

INTEGRITY COMMISSION BILL, 2017

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INTEGRITY COMMISSION BILL, 2017

A BILL FOR AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS THE INTEGRITY COMMISSION TO PROMOTE AND ENHANCE ETHICAL CONDUCT FOR PARLIAMENTARIANS, SENATORS, PUBLIC OFFICIALS AND OTHER PERSONS; TO PROVIDE MEASURES FOR THE PREVENTION, DETECTION AND INVESTIGATION OF ACTS OF CORRUPTION; TO REPEAL THE PUBLIC DISCLOSURE ACT AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH

Enacted by the Parliament of The Bahamas

PART I – PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as the Integrity Commission Act, 2017.
- (2) This Act shall come into force on such date as the Minister may appoint by notice in the *Gazette*.

2. Interpretation.

In this Act —

“**assets of a person**” means all property, including any right or interest in property and money held by the person in The Bahamas or elsewhere;

“**benefit**” includes property, gift, service or advantage whether direct or indirect;

“**child**” in relation to a person means the child of a person who has not attained the age of eighteen years and is not married or having attained that age, is under the age of twenty-five and not married

and is pursuing a course of higher education and includes a step-child or an adopted child, and, in respect of a man, includes a child born out of wedlock of whom the man has been adjudged the father by a court of competent jurisdiction or whom the man had acknowledged to be his own child;

“Code of Conduct” means the body of rules contained in the *First Schedule*;

“Commission” means the Integrity Commission established under section 3;

“Commissioner” means a member of the Commission appointed in accordance with the *Second Schedule* and includes the Chairman;

“complainant” means a person who makes a complaint in accordance with the provisions of this Act;

“document” means, in addition to a document in writing, anything in which information of any description is recorded;

“income” includes —

- (a) money or money's worth derived from whatever source or acquired in or out of The Bahamas, whether directly or indirectly;
- (b) all receipts by way of salary, fees, wages, requisitions, profits, grants, emoluments, rents, interest, commissions, bonus, pensions, annuity or benefit;

“investigating officer” means a person designated as such under section 33;

“lawful earnings” includes any property inherited by will or on intestacy;

“liabilities of a person” means all the obligations of the person to pay money or to provide goods and services in The Bahamas or elsewhere;

“Minister” means the Prime Minister;

“person in public life” means a person who holds any specified office referred to in the *Third Schedule*;

“privileged material” means —

- (a) communications between a professional legal adviser and his client, or any person representing his client, made in connection with the giving of legal advice to the client;
 - (b) communications between a professional legal adviser and his client, or any person representing his client, or between such an adviser or his client, or any such representative, and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings;
- or

(c) material enclosed with or referred to in such communications and made —

- (i) in connection with the giving of legal advice; or
- (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when the communications or material are in the possession of a person who is entitled to such possession and are not held with the intention of furthering a criminal purpose, and does not include any legal or other advice or service given with the intent to avoid or minimise in any way the duty of disclosure in this Act;

“property” includes money and all property, real or personal and all things in action;

“public body” includes —

- (a) either House of Parliament and the Cabinet;
- (b) a Ministry, department or agency of Government;
- (c) a corporation established by an Act of Parliament or a subsidiary company of that corporation;
- (d) a commission, statutory board, public authority or other body which receives any payment of monies appropriated by Parliament;

“public officer” has the meaning given to it under section 2 of the Public Service Act (*Ch. 39*);

“public official” means a person who is a member of a public body or a public officer;

“Register of Interests” means the register established under section 57 containing specified information furnished by Members of Parliament and Senators pursuant to section 55;

“specified office” means an office listed in the *Third Schedule*;

“spouse” in relation to a person in public life, means a person —

- (a) to whom a person in public life is married; or
- (b) who is living with a person in public life in circumstances of husband and wife for a continuous period of one year during the period covered by the person's declaration;

“statement of registrable interests” means a statement filed under section 55 of the interests described in section 56 held by or concerning a Member of Parliament or Senator;

“Tribunal” means a Tribunal established under the *Second Schedule*.

PART II – INTEGRITY COMMISSION

ESTABLISHMENT, FUNCTIONS, POWERS, OFFICERS AND EMPLOYEES, ETC.

3. Establishment of the Integrity Commission.

- (1) For the purposes of this Act, there is established an Integrity Commission, which shall be a body corporate.
- (2) The provisions of the *Second Schedule* shall have effect as to the constitution of the Commission and otherwise in relation thereto.

4. Functions of the Commission.

The functions of the Commission shall be to —

- (a) receive and keep on record all declarations, statements of registrable interests and reports of gifts forwarded by persons in public life;
- (b) examine declarations, statements of registrable interests and reports of gifts and to request from a person in public life any information or further information relevant to a declaration, statement of registrable interests or report of a gift made by him, which may assist the Commission in its examination;
- (c) make inquiries and carry out investigations as it considers necessary in order to verify or determine the accuracy of a declaration, statement of registrable interests or report of a gift filed under this Act;
- (d) receive, inquire into and investigate any complaint or report of —
 - (i) an alleged act of corruption under Part III;
 - (ii) an alleged contravention of the Code of Conduct; or
 - (iii) an alleged offence under any Act that assigns responsibility for the investigation of offences to the Commission;
- (e) investigate any matter referred to in paragraph (d) on its own initiative, if the Commission is satisfied that there are reasonable grounds for an investigation or inquiry;
- (f) examine practices and procedures of public bodies in order to facilitate the discovery of corrupt practices, and to secure the revision of methods of work or procedures which, in its opinion, may be conducive to such corruption;
- (g) instruct, advise and assist the management of public bodies of any change in practices or procedures which may be necessary to reduce the occurrence of corrupt acts;

- (h) educate the public against corruption;
- (i) draft model codes of conduct and advise public bodies as to the adoption of such codes of conduct as may be suited to those bodies;
- (j) cooperate and collaborate with international institutions, agencies or organisations in combating corruption;
- (k) monitor legislative and administrative practices implemented to combat corruption;
- (l) advise the Minister on such legislative reform as it considers necessary to foster the elimination of corruption; and
- (m) do or cause to be done such other things —
 - (i) as may be conferred by this Act or any other written law; and
 - (ii) that may enable the Commission to carry out its functions.

