enforce the laws administered by such competent authority or foreign agency.

(15) For the purposes of this section—

“competent authority” means—

- (a) the Director of Public Prosecutions;
- (b) the Attorney-General;
- (c) Tax Administration Jamaica;
- (d) the Financial Investigations Division;
- (e) the Major Organized Crime and Anti-Corruption Agency;
- (f) the Revenue Protection Division;
- (g) the Jamaica Constabulary Force;

- (h) the Jamaica Customs Agency;
- (i) a person or an agency of government designated as a competent body for the purposes of this Act by the Minister, by order subject to affirmative resolution;

“Court” means the Supreme Court of Judicature of Jamaica.

Commission

Appointment
of
Commissioners.

8.—(1) Pursuant to section 5 and subject to subsection (3), the Commission shall consist of the following persons appointed as Commissioners—

- (a) the Auditor-General;
- (b) four other persons (hereinafter referred to as “appointed Commissioners”) appointed by the Governor-General, by instrument in writing, after consultation with the Prime Minister and the Leader of the Opposition, and on the approval of Parliament in the manner provided in subsection (2), from any of the following categories of persons—
 - (i) retired Judges of the Court of Appeal or retired Judges of the Supreme Court, from which two persons shall be appointed;
 - (ii) senior retired public officials with knowledge and expertise in the area of finance, accounting or public administration;
 - (iii) persons who represent non-governmental organizations that appear to be well established.

(2) For the purposes of subsection (1)(b)(iii), a non-governmental organization is an organization that is not formed for a political purpose or for supporting an organization formed for such purpose.

(3) A person shall be eligible to be an appointed Commissioner if he is a person of integrity, capable of exercising competence, diligence, sound judgment and impartiality in fulfilling his functions pursuant to the provisions of this Act.”.

9. A person shall not become, or continue to be, a member of the Commission if the person—

Disqualification from membership of the Commission.

- (a) is suffering from a mental disorder within the meaning of the *Mental Health Act*, becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill-health;
- (b) is an undischarged bankrupt; or
- (c) has at any time been convicted of an offence involving dishonesty or moral turpitude.

10. An appointed Commissioner shall, subject to the provisions of this Act, hold office for a period not exceeding seven years and may be eligible for re-appointment.

Tenure of office.

11. The Governor-General shall appoint a Chairman of the Commission, who shall be a person appointed from among the category of persons stated in section 8 (1)(b)(i).

Appointment of Chairman.

12. If any Commissioner is absent or unable to act, the Governor-General may appoint any person to act in the place of the Commissioner, 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 an appointment made under section 8(1).

Acting Appointments.

13.—(1) An appointed Commissioner, 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 Commissioner.

Resignation.

(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.

Vacancy in
membership.

14.—(1) A vacancy in the membership of the Commission shall occur—

- (a) on the death, resignation or termination of the appointment of an appointed Commissioner;
- (b) on the absence of an appointed Commissioner from three consecutive meetings of the Commission, unless the absence therefrom is approved by the Governor-General after consultation with the Chairman; or
- (c) on the expiration of the term specified in the instrument of appointment of the appointed Commissioner.

(2) If any vacancy occurs in the membership of the appointed Commissioners, 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.

Termination
of
appointment
of appointed
Commissioner.

15.—(1) The Governor-General may, in accordance with the provisions of this section, terminate the appointment of an appointed Commissioner for the inability of the appointed Commissioner to discharge the functions of his office, whether arising from infirmity of body or mind, dereliction of duty, misbehaviour, for any of the circumstances arising under section 9 or any other cause.

(2) If the Governor-General decides that the question of termination of the appointment of an appointed Commissioner ought to be investigated, then—

- (a) the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, shall appoint a tribunal which shall consist of a chairman and not less than two other members, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in the Commonwealth; and
- (b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and advise the

Governor-General as to whether the appointment of the appointed Commissioner ought to be terminated in accordance with subsection (1).

(3) The provisions of sections 8 to 16 of the *Commissions of Enquiry Act* shall apply *mutatis mutandis* in relation to a tribunal appointed under subsection (2) (a) or, as the context may require, to the members thereof, as they apply in relation to commissions or commissioners appointed under that Act.

(4) Where the question of termination of the appointment of an appointed Commissioner has been referred to a tribunal appointed under subsection (2) and the tribunal, has advised the Governor-General that the appointment ought to be terminated, the Governor-General shall, by instrument in writing, terminate the appointment of the appointed Commissioner.

(5) Where the question of terminating the appointment of an appointed Commissioner has been referred to a tribunal under subsection (2), the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, may suspend the appointed Commissioner from performing any function relating to the Commission, and any such suspension may at any time be revoked by the Governor-General and shall cease to have effect if the tribunal advises the Governor-General that the appointment ought not to be terminated.

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

17.—(1) Meetings of the Commission shall be held at the time and place as the majority of the Commissioners shall decide. Proceedings of meetings of the Commission.

(2) Notwithstanding subsection (1), the Chairman shall call a meeting if requested, in writing, to do so by at least three Commissioners.

(3) The Commission shall meet as often as it considers necessary for the proper conduct of the affairs of the Commission.

However the Commission shall meet not less than six times in each calendar year.

(4) The Chairman shall preside at all meetings of the Commission at which he is present.

(5) If the Chairman is absent from a meeting of the Commission, the appointed Commissioners shall select a Commissioner present at the meeting to preside.

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

(7) All decisions of the Commission shall be decided by a majority of Commissioners voting thereon and in the event of an equality of votes, the Chairman or in his absence, the person presiding, shall have an original and a casting vote.

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

(9) 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 Commissioner.

Protection of
the Com-
missioners.

18. No Commissioner 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.

Funds of
Commission.

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

Accounts and
audit of the
Commission.

20.—(1) The Commission shall keep proper accounts of its 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 Minister and a statement of accounts so audited shall form part of the annual report submitted pursuant to section 34.

(2) The Chairman shall, at such time within each year as the Minister may direct—

- (a) submit to the Minister a statement of the accounts of the Commission in accordance with the provisions of subsection (1);

(b) submit to the Minister for approval the estimates of revenue and expenditure for the financial year commencing on the 1st day of April next following.

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

21.—(1) The Seal of the Commission shall be such device as the Commission shall determine and shall be kept in the custody of the Executive Director and shall be affixed to instruments pursuant to a resolution of the Commission.

Seal and execution of documents.

(2) The Seal of the Commission shall be authenticated by the signature of the Chairman and one other Commissioner.

22. There shall be paid from the funds of the Commission to the Chairman and other Commissioners, such remuneration, 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 respectively.

Remuneration of Commissioners.

23. The office of Chairman or appointed Commissioner shall not be a public office for the purposes of Chapter V of the *Constitution of Jamaica*.

Office of Chairman or appointed Commissioner not public office.

24. Where, pursuant to the provisions of this Act, the Governor-General is required to act after consultation with the Leader of the Opposition and—

Provisions applicable where there is no Leader of the Opposition.

(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.

Committees
of the
Commission.

25.—(1) The Commission may establish committees of the Commission in order to assist the Commission in effectively and efficiently performing its functions.

(2) The Commission shall decide the terms of reference of a committee established under subsection (1).

Commission
to regulate
its own
procedure.

26. Subject to the provisions of this Act, the Commission shall regulate its own procedure.

Delegation
of powers by
the Commis-
sion.

27.—(1) The Commission may delegate any of its functions under this Act, other than the power to delegate, to the Executive Director, a Director or any other member of staff of the Commission.

(2) Every delegation under subsection (1) is revocable by the Commission and the delegation of a function shall not preclude the performance of that function by the Commission.

PART IIB.—Appointment and Functions of Executive Director

Appointment
of Executive
Director.

28.—(1) Subject to subsections (2) and (3), there shall be an Executive Director of the Commission who shall be appointed by the Governor-General, acting on the recommendation of the Commission.

(2) A person who would not be eligible to be appointed as a Commissioner by virtue of section 9 shall not be eligible to be appointed as Executive Director.

(3) The Commission shall not recommend a person to be appointed as Executive Director unless the Commission is satisfied that the person is a person of integrity, capable of exercising diligence, sound judgment and impartiality and has the competence, expertise and experience that is required to enable the person to carry out the functions of Executive Director efficiently and effectively.

(4) Subject to the provisions of this Act, the Executive Director shall hold office for a period of five years and shall be eligible for re-appointment.

(5) The Governor-General may, acting on the recommendation of the Commission, terminate the appointment of the Executive Director

for the inability of the Executive Director to discharge the functions of his office, whether arising from infirmity of the body or mind, dereliction of duty, misbehaviour, where he becomes an undischarged bankrupt, or is convicted of an offence involving dishonesty or moral turpitude or for any other cause.

(6) The provisions of the Sixth 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 office as Executive Director.

29.—(1) Subject to section 34(3), the Executive Director shall—

(a) be responsible for the day to day management of the affairs of the Commission other than those functions that are specifically assigned under this Act, to a Director;

Functions of the Executive Director and delegation of such functions.