5. Powers of the Commission.

- (1) The Commission shall have such powers as may be requisite or incidental for or in connection with the performance of its functions and shall have, exercise and perform such other responsibilities and powers as may be assigned to it by this or any other written law.
- (2) The Commission may consult with any person, institution or organisation in the exercise of its powers of investigation, or in the conduct of an inquiry under this Act.
- (3) The Commission may, with the consent of the Attorney-General, enter into such written agreements or arrangements or memoranda of understanding with a law enforcement agency, including a foreign law enforcement agency, as the Commission considers necessary or desirable for the discharge or performance of its functions.
- (4) The Commission shall be recognised as a law enforcement agency for the purpose of receiving disclosures of information which are relevant to its functions from any law enforcement agency, including a foreign law enforcement agency.
- (5) Subject to sections 82 and 83, the Commission may disclose to a law enforcement agency, including a foreign law enforcement agency, any information that was disclosed to it.

6. Officers and employees.

- (1) The Commission, acting within the funds and resources available to it, may —
 - (a) employ such officers and employees as are required for the proper performance of the functions of the Commission;
 - (b) retain the services of professional persons.

- (2) The remuneration and other terms and conditions of employment of the officers and employees of the Commission employed under subsection (1) and the professional persons retained under that subsection shall be such as may be determined or varied by the Commission from time to time.
- (3) For the purpose of performing the functions conferred on the Commission, the Commission may, with the consent of the appropriate authority, utilize the services of any public officer or other Government employee.
- (4) The Commission may, with the approval of the Minister, make such provisions as it deems appropriate for the payment of contributory pension, gratuity or other allowances in respect of the service of its officers and other employees on their retirement from employment with the Commission.
- (5) For the purpose of subsection (3), “**appropriate authority**”, in relation to any public officer or other employee of the Government, means the person or authority vested by law with the power to appoint such public officer or employee of the Government to the position he held in the Government at the time when his service is sought to be utilised by the Commission.

FINANCIAL PROVISIONS

7. Funds of the Commission.

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

8. Accounts and audit of the Commission.

- (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.
- (2) A statement of the audited accounts shall form part of the annual report submitted pursuant to section 85.
- (3) The Chairman shall, at such time within each year as the Minister may direct, submit to the Minister —
 - (a) a statement of the accounts of the Commission in accordance with subsection (1);
 - (b) for approval, the estimates of revenue and expenditure for the proceeding financial year.

PROCEDURES OF THE COMMISSION

9. Commission may regulate own procedure.

Subject to the provisions of this Act, the Commission may regulate its own procedure and may make rules for that purpose.

10. Meetings and proceedings.

- (1) The Commission shall meet at such times as may be expedient for the Commission to carry out its functions, and may, from time to time, adjourn for such time and to such place within or outside The Bahamas as it may think fit.
- (2) Four members of the Commission shall constitute a quorum.
- (3) The proceedings of the Commission shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of any member.

11. Commission may summon and examine witnesses.

- (1) For the purposes of an investigation or inquiry under this Act, a Commissioner shall have the powers of a justice of the Supreme Court to —
 - (a) summon and compel the attendance of witnesses;
 - (b) call for the production of books, plans or documents including the power to retain and examine the same;
 - (c) examine persons appearing before them on oath;
 - (d) subject to the Rules of the Supreme Court request to examine witnesses abroad,

and a summons in Form 1 as provided for in the *Fourth Schedule* signed by one or more of the Commissioners may, with such modifications and adaptations as may be necessary, be substituted for and shall be equivalent to, and for the purposes of any law have the same effect as any formal proceedings in the Supreme Court for summoning or enforcing the attendance of witnesses and compelling the production of documents or things.

- (2) For the purpose of the exercise by a Commissioner of any of the powers mentioned in subsection (1), references to a justice of the Supreme Court in any other law applicable thereto shall, subject to this Act, have effect as including such a commissioner except that, where any such power is exercised in respect to the summoning of any person to give or produce evidence as to any banker's book within the meaning of section 177 of the

Evidence Act (*Ch. 65*), such summons shall only be issued by the Chairman of the Commission.

12. Immunity of persons executing, and of witnesses, before the Commission.

- (1) No Commissioner or person assisting the Commission in the conduct of its inquiry shall be liable to any action, suit or proceedings for any matter or thing done in the due execution or carrying out of the functions of the Commission.
- (2) No person attending before the Commission shall be excused from answering any question or producing any document or thing by reason that the answer thereto or the production thereof, as the case may be, would tend to be self incriminating.
- (3) Notwithstanding any other law to the contrary, no answer given or the fact of production of any document or thing shall be used or admissible as evidence against a person in any proceedings except criminal proceedings in which that person may be charged with having given false evidence before the Commission or having conspired with or procured others to do so.