(b) be responsible for—

- (i) coordinating the functions of the Commission;
- (ii) ensuring the timely implementation of the decisions and directions of the Commission;
- (iii) submitting quarterly reports to the Commission in relation to the activities of each Division in such manner as may be prescribed;
- (iv) preparing the budget of the Commission and submitting the same to the Commission for approval;
- (v) developing and implementing operational policies and procedures in relation to the functions of the Commission; and
- (vi) performing such other functions as may be assigned to the Executive Director under this Act or any other enactment.

(2) The Executive Director may, where he considers necessary, refer to the Commission any matter which may arise in relation to the execution of his functions.

(3) The Executive Director shall attend the meetings of the Commission but shall not have a vote at any meetings of the Commission.

(4) The Executive Director may in writing, with the approval of the Commission, delegate any of his functions in relation to the performance of any of the duties conferred on him by, or under this Act, to a person specified in the instrument of delegation.

(5) A delegation under subsection (3) shall not prevent the exercise of the powers or the performance of the duties by the Executive Director.

PART III—*Establishment of Divisions*

Establishment of Divisions and appointment *etc.*, of Directors.

30.—(1) The Commission shall carry out its functions through the following Divisions, namely—

- (a) the Information and Complaints Division, which shall be headed by the Director of Information and Complaints;
- (b) the Investigation Division; which shall be headed by the Director of Investigation;
- (c) the Corruption Prosecution Division; which shall be headed by the Director of Corruption Prosecution; and
- (d) such other Divisions as the Commission may deem necessary to assist it in the carrying out of its functions, each of which shall be headed by a Director in relation to the functions of the Division.

(2) Each Director shall, in relation to the Division which he heads, be responsible for the management of that Division.

(3) Subject to section 34(3), the performance of the functions of the Director of each Division shall be subject to the specific or general direction of the Commission.

(4) Subject to subsection (6), the Director of each Division established pursuant to subsection (1)(a), (b) and (c) shall be appointed by the Governor-General, acting on the recommendation of the Commission.

(5) Subject to subsection (6), the Director of a Division to be established under subsection (1)(d), shall be appointed by the Governor-General acting on the recommendation of the Commission.

(6) The Commission shall not recommend a person to be appointed as a Director unless the Commission is satisfied that—

- (a) the person has the requisite qualifications, expertise and experience that is required to enable him to competently carry out the functions of Director efficiently and effectively; and
- (b) the person is a person of integrity, capable of exercising diligence, sound judgement and impartiality.

(7) A person who would not be eligible to be appointed as a Commissioner by virtue of section 9 shall not be appointed as a Director.

(8) If a vacancy arises in the position of Director, the Commission may, on the recommendation of the Executive Director, appoint any person to act in the place of the Director for such period not exceeding three months and thereafter an appointment shall be made in the same manner as would be required in relation to the appointment of a Director in accordance with subsections (4) and (5).

(9) The Governor-General may, acting on the recommendation of the Commission, terminate the appointment of a Director for the inability of the Director to discharge the functions of his office, whether arising from infirmity of body or mind, dereliction of duty, misbehaviour or for any other cause or for any of the circumstances which would have disqualified him for appointment pursuant to section 9.

(10) Subject to the provisions of this Act, a Director shall hold office for a period of five years and may be eligible for re-appointment.

(11) The provisions of the Sixth 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 office as Director.

Sixth
Schedule.

Functions of Directors

Functions of prosecution and investigation to be performed separately.

31. The same person shall not perform the functions of investigation or prosecution under this Act.

Functions of Director of Information and Complaints.

32.—(1) The Director of Information and Complaints shall—

- (a) receive, keep on record and examine all statutory declarations filed with the Commission;
- (b) make such enquiries as he considers necessary in order to certify or determine the accuracy of a statutory declaration;
- (c) receive and keep proper record of any complaint or information or notification in relation to any or all of the following matters—
 - (i) any allegation which involves or may involve an act of corruption;
 - (ii) any allegation regarding impropriety or irregularity with respect to the award, implementation or termination of a government contract or the grant, issue, suspension or revocation of a prescribed licence;
 - (iii) any allegation in respect of non-compliance with any of the provisions of this Act;
- (d) refer to the appropriate Director, any complaint or information or notification received under paragraph (c), or any other matter which he considers appropriate for action;
- (e) submit to the Executive Director, quarterly reports on the activities of the Division; and
- (f) perform such other functions as may be assigned to him by or under this Act or any other enactment.

(2) The Director of Information and Complaints may in writing, with the approval of the Commission, delegate any of the functions in

relation to the performance of the duties conferred on him by or under this Act, to a person specified in the instrument of delegation.

(3) A delegation under subsection (2) shall not prevent the exercise of the powers or the performance of the duties by the Director of Information and Complaints.

33.—(1) The Director of Investigation shall—

- (a) without prejudice to the provisions of any other enactment, and subject to any general or specific direction of the Commission, investigate, in the manner specified by or under this Act, any allegation that involves or may involve an act of corruption or any allegation relating to non-compliance with the provisions of this Act, on the basis of any complaint, information or notification referred to him by the decision of the Commission or by the Director of Information and complaints;
- (b) subject to section 52(2), monitor and where necessary, investigate, in the manner specified by or under this Act, the award, implementation or termination of any government contract, and the grant, issue, variation, suspension or revocation of any prescribed licence, with a view to ensuring that—
 - (i) in the case of a government contract, it is awarded impartially, on merit and in a financially prudent manner and in circumstances which do not involve impropriety, breach of any applicable law relating to procurement or other irregularity, and that the implementation or termination of the contract conforms to the terms thereof, without prejudice to the functions of any public body in relation to the contract; and
 - (ii) in the case of a prescribed licence, the circumstances of such grant, issue, variation, suspension or revocation do not involve impropriety or breach of any applicable law

Functions of
the Director
of
Investigation.

relating to procurement or other irregularity, and where appropriate, that the prescribed licence is used in accordance with the terms and conditions thereof;

- (c) subject to the general direction of the Commission, investigate, on his own initiative, in the manner specified by or under this Act, any matter that may involve an act of corruption or non-compliance with the provisions of this Act;
- (d) submit to the Executive Director, quarterly reports on the activities of the Division; and
- (e) perform such other investigative functions as may be assigned to him by, or under this Act or any other enactment.

(2) The Director of Investigation may in writing, with the approval of the Commission, delegate any of the functions in relation to the performance of the duties conferred on him by or under this Act to a person specified in the instrument of delegation.

(3) A delegation under subsection (2) shall not prevent the exercise of the powers or the performance of the duties by the Director of Investigation.

Functions of
the Director
of Corruption
Prosecution.

34.—(1) The Director of Corruption Prosecution shall—

- (a) subject to the powers conferred on the Director of Public Prosecutions by section 94 of the Constitution of Jamaica, institute, undertake and have the conduct of prosecutions in respect of acts of corruption and offences committed under this Act;
- (b) provide legal advice to the Commission on matters concerning acts of corruption and offences committed under this Act;
- (c) collaborate with the Asset Recovery Agency established under the *Proceeds of Crime Act*, in relation to the conduct of proceedings with respect to the seizure, restraint, forfeiture or recovery of any property relating to acts of corruption;

- (d) submit to the Executive Director, quarterly reports on the activities of the Division; and
- (e) perform such other prosecutorial functions relating to acts of corruption as may, from time to time, be assigned to him by this Act or any other enactment.

(2) The Director of Corruption Prosecution shall conduct all criminal proceedings, in relation to this Act or any other enactment, in accordance with any prosecutorial code of practice that may be implemented by the Director of Public Prosecutions from time to time.

(3) For the avoidance of doubt, except as provided in subsection (1)(a), the Director of Corruption Prosecution shall not be subject to the direction or control of any person or body in relation to the conduct of his prosecutorial functions under this Act or any other enactment.

(4) Without prejudice to the provisions of subsection (1)(a), the Director of Corruption Prosecution may, acting on his own volition or upon the request of the Commission, request an opinion from the Director of Public Prosecutions as to whether or not to initiate criminal proceedings in respect of any matter that has been referred to him under this Act or any other enactment or on a point of law.

(5) Where a difference of opinion exists between the Director of Corruption Prosecution and the Director of Public Prosecutions in relation to a matter referred to the Director of Public Prosecutions pursuant to subsection (4), the opinion of the Director of Public Prosecutions shall prevail and be binding.

(6) The Director of Corruption Prosecution may in writing, with the approval of the Commission, delegate any of the functions in relation to the performance of his duties conferred on him by, or under this Act, to a person specified in the instrument of delegation.

(7) A delegation under subsection (6) shall not prevent the exercise of the powers or the performance of the duties by the Director of Corruption Prosecution.

Staff

Staff.

35.—(1) The Commission may appoint and employ for the purposes of this Act, at such remuneration and on such terms and conditions as may be approved by the committee constituted under subsection (2), such staff as may be considered necessary to assist it in the proper performance of its functions under this Act.