13. Duty of witnesses summoned.

- (1) A person summoned to attend and give evidence, or to produce books, plans or documents at any sitting of the Commission, shall be bound to obey the summons served upon him as fully in all respects as a witness is bound to obey subpoenas issued from the Supreme Court, and shall be entitled to the like expenses as if he had been summoned to attend the Supreme Court on a criminal trial, if the same shall be allowed by the Commission.
- (2) The Commission may disallow the whole or any part of such expenses in any case, if it thinks fit and the procedure for the payment of such witnesses shall be the same as nearly as may be for the payment of witnesses in the Supreme Court, and such witness shall be paid at such time and in such manner as the Minister responsible for finance may direct.
- (3) A person who —
 - (a) refuses or omits, without sufficient cause, to attend at the time and place mentioned in the summons served on him;
 - (b) attends any sitting of the Commission, but —
 - (i) leaves the Commission without the permission of the Commission;

- (ii) refuses without sufficient cause to answer, or to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him;
 - (iii) refuses or omits without sufficient cause to produce any books, plans or documents in his possession, or under his control, and mentioned or referred to in the summons served on him, or
 - (c) attends at any sitting of the Commission and wilfully insults any Commissioner, officer or employee of the Commission,
commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to a term of imprisonment not exceeding six months, to or both.
- (4) A person referred to in section 16, any witness and their respective representatives appearing before the Commission shall be entitled, subject to sections 12(2) and (3), to the same immunities and privileges as are parties, witnesses and representatives in civil proceedings before the Supreme Court.

14. Witness may be examined on oath.

The Commission may —

- (a) require that any facts, matters or things relating to the subject of an inquiry be verified or otherwise ascertained by the oral examination of witnesses; and
- (b) cause witnesses to be examined on oath which the Chairman or the Secretary shall be authorised to administer.

15. False evidence.

Any witness who shall wilfully give false evidence in any such inquiry, commits perjury, and is liable to be prosecuted and punished accordingly.

16. Appearance of counsel.

A person whose conduct is the subject of an inquiry under this Act, or who is in any way implicated or concerned in the matter under inquiry, shall be entitled to be represented by counsel at the inquiry, and any other person who may consider it desirable that he should be so represented may, by leave of the Commission, be represented in the manner aforesaid.

17. Attendance of police officers to preserve order, etc.

The Commissioner of Police may detail police officers to attend to preserve order during the proceedings of the Commission, and to serve summonses and to perform such other duties as the Commission shall direct.

PART III – ACTS OF CORRUPTION

18. Provisions of this Part in addition to any other law.

The provisions of this Part shall be in addition to and not in derogation of the provisions of the Penal Code (*Ch. 84*), the Prevention of Bribery Act (*Ch. 88*), any other law or the Common Law.

19. Acts of corruption.

A person commits an act of corruption if he —

- (a) solicits or accepts, whether directly or indirectly, any article, money or other benefit or advantage for himself or another person for doing an act or for omitting to do an act in the performance of his functions as a public official;
- (b) in the performance of his duty as a public official, performs or omits to perform any of his duties in a public body for the purpose of obtaining any benefit for himself or any other person;
- (c) offers, promises or gives directly or indirectly to a public official any article, money, or other benefit, for doing or omitting to do any act in the performance of his duties as a public official;
- (d) solicits, demands, accepts, or receives, whether directly or indirectly, from any private or public corporation, including a transnational corporation or any individual from another State, any payment, gift or other advantage, as undue consideration for performing or refraining from the performance of his duties in the conduct of international business as a public official;
- (e) knowingly or recklessly allows his private interest to conflict with his public duties or to improperly influence his conduct in the performance of his duties as a public official;
- (f) improperly uses for his benefit or that of a third party any classified or confidential information that he has obtained in his duties as a public official;
- (g) communicates to an unauthorised person any classified or confidential information obtained in the performance of his duties as a public official for the purpose of assisting that person in obtaining a benefit;
- (h) improperly uses for his benefit or that of a third party, any property belonging to the Government or any statutory body or government controlled company to which he has access as a result of or in the course of the performance of his functions;

- (i) improperly influences the appointment of, or the dismissal, suspension or other disciplinary action against, a public official;
- (j) hinders, delays or interferes with the performance of a duty of a public official for the purpose of obtaining a benefit for himself or another person;
- (k) during the performance of his official duties pursues a course of conduct with respect to another public officer which amounts to offensive sexual comments, gestures or physical contact or other conduct of that kind;
- (l) pursues a course of conduct by which he exploits his position or authority for his sexual gratification.

20. Offence in respect of procuring tenders.

- (1) A public official who, in relation to a contract for performing any work, providing a service or supplying articles or material —
 - (a) accepts, agrees or offers to accept, whether directly or indirectly, any benefit for himself or for another person for awarding a tender to a particular person;
 - (b) gives, agrees or offers to give, whether directly or indirectly, any benefit to another person for the purpose of obtaining any benefit for himself or for another person as a reward for awarding a tender to a particular person;
 - (c) gives confidential information to a person in order to enable that person to tender or not to tender in a particular manner in order to obtain an unfair advantage in tendering; or
 - (d) receives, whether directly or indirectly, any benefit from a person who has submitted a tender or received any Government contract, commits an offence.
- (2) A person who, in relation to a contract for performing any work, providing a service or supplying articles or material —
 - (a) offers to a public official, whether directly or indirectly, any benefit for himself or for another person for awarding a tender to a particular person;
 - (b) offers to a public official, whether directly or indirectly, any benefit for the purpose of obtaining any benefit for himself or for another person as a reward for awarding a tender to a particular person;
 - (c) gives to a public official, whether directly or indirectly, any benefit in connection with such performance of work or the supplying of articles or materials, commits an offence.