(2) The committee referred to in subsection (1) shall consist of—

- (a) the Speaker of the House of Representatives, 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;
- (e) the person designated by the Prime Minister as Leader of Government Business in the Senate;
- (f) the person designated by the Leader of Opposition as Leader of Opposition Business in the Senate; and
- (g) the Minister responsible for finance.

(3) The Executive Director shall advise the Commission on the appointment and employment of staff pursuant to subsection (1) and shall recommend to the Commission the qualifications required for the various offices within the Commission.

*Reports*Reports of
the
Commission.

36.—(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.

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 between an attorney-at-law and his client in their professional relationship where the communication came to the Commission's knowledge during the course of an investigation under this Act.

PART IV—*Complaints*

37.—(1) Any person may orally or in writing, make a complaint, give information on, or notify the Commission about, a matter which involves or may involve, an act of corruption or non-compliance with the provisions of this Act.

Making of
complaint.

(2) A complaint, information or notification under subsection (1) may be made to the Director of Information and Complaints.

(3) Notwithstanding subsection (2), subsection (1) does not limit to whom a complaint can be made about any matter referred to therein.

(4) A person who, whether orally or in writing, makes a complaint, gives information, or notifies the Commission about any matter knowing it to be false or misleading or being reckless as to whether it is false or misleading, commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to imprisonment for a period not exceeding one year.

(5) No person shall be obligated or permitted to disclose the name or address of a person who makes a complaint under subsection (1), or state any matter which may lead to the identity of such person being known.

(6) No action, suit, prosecution or other proceedings shall be instituted against a person who makes a complaint under subsection (1), in good faith in pursuance of the provisions of this Act.

(7) A person who takes any harmful action against any other person, including interference with the other person's lawful employment or occupation, on the ground that the person has made a complaint under subsection (1) commits an offence and is liable, on summary conviction in a Parish Court, to a fine not exceeding five hundred thousand dollars or to a term of imprisonment not exceeding six months.

Complaint, etc., to be recorded and submitted to the appropriate Division for further and necessary action.

38.—(1) On receipt of a complaint, information or notification under section 37(1), the Director of Information and Complaints shall—

- (a) record it or cause it to be recorded;
- (b) supply to the person or cause to be supplied to the person a copy of the record made of that complaint, information or notification and;
- (c) subject to subsection (3), submit the complaint to the appropriate Director for further and necessary action.

(2) A copy of a complaint, information or notification may be in a form which keeps anonymous the identity of the complainant or any other person.

(3) Notwithstanding subsection (1)(c), the Director of Information and Complaints shall, where he is required to do so by the Commission, or may, in circumstances which he may deem necessary, refer to the Commission any complaint, information or notification received pursuant to section 37(1), prior to submission of such complaint, information or notification to the appropriate Director.

PART V—*Statutory Declaration*

Duty of parliamentarian and public official to submit statutory declaration. Third Schedule.

39.—(1) Subject to the provisions of this Act, every person who, on or after the appointed day, is a parliamentarian or public official, shall submit to the Director of Information and Complaints, a statutory declaration of his assets and liabilities and his income in the form set out in the Third Schedule.

(2) Subsection (1) shall not apply to a public official who is in receipt of total annual emoluments of less than three million five

hundred thousand dollars or such other amount as may be prescribed by the Minister, subject to affirmative resolution of the House of Representatives.

(3) Notwithstanding subsection (2), regulations made pursuant to this Act may contain provisions requiring public officials who occupy posts as are prescribed, to submit a declaration pursuant to subsection (1).

40.—(1) A statutory declaration shall include such particulars as are known to the declarant of the income, assets and liabilities of the spouse and children, where applicable, of the declarant. Contents of declaration.

(2) Notwithstanding subsection (1), where—

- (a) the spouse was living separately and apart from the declarant throughout the period in relation to which the declaration is made; or
- (b) a child of the declarant has attained the age of eighteen years, or is married and under the age of eighteen years and was living separately and apart from the declarant at any time during the period in relation to which the declaration is made,

the particulars required to be submitted under subsection (1) shall be limited to assets held by the spouse or child in trust for, or as agent of, the declarant.

(3) Subject to subsection (4), any parliamentary or public official who receives a gift which exceeds in value, the amount of one hundred thousand dollars or such other amount prescribed by the Minister by order, shall declare the gift in the Item specified as Form 14 in the Third Schedule.

Third
Schedule.

(4) Subsection (3) does not include such gift as may be prescribed, or any personal gift that is received by a parliamentary or public official from a relative of that parliamentary or public official.

Time for making and submission of statutory declaration.

41.—(1) Subject to subsection (2), a statutory declaration required to be submitted pursuant to this Part shall be made—

(a) in the case of a person elected or appointed as a parliamentarian, as at the date of such election or appointment, and thereafter—

- (i) where the election or appointment was at any time after the 30th day of June in any year, as at the 31st day of December in the year next following, and thereafter as at the 31st day of December in each year during any part of which he remains a parliamentarian; or
- (ii) in any case where the election or appointment is at any time in a calendar year other than that referred to in paragraph (i), as at the 31st day of December in that year and thereafter as at the 31st day of December in each year during any part of which he remains a parliamentarian;
- (iii) as at the end of twelve months from the date on which he ceases to be a parliamentarian;

(b) in the case of—

- (i) a person who on the appointed day is a public official to whom section 39 applies, as at the date of appointment of the person as a public official; or
- (ii) a public official whose emoluments become equivalent to, or in excess of the amount prescribed pursuant to section 39(2), as at the date on which the emoluments are so adjusted,

and thereafter as at the 31st day of December in each year during any part of which he remains a public official, or at such intervals as the Commission may direct by notice published in the *Gazette*.

(2) The Commission, acting upon the recommendation of the Director of Information and Complaints, may—

- (a) at any time, in writing, require any public official or parliamentarian to submit a statutory declaration to the Commission;
- (b) by notice published in the *Gazette*, require such categories of public officials as are specified in the notice, to submit a statutory declaration within the period so specified.

(3) Where a person ceases to be a public official, including a public official referred to in section 39(3), he shall make a statutory declaration as at the end of twelve months from the date on which he so ceases.

(4) A statutory declaration required to be made as at a particular date shall be submitted to the Director of Information and Complaints on or before the last day of the third calendar month following that date.

(5) A statutory declaration submitted pursuant to section 39 may, if the declarant so desires, be accompanied by a statement of affairs certified by a registered public accountant, within the meaning of the *Public Accountancy Act*.

(6) Where a person who is required to do so, fails to file a declaration within the time specified under subsection (4), the Commission may issue a notice, in writing, to the person requiring the person to file the declaration, within thirty days from the date of the notice.

(7) A person who fails to file a declaration within the time specified under subsection (6) commits an offence and is liable on summary conviction in a Parish Court, in addition to any penalty imposed under section 43(1), to a further fine of twenty thousand dollars for each month during which such offence continues after the end of the thirty-day period referred to in subsection (6).

Examination of statutory declaration and publication of summary declaration in certain cases.

42.—(1) The Director of Information and Complaints shall examine, or cause to be examined, every statutory declaration that is submitted, in order to ensure that it complies with the requirements of this Act.

(2) Where, upon examination of a statutory declaration, the Director of Information and Complaints is of the opinion that further information is required in respect of the statutory declaration, he may, by notice in writing, request the declarant to submit such other information at such time as may be specified in the notice, and the declarant shall submit such information within the specified period.

(3) Where, upon examination of a statutory declaration, the Director of Information and Complaints is satisfied that the statutory declaration has been duly completed, he shall so inform the Commission and the Commission shall—

- (a) cause to be issued to the public official or parliamentarian, as the case may be, confirmation thereof in writing;
- (b) notwithstanding the provisions of section 56, cause to be published a summary of the statutory declaration made by the Prime Minister and the Leader of the Opposition in the *Gazette* in the Form set out in Part B of the Third Schedule.

(4) Where the Director of Information and Complaints is of the opinion that an investigation in relation to a statutory declaration is necessary for the purposes of this Act, he shall refer the matter to the Commission for further and necessary action.

(5) Where the Commission causes to be published a summary of a statutory declaration under subsection 3(b), the Prime Minister or Leader of the Opposition may make a written complaint to the Director of Information and Complaints in relation to that summary.

(6) The Commission shall, in relation to a written complaint made under subsection (5), cause to be published in the *Gazette* the rectification of any error made by the Commission.

43.—(1) A person who—

- (a) fails, without reasonable cause, to submit a statutory declaration which he is required to submit in accordance with the provisions of this Part;
- (b) fails, without reasonable cause, to provide any information as the Director of Information and Complaints may require in accordance with the provisions of this Act; or
- (c) fails, without reasonable cause, to attend an inquiry being conducted by the Director of Investigation that he is required to attend in accordance with the provisions of this Act,

Offences in relation to statutory declarations and punishment without prosecution of offence in connection with directions.

commits an offence, and is liable on summary conviction in a Parish Court to a fine not exceeding five hundred thousand dollars, or to a term of imprisonment not exceeding six months and the Court may make an order mandating the person to comply with the requirement in respect of which the offence was committed.