21. Offences and penalties.

- (1) A person who commits an act of corruption under sections 19 and 20 is liable —
 - (a) on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years or to both;
 - (b) on conviction on information to a fine not exceeding twenty thousand dollars or to a term of imprisonment not exceeding five years, or to both;
 - (c) to be disqualified from holding any public office for a period of five years from the date of conviction for the offence.
- (2) In addition to the penalties under this section the court may —
 - (a) confiscate any property connected to an act of corruption for which a person was convicted, except where such property was acquired *bona fide* without notice that an act of corruption has been committed;
 - (b) make an order directing payment to a public body of the value of any property obtained by the convicted person in relation to the act of corruption for which he was convicted.
- (3) A person who possesses or is in control of any property and knows that the property or part of the property or proceeds of the property were obtained or derived directly or indirectly from the commission of an act of corruption, commits an offence and is liable —
 - (a) on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years, or to both;
 - (b) on conviction on information to a fine not exceeding twenty thousand dollars or to a term of imprisonment not exceeding five years, or to both;
 - (c) to be disqualified from holding any public office for a period of five years from the date of conviction for the offence.
- (4) A person who —
 - (a) aids, assists, or is an accessory after the fact or participates in any manner in the commission of or conspires to commit an act of corruption; or
 - (b) procures the commission of an act of corruption or who attempts, or counsels another, to commit an act of corruption,commits an offence and is liable —
 - (i) on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years or to both;

- (ii) on conviction on information to a fine not exceeding twenty thousand dollars or to a term of imprisonment not exceeding five years, or to both;
 - (iii) to be disqualified from holding any public office for a period of five years from the date of conviction for the offence.
- (5) In any proceedings for an offence concerning an act of corruption to which this Part applies, it shall be a defence for a person charged with an act of corruption to satisfy the court on a balance of probabilities—
 - (a) that he had no knowledge of the circumstances giving rise to the act of corruption;
 - (b) that any property, gift or pecuniary resource in relation to the alleged act of corruption was acquired by lawful means.
- (6) Where, in any proceedings for an offence under this Part, it is proved that a public official accepted a gift or benefit believing or having grounds to believe or to suspect that the gift or benefit was given as an inducement or reward for doing or forbearing to do an act in the performance of his functions, it shall be no defence that that public official —
 - (a) did not actually have the power or right to so do or to so forbear from any act;
 - (b) accepted the benefit with no intention of doing or forbearing to do any act.

22. Presumption of corruption.

Where in any proceedings for an offence, satisfactory evidence is provided that demonstrates that in connection with seeking to obtain or obtaining a contract from the Government, a government department or a public body, a person received or gave money, a gift or any other benefit, that gift or benefit, that money, gift or benefit shall be presumed to have been paid or given and received as an inducement or reward unless, on a balance of probabilities, the contrary is proved.

23. Possession of unaccounted property or pecuniary resource.

- (1) Where a person who is or was a public official is found to be in possession of property or a pecuniary resource disproportionate to his known sources of income, and he fails to produce satisfactory evidence to prove that the possession of the property or pecuniary resource was acquired by lawful means, he commits an offence and is liable on summary conviction to a fine and to a term of imprisonment of not less than six months and not more than three years.
- (2) In imposing a fine under subsection (1) on a person convicted of an offence under that subsection, the court shall have regard to the value of

the property or pecuniary resource in the possession of that person, which cannot be accounted for by his known sources of income or other lawful means of acquisition of the property or pecuniary resource and such fine may be equivalent to one and one half times the value of the aforesaid property or pecuniary resource found to be in the possession of the said person.

24. Proof of acquisition by lawful means.

In any proceedings for an offence concerning an alleged act of corruption to which this Part applies, it shall be a defence for the accused to prove that any property, gift or pecuniary resource in relation to the alleged act of corruption was acquired by lawful means and the accused shall be acquitted of the offence if he produces satisfactory evidence, on a balance of probabilities, that the property, gift or resource was acquired by lawful means.

COMPLAINTS, REPORTS AND INQUIRIES, ETC.

25. Complaints of acts of corruption.

- (1) Where a person has reasonable grounds to believe that a person in public life has committed an act of corruption, he may, orally or in writing and with or without disclosing his identity, make a complaint to the Commission.
- (2) The Commission may, where necessary, require a person who makes a complaint to produce supporting evidence or documentation.
- (3) No person shall be obligated or permitted to disclose the name or address of a person who makes a complaint, or state any matter which may lead to the identity of such person being known.
- (4) No action, suit, prosecution or other proceedings shall be instituted against a person who makes a complaint in good faith in pursuance of the provisions of this Act.
- (5) A person who takes any harmful action against another person, including interfering with the other person's lawful employment or occupation, on the ground that the person has made a complaint under this section commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years, or to both.

26. Complaint to be recorded, etc.

- (1) On receipt of a complaint, the Commission shall —
 - (a) record it or cause it to be recorded;

- (b) supply to the complainant or cause to be supplied to the complainant, a copy of the record made of that complaint;
 - (c) examine or cause the matter to be examined in order to determine whether or not an investigation in relation to the matter is warranted.
- (2) In determining whether or not to investigate a matter, the Commission shall consider —
 - (a) the seriousness of the conduct to which the matter relates; and
 - (b) whether or not the matter is frivolous or vexatious.
- (3) A copy of a complaint may be kept in a form which keeps anonymous the identity of the person making the complaint or any other person.

27. Duty of public officials to report acts of corruption.

- (1) A public official who knows or suspects that another person has been, is, or is likely to be engaged in an act of corruption shall make a report to the Commission.
- (2) A public official who fails to report his knowledge or suspicion as required by subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding six months, or to both.

28. Investigation of complaint or report by investigating officer.

- (1) Where the Commission has determined that a complaint made pursuant to section 25 or a report made pursuant to section 27 is a matter that the Commission will investigate, it shall forthwith forward the matter to an investigating officer.
- (2) On the completion of an investigation, the investigating officer shall prepare and submit to the Commission, a report of his findings.

29. Inquiry by the Commission.

- (1) Where, pursuant to section 28(2) the Commission receives a report from an investigating officer, the Commission shall, on examination of the report, hold an inquiry into the matter and give an opportunity to the public official to be heard.
- (2) On the conclusion of an inquiry, the Commission shall submit a report containing its recommendations to the Director of Public Prosecutions, along with the investigator's report and any other documents, if it considers that a criminal offence may have been committed.
- (3) Where a public official has been exonerated following an inquiry into an allegation of corruption, the Commission —

- (a) shall, in writing, inform the person who made the complaint of the finding of the inquiry;
- (b) shall, in writing, inform the public official of the finding of the inquiry; and
- (c) publish the finding of the inquiry in the *Gazette* and in one daily newspaper.

30. Action by Director of Public Prosecutions.

The Director of Public Prosecutions shall, as soon as practicable after receiving any report and documents under this Act, in any case in which he considers that a person ought to be prosecuted for an offence, institute and undertake criminal proceedings against the person and shall inform —

- (a) the Commission of any action taken following the receipt of a report from the Commission against a person in public life;
- (b) the appropriate Service Commission where a report relates to a public officer;
- (c) the appropriate commission, statutory board, public authority or body with which the person in public life is employed.

31. Making of false allegation.

A person who maliciously makes a false allegation or maliciously provides false information related to an act of corruption commits an offence and is liable —

- (a) on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years, or to both;
- (b) on conviction on information to a fine not exceeding twenty thousand dollars or to a term of imprisonment not exceeding two years, or to both.

PART IV - INVESTIGATIONS

32. Interpretation.

For the purposes of this Part —

“device” includes —

- (a) any component of computer system such as a graphic card, memory and a chip;
- (b) any storage component such as a hard drive, memory card, flash or jump drive, compact disc or tape;
- (c) any input device such as a keyboard, mouse, track pad, scanner or digital camera; and

- (d) any output device such as a printer or screen; and
- “material” includes —
- (a) any book, document, record or article;
 - (b) any information stored in a computer, disc, cassette, or on microfilm, or preserved by any mechanical or electronic device.

33. Investigating officers.

- (1) The Commission may, for the purpose of carrying out an investigation in relation to any matter under this Act, designate a person employed under section 6(1) as an investigating officer and may issue to such officer a warrant card, which shall be *prima facie* evidence of the designation of that officer.
- (2) An investigating officer has the powers described under this Part but, for the avoidance of doubt, is not a member of the Royal Bahamas Police Force and is not subject to —
 - (a) direction of control by the Commissioner of Police; or
 - (b) the Police Force Act, 2009¹, any such Regulations or Police Force Orders.

34. Investigating officers to have power of arrest.

- (1) For the purpose of carrying out his functions, an investigating officer has the powers of a police officer to arrest any person whom he reasonably suspects to have committed an offence punishable by imprisonment under this Act.
- (2) Where an arrest has been made by an investigating officer, the investigating officer shall forthwith deliver the arrested person to the custody of the Royal Bahamas Police Force and such person shall, as soon as practicable, be brought before a court of competent jurisdiction to be further dealt with according to law.

35. Order to make device or material available.

- (1) For the purpose of carrying out an investigation in relation to any matter under this Act and with the assistance of the Attorney-General, an investigating officer may apply to a justice of the Supreme Court in chambers for an order in relation to —
 - (a) a device;
 - (b) particular material; or
 - (c) material of a particular description.

¹(No. 3 of 2009)

- (2) Upon an application in subsection (1), where the court is satisfied that the conditions in subsection (3) are fulfilled, it may make an order that the person who appears to it to be in possession of the device or material to which the application relates shall —
 - (a) produce it to an investigating officer to take away; or
 - (b) give an investigating officer access to it, within seven days, unless it appears to the court that a longer or shorter period would be appropriate in the circumstances.
- (3) The conditions referred to in subsection (2) are that —
 - (a) there are reasonable grounds for suspecting that a person has committed an offence under this Act;
 - (b) there are reasonable grounds for suspecting that the material to which the application relates —
 - (i) is likely to be of substantial value, whether by itself or together with other material, to the investigation for the purpose of which the application is made; and
 - (ii) does not consist of or include privileged material; or
 - (c) there are reasonable grounds for suspecting that the device to which the application relates is likely to be of substantial value to the investigation for the purpose for which the application is made; and
 - (d) there are reasonable grounds for believing that it is in the public interest that the device or material should be produced or that access to it should be given, having regard to —
 - (i) the benefit likely to accrue to the investigation if access to the device is granted or the device or material is obtained; and
 - (ii) the circumstances under which the person in possession of the device or material holds it.
- (4) Where the court makes an order under subsection (2)(b), it may, on the application of an investigating officer, order any person who appears to it to be entitled to grant entry to the premises to allow an investigating officer to enter the premises to obtain access to the device or material.
- (5) The Chief Justice may make rules governing the procedure in relation to —
 - (a) applications for the discharge and variation of orders under this section; and
 - (b) proceedings relating to such orders.
- (6) Where the material for which an application under this section is made consists of information contained in a device —

- (a) an order under subsection (2)(a) shall have effect to cause such material to be produced in a form that is visible, audible and legible and in a way that it can be taken away;
 - (b) an order under subsection (2)(b) shall have effect to cause an investigating officer to be given access to the material in a form in which it is visible, audible and legible.
- (7) A person who, knowing or suspecting that an investigation is taking place, makes any disclosure which is likely to prejudice the investigation commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding two years, or to both.
- (8) It shall be a defence for a person who makes any disclosure which is likely to prejudice an investigation to —
 - (a) provide satisfactory evidence to demonstrate that he did not know or suspect that the disclosure was likely to prejudice the investigation; or
 - (b) provide satisfactory evidence to demonstrate that he had lawful authority or a reasonable excuse for making the disclosure.