(2) A person who—

- (a) knowingly makes a false statement in a statutory declaration;
- (b) knowingly gives false information at an inquiry being conducted by the Director of Investigation in accordance with the provisions of this Part,

commits an offence, and is liable on summary conviction in a Parish Court to a fine not exceeding two million dollars, or to a term of imprisonment not exceeding two years and the Court may make such order as it thinks fit.

(3) The Director of Information and Complaints may, with the approval of the Director of Corruption Prosecution, serve upon to a person referred to in subsection (1)(a) (failure without reasonable cause to submit a statutory declaration) or subsection (1)(b), (fails without reasonable cause to provide information) who appears to the Director of Corruption Prosecution to have committed an offence under that subsection, a notice in writing in the prescribed form offering that

person the opportunity to discharge any liability to conviction of that offence by payment of a fixed penalty in the amount of two hundred and fifty thousand dollars and by submitting the statutory declaration to the Director of Information and Complaints.

(4) A person referred to in subsection (3) shall not be liable to be convicted of the offence if the fixed penalty is paid in accordance with this section and the requirement in respect of which the offence is committed is complied with before the expiration of the twenty-one days following the date of service of the notice referred to in subsection (3) or such longer period (if any) as may be specified in the notice.

(5) Where a person is served with a notice under this section in respect of an offence pursuant to subsection (1)(a) and subsection (1)(b), criminal proceedings or disciplinary action shall not be taken against any person for that offence until the end of the twenty-one days following the date of service of the notice as may be specified therein.

(6) Payment of a fixed penalty under this section shall be made to the Collector of Taxes specified pursuant to subsection (7); and in any criminal proceedings, a certificate that payment of the fixed penalty was or was not made to the Collector of Taxes by the date specified in the certificate shall, if the certificate purports to be signed by the Collector of Taxes, be admissible as evidence of the facts stated therein.

(7) In any criminal proceedings pursuant to this section, a certified copy of the confirmation issued by the Commission under section 42(3)(a) shall be admissible as evidence of the facts stated therein.

(8) A notice under subsection (3) shall—

- (a) specify the offence alleged;
- (b) give such particulars of the alleged offence as are necessary for giving reasonable information;
- (c) state—
 - (i) the period (whether twenty-one days or a longer period) during which, by virtue of subsection (5),

criminal proceedings will not be taken for the offence; and

- (ii) the amount of the fixed penalty and the Collector of Taxes to whom, and the address at which, it may be paid.

(9) In any proceedings for an offence under subsection (1)(a), and subsection (1)(b) no reference shall be made after the conviction of the accused to the giving of any notice under this section or to the payment or non-payment of a fixed penalty thereunder unless in the course of the proceedings or in some document which is before the court in connection with the proceedings, reference has been made by or on behalf of the accused to the giving of such a notice or, as the case may be, to such payment or non-payment.

(10) The Minister may, by order, make provision as to any matter incidental to the operation of this section, and in particular, any such order may prescribe—

- (a) the form of notice under subsection (3), and the Collector of Taxes to whom a fixed penalty is payable;
- (b) the nature of the information to be submitted to the Collector of Taxes along with any payment;
- (c) the arrangements for the Collector of Taxes to submit to the Commission, information with regard to any payment pursuant to a notice under this section.

44. For the purposes of section 13 of the *Income Tax Act*, any disbursement made and expenses incurred in a year of assessment by a parliamentarian or public official in connection with the preparation of a statutory declaration or other document required to be submitted by him for the purposes of this Act, shall be deemed to be made or incurred by him wholly and exclusively in acquiring his income for that year of assessment.

Expenses incurred in preparation of statutory declaration etc., tax deductible.

PART VI—*Powers and Procedures in Respect of
Investigations Generally*

Powers of
the Director
of
Investigation
generally in
relation to
investigations.

45.—(1) For the purposes of an investigation under this Act, the Director of Investigation shall, subject to the specific or general direction of the Commission—

- (a) have the power to summon witnesses, compel the production of documents or any other information, and do all such things which are necessary for the purposes of conducting an investigation under this Act; and
- (b) have such power, authority and privileges as are given to authorized persons under Part VIC of the *Revenue Administration Act*.

(2) A person who is under investigation or any witness summoned to appear before the Director of Investigation may be represented by an attorney-at-law.

Referral of
matter to
Director of
Investigation.

46.—(1) Pursuant to section 38, the Director of Information and Complaints may refer any complaint, notification or information (hereinafter referred to as a matter) to the Director of Investigation for further and necessary action.

(2) The Commission, acting on its own initiative, may refer any matter to the Director of Investigation to be investigated.

Consideration
of matter.

47.—(1) The Director of Investigation, shall upon receipt of a matter pursuant to section 44, examine the matter in order to determine whether or not an investigation in relation to the matter is warranted.

(2) The Director of Investigation shall, in determining whether to investigate a matter that has been referred to him, consider—

- (a) the seriousness of the conduct to which the matter relates;
- (b) whether or not the matter is frivolous or vexatious;
- (c) whether or not the conduct to which the matter relates is or has been the subject of an investigation or other action by any other authority under any other enactment.

(3) The Director of Investigation may, for the purposes of performing the functions under this section—

- (a) make such preliminary inquiries as he considers necessary; and
- (b) consult with any public body.

48.—(1) Subject to the provisions of subsection (5), and section 50, the Director of Investigation may, by notice in writing, require a person who is the subject matter of an investigation or any other person who in the opinion of the Director of Investigation, is able to give assistance in relation to the investigation of a matter to—

Power to require attendance before Director of Investigation.

- (a) submit such information and produce any document or thing in connection with such matter which may be in the possession or under the control of the person;
- (b) attend on the Commission, at such time as may be specified in the notice, to be heard by the Director of Investigation on any matter relating to the investigation.

(2) The Director of Investigation may summon before him and examine on oath—

- (a) a person who has made a complaint, given information or a notification about a matter before the Commission; or
- (b) any public official, parliamentarian or other person who in the opinion of the Director of Investigation is able to provide information relating to the investigation,

and the 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, the Director of Investigation shall have the same powers as a Commissioner pursuant to the provisions of the *Commissions of Enquiry Act* in respect of the attendance and examination of witnesses and the production of documents, and the provisions of sections 11B, 11C, 11D, 11E, 11F, 11G, 11H, 11I, 11J, 11K, and 11L of that Act shall apply, *mutatis mutandis*, in relation thereto:

Provided that no prosecution for an offence as stated herein shall be commenced, except by the direction of the Director of Corruption Prosecution.

(4) Subject to the provisions of this Act, any obligation to maintain secrecy or any restriction on the disclosure of information or the production of any document or thing, imposed on any person—

- (a) by or under the *Official Secrets Act, 1911, 1920 and 1939* of the United Kingdom in its application to Jamaica; or
- (b) by any other law,

shall not apply in relation to the disclosure of information or the production of any document or thing by that person to the Director of Investigation for the purpose of an investigation; and accordingly, no person shall be liable for prosecution for any offence under the *Official Secrets Act, 1911, 1920 and 1939* or any other law, by reason of his compliance with a requirement of the Director of Investigation under this Act.

(5) No person shall, for the purpose of an investigation, be compelled to give any evidence or produce documents which are subject to legal professional privilege or which he otherwise could not be compelled to give or produce in proceedings in any court of law.

(6) Nothing in this section shall be deemed to remove the right of a person against self incrimination.

Issue of
summons.

49.—(1) Pursuant to section 48(2), any summons to attend, to give evidence or to produce any document or information before the Director of Investigation shall be served on the person required to attend or to produce the document and shall be issued under the hand of the Director of Investigation, subject to the specific or general direction of the Commission.

Fifth
Schedule.

(2) A summons under this section shall be as set out in the Fifth Schedule and shall be served on the person mentioned therein either by delivering to him a copy thereof or by substituted service as may be prescribed.

50.—(1) Subject to subsection (2), a person summoned to attend and give evidence or to produce any document or information before the Commission shall be entitled, on attending, to be paid his 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.

Duty and
privileges of
witness.

(2) The Commission may disallow the payment in whole or any part of such expenses in any case, if it thinks fit, provided the Commission gives reasons therefor.

*Conduct of Investigation in Relation to Government
Contracts and Prescribed Licences*

51.—(1) Pursuant to the provisions of this Act in respect of the discharge of the functions of the Commission in relation to government contracts and prescribed licences, the Director of Investigation shall, on behalf of the Commission—

Director of
Investigation
to be advised
of matters
relating to
government.