36. Authority for search and seizure.

- (1) An investigating officer may, with the assistance of the Director of Public Prosecutions, apply to a justice of the Supreme Court in chambers for a warrant under this section in relation to specified premises.
- (2) Upon application, a justice of the Supreme Court in chambers may issue a warrant authorising the investigating officer to enter and search the premises if satisfied that —
 - (a) an order made under section 35(2) in relation to a device or material on the premises has not been complied with; or
 - (b) the conditions in subsection (3) are fulfilled.
- (3) The conditions for which a warrant may be granted are that —
 - (a) there are reasonable grounds for suspecting that a person has committed an offence under this Act;
 - (b) the conditions of section 35(3)(b) and (c) are fulfilled in relation to any device or material on the premises; and
 - (c) it would not be appropriate to make an order under section 35 because —
 - (i) it is not practicable to communicate with any person entitled to produce the device or material;
 - (ii) it is not practicable to communicate with any person entitled to grant access to the device or material or entitled to grant

- entry to the premises on which the device or material is situated;
 - (iii) the investigation for the purposes of which the application is made might be seriously prejudiced unless an investigating officer could secure immediate access to the device or material;
 - (iv) there are reasonable grounds for suspecting that there is on the premises a device or material relating to the person or to the alleged offence which is likely to be of substantial value, whether by itself or together with other devices or material, to the investigation for the purpose of which the application is made, but that the device or material cannot at the time of the application be particularised; or
 - (v) entry to the premises will not be granted unless a warrant is produced.
- (4) Where an investigating officer has entered premises in the execution of a warrant issued under this section, he may seize and retain any device or material, other than privileged material, which is likely to be of substantial value, whether by itself or together with other devices or material, to the investigation for the purpose of which the warrant was issued.

37. Obstruction of investigating officer.

A person who resists or obstructs an investigating officer in the execution of his duty commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding six months, or to both.

COMPLAINTS AGAINST INVESTIGATING OFFICERS

38. Complaints against conduct of investigating officers.

- (1) A person may, in writing, make a complaint to the Commission against the conduct of an investigating officer if that person has —
- (a) been personally affected by the conduct of the investigating officer;
 - (b) witnessed such conduct of the investigating officer;
 - (c) a substantial and direct interest in the complaint;
 - (d) been authorised by a person referred to in paragraphs (a), (b) or (c) to make a complaint in that person's name.
- (2) The Commission shall refer a complaint made under subsection (1) to a panel appointed under section 39.

39. Complaints Panel.

- (1) The Governor-General may, by order, appoint an ad hoc panel (hereinafter referred to as a “Complaints Panel”) to hear and adjudicate complaints made pursuant to section 38.
- (2) The Complaints Panel shall consist of —
 - (a) a magistrate or justice or a retired magistrate or justice, who shall serve as the chairman;
 - (b) the Commissioner of Police, *ex officio*;
 - (c) a person, other than a member or former member of the Royal Bahamas Police Force, who shall represent the public.

40. Disposition of complaint without investigation.

- (1) The Complaints Panel may direct that no investigation of a complaint be carried out if, in its opinion —
 - (a) the complaint is trivial, frivolous, vexatious or made in bad faith; or
 - (b) having regard to all the circumstances, an investigation or further investigation is not necessary or reasonably practicable.
- (2) If no direction is made under subsection (1), the Complaints Panel and the Commission shall —
 - (a) consider whether the complaint can be disposed of informally; and
 - (b) attempt to dispose of the complaint informally, before any investigation is undertaken, with the consent of the complainant and the investigating officer whose conduct is the subject matter of the complaint.
- (3) Where a complaint is disposed of informally, the Complaints Panel shall prepare and send the following documents to the complainant, the investigating officer whose conduct is the subject matter of the complaint and the Commission —
 - (a) an overview of the facts that gave rise to the complaint;
 - (b) the name of the person who conducted the informal disposition;
 - (c) evidence of agreement to the disposition of the complaint by the complainant and the investigating officer whose conduct is the subject matter of the complaint.

41. Investigation of complaint.

- (1) Where a complaint is not disposed of informally, the Commission shall investigate the matter and send to the Complaints Panel, the complainant and the investigating officer whose conduct is the subject matter of the complaint, a complaint resolution report that contains —

- (a) a summary of the complaint;
 - (b) the results of the investigation;
 - (c) a summary of any action that has been or will be taken with respect to resolution of the complaint; and
 - (d) a statement that the complainant may refer the complaint to the Complaints Panel for review within sixty days of the receipt of the complaint resolution report, if he is not satisfied with the disposition of the complaint by the Commission.
- (2) A complainant who is not satisfied with a direction under section 40(1) or with the disposition of the complaint under subsection (1) may refer the complaint to the Complaints Panel, in writing, within fifteen days after the day on which the complainant receives the notice of rejection or the complaint resolution report.

42. Review of complaints.

- (1) Where, after reviewing a complaint, the Complaints Panel is —
- (a) satisfied with the disposition of the complaint by the Commission, the Complaints Panel shall —
 - (i) send a complaint review report to that effect to the Commission, setting out such findings and such recommendations with respect to the complaint as the Complaints Panel sees fit;
 - (ii) send a report of the conclusion of the review to the complainant and the investigating officer whose conduct is the subject matter of the complaint, together with any finding or recommendation referred to in paragraph (a);
 - (b) not satisfied with the disposition of the complaint by the Commission or considers that further inquiry is warranted, it may do any or all of the following —
 - (i) send a report to the Commission indicating the reasons for its dissatisfaction;
 - (ii) request the Commission to conduct a further investigation into the complaint;
 - (iii) make such inquiries as it deems necessary in the circumstances;
 - (iv) investigate the complaint further;
 - (v) institute a hearing to inquire into the complaint.
- (3) The Complaints Panel shall, on the completion of any further investigation, inquiry or hearing that it has ordered under subsection (2), send —

- (a) to the Commission a complaint review report setting out —
 - (i) such findings with respect to the complaint as the Complaints Panel sees fit; and
 - (ii) such recommendations, including disciplinary measures to be taken in regards to the investigating officer whose conduct is the subject matter of the complaint; and
- (b) to the complainant and the investigating officer whose conduct is the subject matter of the complaint a report of the conclusion of the review, together with any finding or recommendation referred to in paragraph (a).

43. Implementation of Complaints Panel recommendations.

The Commission shall give effect to any recommendations in a complaint review report sent to it under section 42.

PART V – FINANCIAL DISCLOSURE

DECLARATIONS

44. Declaration of financial affairs.

- (1) Every person who is a person in public life, not being a Commissioner, officer or employee of the Commission, shall —
 - (a) each year, on or before the 30th day of January; and
 - (b) where such person ceases to be a person in public life, within thirty days from the date on which the person ceases to be a person in public life,

file with the Commission, a declaration in Form 2 as provided for in the *Fourth Schedule*.
- (2) Every Commissioner, officer and employee of the Commission shall, each year on or before the 30th day of January, file with the Prime Minister a declaration in Form 2 as provided for in the *Fourth Schedule* on or before the dates on which such declarations are required by other persons in public life pursuant to subsection (1).
- (3) Without prejudice to the provisions of subsections (1) and (2) —
 - (a) every person who is a person in public life on the commencement of this Act shall, within thirty days from such commencement, file with the Commission a declaration in Form 2 as provided for in the *Fourth Schedule* with reference to the date of such commencement;

- (b) every person who becomes a person in public life after the commencement of this Act shall, within thirty days from the date on which he becomes a person in public life —
 - (i) if he is not a Commissioner, officer or employee of the Commission, file with the Commission;
 - (ii) if he is a Commissioner, officer or employee of the Commission, file with the Prime Minister,a declaration in Form 2 as provided for in the *Fourth Schedule* with reference to the date on which he becomes a person in public life and any person required to file a declaration under this subsection in any year is not required to file another declaration under subsection (1) in the same year.
- (4) The Commission may, in exceptional circumstances, grant to any person required to file a declaration under this section, an extension of the period for filing that declaration of up to six months, beginning on the day that the declaration is required to be filed, except that in the case of an extension for a Commissioner, officer or employee of the Commission, such extension shall be granted by the Prime Minister.
- (5) A declaration under this section shall as far as possible be in the form provided for in Form 2 of the *Fourth Schedule* and shall give full, true and complete particulars of —
 - (a) the person's income, assets and liabilities;
 - (b) assets of the spouse and dependent children;
 - (c) any gift received in the course of performance of the person's public function.
- (6) Where a person in public life so desires, a declaration may be accompanied by a statement giving details of his income, assets and liabilities, which shall be certified by an accountant.
- (7) If a person in public life dies, there shall be no obligation on the administrators of his life estate to file the declaration which the person in public life would have been required to file, had he lived.

45. Trust property.

Where a person in public life holds any money or other property in trust for another person not being his spouse or child or another person in public life, and that other person does not take, directly or indirectly, any benefit under such trust as a trustee for that person in public life or his family, he shall so state in his declaration but shall not be required to disclose the terms of the trust.

46. Full disclosure.

- (1) A person in public life is required to disclose in his declaration, in section 44 such details in respect of the income, assets and liabilities of himself and those of his spouse and his children, as by the exercise of reasonable care should be known to him.
- (2) For the purposes of a declaration under section 44, the income, assets and liabilities of a person in public life, his spouse and his child shall include the income, assets and liabilities acquired, held or incurred by any other person as agent or on behalf of all or any of them.
- (3) Any direct or indirect benefit accruing to the income or assets of a declarant or his spouse or child must be disclosed in a declaration under section 44.

47. Blind trusts.

- (1) A person in public life may place his assets or part thereof in a blind trust for the purposes of this Act and file a copy of the trust deed with the Commission.
- (2) If the Commission has reasonable grounds to believe that a person in public life is likely to contravene or has contravened this Act, the Commission may direct that person to place all or part of his assets in a blind trust on such terms and conditions as the Commission considers appropriate and to file a copy of the trust deed with the Commission.
- (3) Where the assets of a person in public life are placed in a blind trust, he need not in his declaration under section 44, give more particulars of those assets than the amount and description of the assets placed in that trust and the date of so doing.
- (4) Notwithstanding any other law relating to the duties of trustees, a trust company, managing the assets of a person in public life by way of a blind trust, shall reply fully to any inquiries of the Commission relating to the nature and management of the assets in the blind trust.
- (5) A blind trust is created when a person in public life enters into an agreement with a qualified trust company whereby —
 - (a) all or any part of his assets or those of his spouse or children are conveyed to the trust company for the management, administration and control thereof, in its absolute discretion without recourse or report to the person beneficially entitled to those assets;
 - (b) income derived from the management of the assets is to be distributed, in accordance with the agreement, to him, his spouse or his children until he ceases to be a person in public life; and

- (c) after he ceases to be a person in public life, proper and full accounting is to be made to him, his spouse or children as the circumstances of the management of the trust require.
- (6) A trust company is a qualified trust company where —
 - (a) it is incorporated in The Bahamas and is carrying on business in The Bahamas;
 - (b) no more than five per cent of the nominal value of issued shares in the trust company or its affiliate is held by the person in public life entering into an agreement with it, or by any other person associated with him; and
 - (c) the person in public life or his spouse or any of his children does not hold any directorship or office in the trust company or its affiliate.
- (7) For the purposes of this section —
 - (a) a company is the affiliate of another company where —
 - (i) it holds more than five per cent of the nominal value of the issued shares in that other company; or
 - (ii) that other company holds more than five per cent of the nominal value of the issued shares in the first mentioned company;
 - (b) a person is associated with another where that person is —
 - (i) the spouse or child of the person;
 - (ii) the partner of the person in a professional, trade, or commercial undertaking; or
 - (iii) a corporation and the first mentioned person or any person mentioned in paragraph (b)(i) controls the corporation, its holding corporation or a corporation affiliated with either.

48. Receipt and examination of declarations.

The Commission or the Prime Minister, as the case may be, shall —

- (a) receive, examine and retain all declarations and documents filed with it or him under this Act; and
- (b) make such enquiries as it or he considers necessary in order to verify or determine the accuracy of the financial affairs, as stated in the declarations of persons who are required to file declarations under this Act.