(a) be entitled—

- (i) to be advised of the award and where applicable, the variation and termination of any government contract by the public body responsible for such contract;
- (ii) subject to section 53, to have access to all documents, stores or other property belonging to the Government whether in the possession of any officer of a public body or a contractor or any other person;
- (iii) subject to subsection (2), to have access to any premises or location where work on a government contract has been, is being or is to be carried out;
- (iv) to have access to all 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;

- (v) to have access to any premises or location where the Director of Investigation has reason to believe that any such documents or other property as are referred to in subparagraph (iv) or any property which is the subject of a prescribed licence, may be found;
 - (vi) to enter any premises occupied by any person, in order to make such enquiries or to inspect such documents or other property as the Commission considers necessary to any matter being investigated by the Director of Investigation;
 - (vii) without prejudice to the provisions of sections 48 and 53, to retain any such documents, records or other property referred to in sub-paragraph (vi); and
- (b) have the power to require any public body or public official, as the case may be, to submit in such manner and at such times as may be specified by him, information with regard to the award or termination of any contract and the grant, issue, suspension or revocation of any prescribed licence, and such other information in relation thereto as he considers desirable.
- (2) In relation to the discharge of the functions of the Commission under subsection (1), (a)(iii), (v) and (vi), the Director of Investigation shall, before entering any premises, save and except for government-owned premises, obtain a warrant from a Judge of the Parish Court or a Justice of the Peace.

Investigation of
government
contracts and
prescribed
licences

52.—(1) Subject to subsection (2) and the specific or general direction of the Commission, the Director of Investigation may, in relation to government contracts and prescribed licences, conduct an investigation into any or all of the following matters—

- (a) in relation to government contracts—
 - (i) the registration of contractors;
 - (ii) tender procedures relating to government contracts awarded by public bodies;

- (iii) the award or termination of any government contract;
- (iv) the implementation of the terms of any government contract;
- (b) in relation to prescribed licences, the circumstances of the grant, issue, suspension or revocation of prescribed licences, so as to ensure that such grant, issue or suspension does not involve any impropriety, irregularity or breach of any applicable law relating to procurement.

(2) The Director of Investigation shall not, without the prior approval of the Secretary to the Cabinet acting on the direction of the Cabinet, investigate the following matters—

- (a) any government contract or any matters concerning any such contract, entered into for the 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,
- (c) any government contract which Cabinet determines that, based on the nature of such contract and the terms and conditions thereof, ought to be kept confidential,

and any report or comment thereon by the Director of Investigation shall be made only to the Cabinet.

(3) The Director of Investigation 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 enquiry as he thinks fit.

Restriction on disclosure

53.—(1) Where in relation to the disclosure of any information or document, the Secretary to the Cabinet acting on the direction of the Cabinet—

Restriction on disclosure of certain matters.

- (a) gives notice to the Commission that the disclosure by the Commission 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,

the Commission, Directors or any other member of staff of the Commission shall not communicate to any person for any purpose any document or information specified in the notice, or 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, the Commission shall not further require such information or answer to be given or such document or thing to be produced.

(2) Except as provided under 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 conducted by the Commission.

(3) Until the tabling in Parliament of a report under section 36, all matters under investigation by the Director of Investigation or any other person involved in such investigation shall be kept confidential and no report or public statement shall be made by the Commission or any other person in relation to the initiation or conduct of an investigation under this Act.

(4) Nothing in subsection (3) shall preclude the taking of any administrative action or the initiation and conduct of any proceedings.

Findings of Director of Investigation

54.—(1) On completion of an investigation the Director of Investigation shall prepare and submit to the Commission, through the Executive Director, a report of his findings and recommendations. Findings of
Director of
Investigation.

(2) Where during the course of an investigation, the Director of Investigation is satisfied that there are insufficient grounds for continuing an investigation he shall terminate the investigation and issue a report of his findings to the Commission, through the Executive Director.

(3) Where upon completion of an investigation, the Director of Investigation is satisfied that there are reasonable grounds for suspecting that—

- (a) there has been a breach of any code of conduct by a public official or a parliamentarian, the Director of Investigation shall, in his report to the Commission—
 - (i) in the case of a public official, recommend to the Commission that the matter be referred to the relevant public body for appropriate action;
 - (ii) in the case of a parliamentarian, recommend to the Commission that the matter be referred to the Speaker of the House of Representatives or the President of the Senate, as the case may require, for appropriate action;
- (b) an act of corruption or an offence under this Act has been committed, the Director of Investigation shall, in his report to the Commission, recommend that the matter be referred to the Director of Corruption Prosecution who may take such action as may be deemed appropriate.

(4) Where the report to the Commission has a recommendation under subsection (3), the Commission shall submit it to Parliament for tabling, excluding such matters as the Director of

Corruption Prosecution regards as likely to prejudice the prosecution of any proceedings in relation to matters referred to in the report.

(5) Where the Director of Investigation finds that the matter which gave rise to the investigation does not constitute an act of corruption or any wrong-doing, he shall recommend to the Commission that the person who was the subject matter of the investigation be publicly exonerated of culpability, in such manner as the Commission deems fit, and the Commission may do so, unless the person concerned has requested the Commission in writing not to do so.

PART VII—*Privilege and Confidentiality*

Privilege.

55.—(1) Subject to subsection (2), no proceedings shall be brought against any person in respect of any action carried out by the person in the performance of his functions under this Act.

(2) Subsection (1) shall not apply to any proceedings on the grounds of gross negligence, malice or the use of unreasonable force.

(3) Except as specified under subsection (2), no proceedings whatsoever shall lie against the Commission or any person authorized by the Commission, for anything done, reported or said by the Commission in the performance of its functions under this Act.

(4) 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 the Commission under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(5) For the purposes of the *Defamation Act*, any report made by the Commission under this Act and any fair and accurate comment thereon shall be deemed to be privileged.

Confidentiality
regarding
information.

56.—(1) Subject to section 42(3)(b), every person having an official duty under this Act, or being employed or otherwise concerned in the administration of this Act (hereinafter called a concerned person) shall regard and deal with as secret and confidential, all information, statutory

declarations, government contracts, prescribed licences and all other matters relating to any matter before the Commission, except that no disclosure made by the Commission or other concerned person in the proceedings for an offence under this Act or under the *Perjury Act*, by virtue of section 17(2) of that Act, shall be deemed inconsistent with any duty imposed by this subsection.

(2) The obligation as to secrecy and confidentiality imposed by this section, in relation to any documents, or information obtained under this Act continues to apply to a person despite the person having ceased to have an official duty, be employed or otherwise concerned in the administration of this Act.

(3) Every concerned person who is required under subsection (1) to deal with matters specified therein as secret and confidential who at any time communicates or attempts to communicate any such information, declaration, letter and other document or thing referred to in subsection (1) disclosed to him in the execution of any of the provisions of this Act 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 purpose of this Act,

commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

57. A Commissioner, the Executive Director, the Directors and every member of staff of the Commission shall— Oath of
secrecy.

- (a) before he performs any function assigned to him under, or by virtue of this Act, take and subscribe an oath in the form set out in the First Schedule, to be administered in the case of—
 - (i) a Commissioner, the Executive Director and the Directors, by the Governor-General; and
 - (ii) any other member of staff, by the Executive Director; and

- (b) subject to section 56, maintain, during and after his relationship with the Commission has terminated, the confidentiality of all matters relating to the Commission.”.

PART VIII—*Repeal and Transitional Provisions*

Consequential amendments to Acts and Standing Orders of the House of Representatives.

58.—(1) The provisions of the Acts and Standing Orders of the House of Representatives specified in the first column of the Fourth Schedule are amended in the manner respectively specified in the second column of that Schedule.

(2) The amendment to the Standing Orders of the House of Representatives specified in the Fourth Schedule shall be regarded as if it were an amendment made pursuant to Standing Order No. 87 of those Standing Orders.

Repeal.

59. The *Parliament (Integrity of Members) Act* is hereby repealed.

Review of Act.

60.—(1) This Act shall be reviewed from time to time by a committee of both Houses of Parliament appointed for that purpose.

(2) The first review shall be conducted within five years from the appointed day, save and except for the provisions of section 42(3)(b), which shall be reviewed within two years after the appointed day, by a committee of both Houses of Parliament appointed for that purpose.

(3) Notwithstanding subsection (2), the provisions of section 42, in so far as they relate to the publication of summary statutory declarations, may be reviewed within two years after the appointed day by a committee of both Houses of Parliament appointed for that purpose.

Vesting of property.

61. Notwithstanding the amendments to the *Corruption (Prevention) Act* and the *Contractor-General Act* (hereinafter referred to as the “amended Acts”) set out respectively in the Fourth Schedule and the repeal of the *Parliament (Integrity of Members) Act* (hereinafter referred to as the repealed Act), any property purchased by, belonging to or vested in the Commission for the Prevention of Corruption, the Contractor-General or the Integrity Commission respectively under the amended Acts and the repealed Act, and all interests, rights and easements in respect of the said property shall,

without any conveyance, assignment or transfer, belong to and be vested in the Commission established under this Act, subject to all and any trusts and to all debts, liabilities and obligations affecting the same and to any enactment regulating the management, maintenance, control, supervision of and dealing with such property.

62.—(1) Subject to the provisions of this section, on the appointed day, all persons holding permanent appointment to offices under the Commission for the Prevention of Corruption, the Integrity Commission or the office of the Contractor-General (hereinafter referred to as the respective Commissions), shall be transferred on secondment to the services of the Commission established under this Act for a period of six months or such longer period as the Commission may, in special circumstances, determine.

Transitional provisions for permanent and contracted employees.

(2) Pursuant to subsection (1), during the period of secondment to the Commission an officer shall be employed on such terms and conditions as may be determined by the Commission, being terms and conditions that are not less favourable than those enjoyed by such person in his substantive position, on the appointed day.

(3) An officer who is transferred on secondment pursuant to subsection (1) may be deployed in the public service on or before the expiration of the period referred to in subsection (1) on terms and conditions that are not less favourable than those enjoyed by the officer in his substantive position or be retired on the ground that his substantive position has been abolished by virtue of this section.

(4) All persons who, on the appointed day, held offices under any of the respective Commissions under a contractual arrangement, shall, from that date be deemed to continue to hold under the Commission established under this Act, the like or similar respective offices or employment, on the same or no less favourable terms as they held those or similar offices under any of the respective Commissions.

(5) A person who has served in an office established under the *Integrity Commission Act*, the *Corruption (Prevention) Act* or the *Contractor-General Act* (hereinafter referred to as the “respective Acts”) and would have, but for the repeal of the respective Act, been

eligible to receive a pension thereunder, shall be paid a pension, where such service, together with the person's service under this Act, amount in the aggregate to not less than seven years.

(6) The Commission may, where it is satisfied that it is equitable to do so, make regulations to be given respective effect for the purpose of conferring a benefit or removing a disability attaching to any person who may have been entitled to a pension in the circumstances provided for in subsection (5).

Saving of
actions and
investigations.

63.—(1) Notwithstanding the amendment or repeal of an Act under this Part, as from the appointed day any legal proceedings or claims pending immediately before the appointed day, which, before the appointed day, were brought, continued or enforced by or against any of the respective Commissions, shall be brought, continued or enforced by or against the Commission in the same manner as they would have been brought, continued or enforced before the appointed day.

(2) The Commission established under this Act may—

- (a) commence or assume any investigation, swear any information or commence or conduct any prosecution in respect of an offence committed, or alleged to be committed before the appointed day under a provision of either of the amended Acts that has been amended or repealed by this Act, or under the repealed Act, and each such amended or repealed provision and the repealed Act shall be deemed to remain in full force and effect, for the purposes of any such investigation, information and prosecution as it had been immediately before the appointed day; or
- (b) continue or do any act, thing or investigation which was pending before the appointed day.

(3) The Court shall, in respect of any proceedings instituted following any investigation under subsection (2), have all the powers that it could exercise pursuant to the amended Acts and the repealed Act as if they remain in full force and effect.

64.—(1) The Commission, may make regulations—

Regulations.

- (a) prescribing the manner in which investigations may be carried out and any matters incidental to or consequential on such investigations;
- (b) amending the form specified in the Third Schedule;
- (c) prescribing the procedure and manner for the filing of statutory declarations by the Commission, Directors and staff of the Commission;
- (d) prescribing the Code of Conduct in relation to the functions of each Director;
- (e) prescribing any matter or thing, in respect of which it may be expedient to make regulations for the purpose of giving effect to the provisions of this Act.

Third
Schedule.

(2) Notwithstanding the provisions of subsection (1), any regulations made in relation to pensions under this Act shall be made by the Minister responsible for finance and shall be subject to affirmative resolution.

(3) Regulations made under subsection (1) shall be subject to affirmative resolution.

65. The Minister may, by order published in the *Gazette*, subject to affirmative resolution, amend or vary any monetary penalty prescribed in this Act.

Minister may
amend
monetary
penalties and
Schedules.

FIRST SCHEDULE

(Section 57)

*Oath to be taken by the Commissioners, the Executive Director,
Directors and Members of Staff of the Commission*

I
do swear that I will faithfully perform any functions assigned to me under the Integrity Commission Act, and I will not, on any account, at any time whatsoever, except in so far as provisions of the Act authorize, directly or indirectly reveal any information or the nature or contents of any information or documents communicated to me in the performance of any functions assigned to me by virtue of the Act.

So help me God.

Contents of Annual Report of Commission

1. A general description of the matters that were referred to the Commission.
2. Subject to section 53(3), a general description of the matters investigated by the Commission.
3. The following details with respect to matters investigated by the Commission—
 - (a) the number of investigations commenced but not finally dealt with during the financial year in question;
 - (b) the average time taken to deal with complaints and the actual time taken to investigate any matter in respect of which a report is made.
4. Any recommendations for changes in the laws of Jamaica, or for administrative action, that the Commission considers should be made as a result of the exercise of its functions.
5. The general nature and extent of any information submitted under this Act by the Commission during the year to the Security Forces or any other public body.
6. The number of matters investigated by the Commission which have resulted in prosecutions or disciplinary action in that year.
7. A description of its activities during that year in relation to any of its functions.
8. The number of convictions and acquittals, and where a charge is laid the time taken to dispose of each matter.
9. Such other information as the Commission thinks relevant; however, no details shall be provided by the Commission in relation to any matter under investigation by the Director of Investigation or for which criminal proceedings have been instituted by the Director of Corruption Prosecution.
10. The audited financial statements of the Commission for the financial year.

THIRD SCHEDULE (Section 39(1))

PART A

*Statutory Declaration of Assets, Liabilities and Income
of Parliamentarians and Public Officials*

THE INTEGRITY COMMISSION 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:

1. Where any property is held by the declarant, the 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.
2. The declaration date should be the date as at which pursuant to section 41, the declaration is to be submitted.
3. Where the space in the Form is inadequate a separate sheet of paper may be used and signed by the declarant.

Name of Declarant	Name of Declarant's Spouse
Address of Declarant	Address of Declarant's Spouse
Number of full years employment of Declarant	Names of full years employment of Spouse
Taxpayer Registration Number (TRN) of Declarant	Taxpayer Registration Number (TRN) of Spouse
Declarant's Employer	Maiden Name (of spouse)

PARTICULARS OF DECLARANT'S CHILDREN

Name	Date of Birth	Address

.....
Signature of Declarant

PARTICULARS OF ASSET HELD BY DECLARANT,
 SPOUSE AND CHILDREN

BANK ACCOUNTS

1. TO BE SUPPORTED BY BANK STATEMENT OR LETTER FROM
 BANK CONFIRMING BALANCES

Name and Address of Banks	In whose name held	Balance in Account

.....
Signature of Declarant

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

Description			Where situated	Date of Acquisition	In Whose Name Held	Purchase Price	Estimated Current Market Value
General	Vol.	Fol.					

.....
Signature of Declarant

5. MONIES INVESTED IN MORTGAGES 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

.....
Signature of Declarant

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

.....
Signature of Declarant

7. VALUES HELD IN SAFETY DEPOSIT BOXES BY DECLARANT, SPOUSE AND CHILDREN

Where Held	Owner's Name	Contents	Purchase Price	Market Value

.....
Signature of Declarant

8. INSURANCE POLICIES HELD BY DECLARANT, SPOUSE AND CHILDREN

Insurance Company	Type of Policy	Date Insured	Date of Maturity	Name of Insured	Annual Premium	Face Value	Surrender Value

.....
Signature of Declarant

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

.....
Signature of Declarant

10. OTHER PROPERTY OWNED BY DECLARANT, SPOUSE AND CHILDREN, BEING HELD BY A PERSON OTHER THAN OWNER, WHETHER BY 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 PERQUISITIES SUCH AS HOUSE, ENTERTAINMENT ALLOWANCES, RENTALS, ETC.)

Type of Income	Recipient's Name	Source	Gross Amount for Period under review

.....
Signature of Declarant

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	

.....
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	Acquisition or Disposal	Cost of Acquisition	Price of Disposal

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

14. PARTICULARS OF ANY GIFT

Description of Gift/Nature	Name and Address of Donor	Approximate Value of Gift

.....
Signature of Declarant

15. PARTICULARS OF DEBT FORGIVENESS

Description of Property	Amount of Debt Forgiveness	By Whom Debt Forgiven

.....
Signature of Declarant

OFFICIAL RECEIPT

Received from Statutory Declaration for the period
Declarant's Name



.....
Signature of Declarant

.....
Date

Summary of Statutory Declaration

THE INTEGRITY COMMISSION ACT
Section 42(3)(b)

Name of Declarant:
Summary of income, assets and liabilities of declarant, spouse and children as at (.....) and for the period

INCOME	ASSETS	LIABILITIES
1. Salary	1. Savings Account(s)	1. Real Estate Mortgage(s)
2. Realty income	2. Current Account(s)	Payable
3. Security income	3. Securities	2. Notes Payable—
4. Other income	4. Real Estate	Secured
	5. Other Personal Property	3. Notes Payable—
	6. Real Estate Mortgages	Unsecured
	Receivable and Business Investments	4. Other Accounts Payable
	7. Accounts Receivable	
	8. Automobiles	
	9. Cash Value of Life Insurance(s)	
<hr/> TOTAL INCOME <hr/>	<hr/> TOTAL ASSETS <hr/>	<hr/> TOTAL LIABILITIES <hr/>

The Integrity Commission hereby certifies that the statutory declaration submitted by the declarant has been examined and is satisfied that a full declaration has been made in accordance with the provisions of the Act.

.....
Chairman
Integrity Commission

Dated this day of 20

FOURTH SCHEDULE

(Section 58)

Provisions	Amendment
<i>The Contractor-General Act</i>	
Long title	Delete the long title and substitute therefor the following— “An Act to make provision to continue the National Contracts Commission and to make other provisions relating thereto”.
Section 1	Delete section 1 and substitute therefor the following— “Short title. 1. This Act may be cited as the National Contracts Commission (Interim Provisions) Act, 2017;”
Section 2	1. Insert the following definition in alphabetical sequence— “ “Integrity Commission” means the Integrity Commission established under the Integrity Commission Act;” 2. Delete the definition of “Security Forces”.
Section 3	Repealed.
Section 4	Repealed.
Section 5	Repealed.
Section 6	Repealed.
Section 7	Repealed.
Section 8	Repealed.
Section 9	Repealed.
Section 10	Repealed.
Section 11	Repealed.
Section 12	Repealed.
Section 13	Repealed.
Section 14	Repealed.
Section 15	Repealed.

<u>Provisions</u>	<u>Amendment</u>
Section 16	Repealed.
Section 17	Repealed.
Section 18	Repealed.
Section 19	Repealed.
Section 20	Repealed.
Section 21	Repealed.
Section 22	Repealed.
Section 23	Repealed.
Section 23J	<p>Delete section 23J and substitute therefor the following—</p> <p style="margin-left: 40px;">“ Funds and resources of Commission 23J.—(1) The Funds and resources of the Commission shall consist of—</p> <p style="margin-left: 80px;">(a) such sums as may from time to time, be placed at the disposal of the Commission;</p> <p style="margin-left: 80px;">(b) all other sums which may, in any manner, become payable to or vested in the Commission in respect of any matter incidental to its functions.</p> <p style="margin-left: 40px;">(2) The expenses of the Commission, including remuneration of members and employees shall be paid out of the funds of the Commission.</p> <p style="margin-left: 40px;">(3) Subject to the approval of Cabinet, fees may be charged for services rendered by the Commission under this Act”.</p>

Provisions

Amendment

Insertion of
new sections
23K and 23L

Insert immediately after section 23J the following new
sections—

“Accounts
and Audit.

23K.—(1) The Commission shall keep proper accounts and other records in relation to its functions and shall prepare annually a statement of accounts in a form satisfactory to the Minister and conforming to established accounting principles.

(2) The accounts of the Commission 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 23L.

Annual
Report.

23L.—(1) The Commission shall, within six months after the end of each financial year or within such longer period as the Minister may in special circumstances approve cause to be made and transmitted to the Minister a report dealing generally with the activities of the Commission during the preceding financial year.

(2) The Minister shall cause a copy of the report to be laid in the House of Representatives and the Senate.”.

Secrecy of
information.

24. 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.

Repealed.

Repealed

Repealed.

Section 25

Section 26

Section 27

Provisions

Amendment

Section 28

Repealed.

Offences.

29. Every person who wilfully makes any false statement to mislead or misleads or attempts to mislead the Commission in the execution of its functions under this Act or without lawful justification or excuse, obstructs, hinders or resists the Commission in the execution of its functions under this Act, shall be guilty of an offence and shall be liable on summary conviction before a Parish Court to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months.

Section 30

Repealed.

Section 30A

Repealed

Section 31

Repealed.

First Schedule

Repealed.

Second Schedule

Repealed.

Third Schedule

In paragraph 1(a) delete the words "Contractor-General" where it appears and substitute therefor the words "Chairman of the Integrity Commission."

*The Corruption
(Prevention) Act*

Section 2

1. In subsection (2) insert immediately after the words "Deputy Director of Public Prosecutions, the words "the Director of Corruption Prosecution, in relation to an indictment for an offence under the Corruption (Prevention) Act or the Integrity Commission Act".

2. Insert immediately after subsection (2) the following as subsection (2A)—

" (2A) For the purposes of subsection (2) "Director of Corruption Prosecution" means the person appointed as the Director of Corruption Prosecution under the Integrity Commission Act."

Provisions	Amendment
<i>The Criminal Justice (Administration) Act</i>	
Section 2	<ol style="list-style-type: none"> 1. Delete the definition of "Commission". 2. Delete the definition of "document" and substitute therefor the following— <ul style="list-style-type: none"> "document" means, in addition to a document in writing, anything in which information of any description is recorded. 3. Insert the following new definition in alphabetical sequence— <ul style="list-style-type: none"> "holder of a judicial office" has the meaning assigned to it by the Integrity Commission Act. 4. In paragraph (c) of the definition of "public function", insert a comma after the word "Senate" and insert immediately thereafter the words "or the holder of a judicial office;".
Section 3	Repealed.
Section 4	Repealed.
Section 5	Repealed.
Section 6	Repealed.
Section 7	Repealed.
Section 8	Repealed.
Section 9	Repealed.
Section 10	Repealed.
Section 11	Repealed.
Section 12	Repealed.
Section 13	Repealed.
Section 15	<ol style="list-style-type: none"> 1. In subsection (1)(a)(i) by deleting the word "one" and substituting therefor the word "two".

Provisions

Amendment

2. In subsection (1)(b)(i) by deleting the word “five” and substituting therefor the word “fifteen”; and

3. In subsection (1)(b)(ii) by deleting the words “not exceeding ten million dollars”.

4. Delete subsections (3), (4), (5), (6), (7) and (8).

5. Insert immediately after subsection (2), the following new subsections—

“ (2A) Where an offence under this section involves the deliberate non-disclosure of property belonging to a parliamentarian or a public official the Court may, in addition to the imposition of a fine or term of imprisonment or both, order that the property be forfeited to the Crown.

(2B) In relation to forfeiture proceedings under subsection (2A), section 5 of the *Proceeds of Crime Act* shall apply.”.

Section 16 Repealed.

First Schedule. Repealed.

Second Schedule. Repealed.

The Proceeds of Crime Act

Section 2 In the definition of “enforcing authority” insert the following new paragraph as paragraph (c)—

“(c) the Director of Corruption Prosecution, where he makes such an application;”.

Section 5 In subsection (1) insert immediately after the words “the Director of Public Prosecutions”, the words “or the Director of Corruption Prosecution, appointed as such under the *Integrity Commission Act*”.

Provisions <hr style="width: 10%; margin: 0;"/>	Amendment <hr style="width: 10%; margin: 0;"/>
<i>The Standing Orders of the House of Representatives of Jamaica 1964</i>	
Standing Order No. 68	In paragraph (1), by inserting immediately after sub-paragraph (k) the following new sub-paragraph— “(l) the Integrity Commission Oversight Committee.”;
Insertion of new Standing Order 73D.	Insert immediately after Standing Order No. 73C, the following new Standing Order— “73D. The Integrity Commission Oversight Committee 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 submit 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.

THE INTEGRITY COMMISSION 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 on the
..... day of

at
(Place)

20 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

Director of Investigation

Integrity Commission this day of 20

SIXTH SCHEDULE

(Section 30 (9))

Pensions and Gratuities

Interpretation. 1. In this Schedule "pensionable emoluments" has the same meaning as in the *Pensions Act* and, in so far as the emoluments of a Director or the Executive Director include house allowance, the office of Director or the Executive Director shall be deemed to be a specified office.

Entitlement of pensions and gratuities in respect of service as Director or the Executive Director.

2.—(1) Where a person holding the office of Director or the Executive Director retires in pensionable circumstances he shall be paid pension and gratuity in accordance with this Schedule.

(2) For the purposes of this paragraph and paragraph 4, a person retires in pensionable circumstances if he retires—

- (a) on or after the expiration of five years from the date of his appointment to the office of Director or the Executive Director; or
- (b) by reason of ill health prior to such expiration.

(3) For the purposes of this Act, a person retires from the office of Director or the Executive Director on the ground of ill health if—

- (a) he retires on medical evidence, to the satisfaction of the Governor-General, that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent; or
- (b) he is removed from office, in accordance with section 9(a).

(4) A Director or the Executive Director whose appointment is terminated, pursuant to section 28 and 30 of the Act, or who retired otherwise than in pensionable circumstances may be granted by the Governor-General such pension and gratuity as the Governor-General thinks fit not exceeding the pension and gratuity to which he would have been entitled had he retired in pensionable circumstances from such office and, for the purposes of subparagraph (5), the date of termination from office or retirement shall be deemed to be the date of retirement in pensionable circumstances.

(5) Pension payable in accordance with this paragraph shall—

- (a) be charged on and payable out of the Consolidated Fund; and
- (b) be paid monthly in arrears with effect, subject to paragraph 4, from the date of retirement in pensionable circumstances and shall, subject to the provisions of this Act, continue to be paid during the lifetime of the person entitled thereto.

3. The rate of pension payable pursuant to paragraph 2 to any person shall— Rate of pension.

- (a) if the person has retired after completing not less than five years service as Director or the Executive Director or, at any time, on the ground of ill-health, be at an annual rate equivalent to his pensionable emoluments at retirement; and
- (b) in any other case, be an annual rate equivalent to the sum of one-half of his pensionable emoluments at the date of retirement and one-three hundred and sixtieth of such pensionable emoluments in respect of each month of service as a Director or the Executive Director:

Provided that the rate of pension shall not exceed the annual rate of such pensionable emoluments.

4. Where in accordance with paragraph 2(2) a person retires in pensionable circumstances before he has attained the age of fifty years— Special provision where Director or the Executive Director retires before attaining age fifty.

- (a) the date with effect from which any pension due to him under this Act shall be payable shall be the date on which he attains that age, but, if he elects pursuant to paragraph 5 to take a reduced pension and commuted pension gratuity, nothing in this paragraph shall prevent payment of the commuted pension gratuity at any time prior to the attainment of that age; and
- (b) if he dies before attaining that age, and he has not made an election to receive a reduced pension and commuted pension gratuity as aforesaid, he shall for the purpose of paragraph 6 be deemed to have died while holding the office of Director or the Executive Director.

5.—(1) Any person to whom a pension (in this paragraph referred to as “the original pension”) is payable pursuant to paragraph 2 may, at his option exercisable at his retirement in pensionable circumstances or within such period prior or subsequent to his retirement as the Governor-General may allow, be paid, in lieu of the original pension, a reduced pension at the rate of three-fourths of the annual rate of the original pension together with a gratuity (in this Act referred to as a “commuted pension gratuity”) equal to twelve and one-half times one-quarter of the annual rate of the original pension. Reduced pension and gratuity.

(2) The option referred to in sub-paragraph (1) shall be irrevocable unless the Governor-General, on such terms as he considers reasonable, otherwise permits.

Gratuity on death.

6.—(1) Where a person dies while holding the office of Director or the Executive Director there shall be paid to his legal personal representatives, a gratuity of an amount equivalent to—

- (a) one year's pensionable emoluments; or
- (b) the commuted pension gratuity for which the person aforesaid had a right to opt pursuant to paragraph 5 on the assumption that he retired in pensionable circumstances at the date of his death,

whichever is the greater.

(2) Where a person dies while in receipt of a pension pursuant to paragraph 2, there shall be paid to his legal personal representatives a gratuity of an amount equivalent to one year's pensionable emoluments of that person at the date of his retirement or removal from office.

Pensions to dependents when a Director or the Executive Director dies as a result of injuries received or disease contracted in the discharge of his duties.

7. Where a person holding the office of Director or the Executive Director dies as a result of injuries received—

- (a) in the actual discharge of his duties;
- (b) in circumstances in which the injury is not wholly or mainly due to or seriously aggravated by his own serious and culpable negligence or misconduct; and
- (c) on account of circumstances specially attributable to the nature of his duty,

while serving in that office, it shall be lawful for the Governor-General to grant to the deceased officer's widow, children, parents or other dependants such awards as would have been made under the *Pensions Act* if the office of Director or the Executive Director was a pensionable office for the purposes of that Act.

Retirement consequent on injury or disease.

8. If a Director or the Executive Director—

- (a) is permanently injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct;
- (b) contracts a disease to which he is exposed specially by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct;

- (c) is permanently injured as a result of an accident or damage to the aircraft while travelling by air in pursuance of official instructions and the injury was not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (d) while proceeding by a route approved by the Governor-General to or from this Island at the commencement or termination of his service therein, or of a period of secondment, duty leave, or leave therefrom, is permanently injured as the result of damage or any act of violence to the vessel, aircraft or vehicle in which he is travelling, if the Governor-General is satisfied that that damage or act is attributable to circumstances arising out of any war in which Her Majesty may be engaged,

then, for the purpose of calculating any pension under this Act any period of service as Director or the Executive Director shall be deemed to be increased by twenty *per centum*.

9. A pension or gratuity payable under this Act shall not be assignable or transferable except for the purpose of satisfying— Pensions, etc., not to be assigned.

- (a) a debt due to the Government; or
- (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor children, of the person to whom the pension or gratuity is payable,

and shall not be liable to be attached, sequestered or levied upon, for or in respect of any debt due or claim whatever except a debt due to the Government.

10.—(1) Where a person dies while holding the office of Director or the Executive Director or while entitled to a pension under paragraph 2, there shall be paid to his widow a pension at an annual rate equivalent to one-fifth of the pensionable emoluments of the person aforesaid at the date of his death or, if at that date he was entitled to receive a pension under paragraph 2, at the date of his retirement or, as the case may be, removal from office in accordance with this Act. Pension to widow.

(2) Pension payable to a widow pursuant to sub-paragraph (1) shall—

- (a) be charged on and paid out of the Consolidated Fund; and
- (b) be paid monthly in arrears with effect from the date of her husband's death and shall, subject to the provisions of this Act, continue to be paid during her lifetime.

(3) In paragraph 7 and sub-paragraphs (1) and (2) of this paragraph, references to a widow shall, in the case of a female appointed Director or the Executive Director, be deemed to include references to a widower and cognate expressions shall be construed accordingly, and similarly, references to a husband shall be deemed to include references to a wife.

Passed in the Honourable House of Representatives this 31st day of January, 2017 with three (3) amendments.

PEARNEL CHARLES
Speaker.

Passed in the Senate this 20th day of July, 2017 with one hundred and three (103) amendments.

AUBYN R. HILL
Deputy President.

MEMORANDUM OF OBJECTS AND REASONS

Integrity in public life is the standard that society expects persons exercising public functions to observe and maintain in the conduct of the public affairs to which they have been entrusted. This is the standard that safeguards a society from corruption by such persons who have been given almost unrestricted access to public resources together with the power to make decisions that impact the society as a whole. It is accepted that persons exercising public functions can and sometimes do inflict immense, often irreparable, damage to a country by acting in any other way than in the public interest. This therefore is the rationale for the strong legislative and other measures that must be taken to govern the behaviour of such persons exercising public functions.

Recognizing the corrosive effect of corruption on the maintenance of public confidence in the transparent and fair operation of services, in the public sector, the Government has identified the eradication of acts of corruption as one of its most urgent priorities.

The existing regime provided by the *Corruption Prevention Act* and the *Parliament (Integrity of Members) Act* has been found to be inadequate in the fight against corruption. It is also recognized that a coordinated national anti-corruption strategy is needed to effectively tackle the pervasive problem of corruption. This strategy indicates a comprehensive multi-disciplinary approach, which combines the resources needed to—

- (a) investigate allegations or complaints relating to acts of corruption; and
- (b) prosecute persons where there is supporting evidence.

In cognizance of the foregoing, in May 2012, an Advisory Committee was appointed by the Minister of Justice, acting on the direction of Cabinet, to consider and report on the establishment of a single anti-corruption entity which would assume the functions of the Commission for the Prevention of Corruption, the Integrity Commission and the Office of the Contractor-General. The report of the Advisory Committee addressed the establishment of such single entity and the organizational structure and administrative functions and operations in relation to said entity. The report was submitted to and approved by the Cabinet and its contents formed the policy which instructed the preparation of this Bill.

The Integrity Commission Act therefore seeks to consolidate the laws relating to the prevention of corruption and the award and monitoring of government contracts and prescribed licences by establishing a single Commission to promote and strengthen measures for the prevention, detection, investigation and prosecution of acts of corruption and to monitor and investigate, where necessary, the award of government contracts and prescribed licences and to provide for other related matters. The Commission will have a specific mandate

to receive complaints relating to acts of corruption and to conduct the necessary investigation and prosecution in relation to such matters. In addition, the Commission will receive the statutory declaration submitted by parliamentarians and public officials relating to their assets and liabilities and income.

The Act establishes the Integrity Commission as a Commission of Parliament and provides for the functions of the Commission to be carried out through the Divisions as established therein. These Divisions include the Administration Division, the Investigation Division, the Corruption Prosecution Division and such other Divisions as the Commission may deem necessary to assist it in the carrying out of its functions.

The Act also provides, *inter alia*, for other duties of the Commission, including—

- (a) advising and assisting public authorities, and other persons on methods to combat or eliminate acts of corruption;
- (b) co-operating with public authorities and public officials in reviewing laws, practices and procedures in order to reduce corruption;
- (c) making recommendations to Parliament on legislative measures designed to strengthen an anti-corruption regime; and
- (d) requiring parliamentarians, public officials and other persons to assist in the investigation of acts of corruption.

DELROY CHUCK.
Minister of Justice

ABILL

ENTITLED

AN ACT to Promote and enhance standards of ethical conduct for parliamentarians, public officials and other persons by consolidating laws relating to the prevention of corruption and the award, monitoring and investigating of government contracts and prescribed licences and to provide for the Establishment of a single body to be known as the Integrity Commission to promote and strengthen the measures for the prevention, detection, investigation and prosecution of acts of corruption; to repeal the Parliament (Integrity of Members) Act and to provide for other related matters.

As passed in the Honourable House of Representatives.

As passed in the Honourable Senate.

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