49. Commission or Prime Minister may require further particulars.

- (1) The Commission or the Prime Minister, as the case may be, may in writing request a declarant to furnish such further particulars relating to

his financial affairs as may be considered necessary for the purposes of section 4(b) and the declarant shall comply with the request within the time specified therefor by the Commission or the Prime Minister, as the case may be.

- (2) Where a person who is required to do so fails to furnish particulars under this section, the Commission or the Prime Minister, as the case may be, shall publish the fact in the *Gazette* and in a daily newspaper.

50. Commission may hold formal inquiry.

- (1) The Commission may, in writing, request a declarant to furnish such further information or documents and may conduct an inquiry to verify any declaration or other statement filed with it.
- (2) Upon examination of a declaration furnished pursuant to section 44, the Commission may require the person in public life to attend an inquiry of the Commission at a specified time to be heard on any matter relating to the declaration.
- (3) A person in public life who is required to attend the Commission may —
 - (a) be accompanied and represented by counsel and a certified accountant; and
 - (b) require the Commission to summon witnesses.
- (4) The Commission shall not make any adverse decision without giving the person in public life an opportunity to be heard.
- (5) Where, upon examination, the Commission is satisfied that a declaration has been fully made and all questions satisfactorily answered, or that a declaration is incomplete but the declarant cannot reasonably obtain the information required to complete it, the Commission shall —
 - (a) forward to the person in public life a certificate of compliance in Form 3 as provided for in the *Fourth Schedule*; and
 - (b) publish a statement to that effect in the *Gazette* and in a daily newspaper.
- (6) An inquiry shall not be commenced after two years from the date on which the person ceased to be a person in public life.

51. Further information from members and staff of Commission in respect of their declarations.

- (1) Where, in the opinion of the Prime Minister, further information or documents are required from a Commissioner, officer or employee of the Commission (in this section referred to as the “declarant”) in respect of his declaration, the Prime Minister shall, after consultation with the Leader of the Opposition, appoint a fit and proper person as a tribunal to —
 - (a) require the declarant to furnish such further information or documents; and
 - (b) conduct an inquiry, where found necessary, to verify the declaration, document or other statement filed with the tribunal.
- (2) For the purpose of any inquiry under this section, a tribunal may request, in writing, that the declarant or any other person who the tribunal reasonably believes has knowledge of the matters to be inquired into —
 - (a) attend before the tribunal at such place, on such date and at such time as may be specified by the tribunal, to give it such information as it may require to satisfy itself that it is in possession of all the material facts; or
 - (b) furnish such information or documents as may be specified by the tribunal, within the time specified therefore by the tribunal, so as to assist it in verifying the declaration.
- (3) A declarant who is required to attend before a tribunal may —
 - (a) be accompanied and represented by counsel and a certified accountant; and
 - (b) require the tribunal to summon witnesses.
- (4) An inquiry under this section shall not be commenced after five years from the date on which the Commissioner, officer or employee of the Commission in respect of whose declaration the inquiry is being conducted, ceased to be a person in public life.
- (5) In conducting an inquiry under this section, a tribunal shall have and exercise all the powers in this section, except that the proceedings shall be held in private.
- (6) Where, upon the conclusion of an inquiry under this section, a tribunal finds that a declarant had in fact made full disclosure in his declaration, it shall —
 - (a) forthwith publish a statement to that effect in the *Gazette* and in a daily newspaper;

- (b) within three months of the tribunal's finding, reimburse the declarant from the Consolidated Fund for all expenses reasonably incurred by him in connection with the inquiry.

52. Commission to publish, etc. a failure to file declaration.

Where a person in public life fails to file a declaration as required under section 44, the Commission shall publish the fact in the *Gazette* and in a daily newspaper and shall —

- (a) send a report to the appropriate commission, statutory board, public authority or other body; and
- (b) in any other case, send a report to the Director of Public Prosecutions.

53. Commission to report unsatisfactory declarations.

- (1) Where the Commission examines a declaration and any related information or documents, or conducts an inquiry into any declaration, and is not satisfied with any aspect thereof, the Commission shall, setting out details and particulars as it thinks fit, report the matter to —
 - (a) the appropriate commission, statutory board, public authority or other body; and
 - (b) the Director of Public Prosecutions.
- (2) The appropriate commission, statutory board, public authority or other body may take such disciplinary action in relation to a report made pursuant to section 52(a) as it thinks appropriate in any particular case.
- (3) Where any criminal proceeding has been commenced against a person in public life, no disciplinary procedures shall be instituted by the appropriate commission, statutory board, public authority or other body pending the determination of the criminal proceeding.
- (4) The Director of Public Prosecutions may —
 - (a) take action in relation to a report made pursuant to section 52(b) or subsection (1) as he thinks appropriate in any particular case;
 - (b) authorise any person having an official duty under this Act to furnish information to any officer of the court, the police or any other person he may so specify.

54. Offences and penalties.

A person who —

- (a) fails, without reasonable cause, to file with the Commission or the Prime Minister, as the case may be, a declaration which he is required to file in accordance with the provisions of this Act; or

- (b) knowingly files with the Commission or the Prime Minister, as the case may be, a declaration that is not complete or is false in any material particular;
- (c) fails, without reasonable cause, to comply with a request made under pursuant to section 4(b) or under section 47(4) by the Commission, the Prime Minister or a tribunal, within the time specified therefor by the Commission, the Prime Minister or the tribunal, as the case may be, or gives incomplete or false information pursuant to the request;
- (d) fails without reasonable cause, to attend an inquiry being conducted under section 50, or to furnish any information the tribunal may request the declarant to furnish under that section or knowingly gives any false or incomplete information in such inquiry; or
- (e) fails, without reasonable cause, to comply with a direction of the Commission under section 47(2) within the time specified by the Commission, or gives incomplete or false information in the trust deed filed with the Commission,

commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars or to a term of imprisonment not exceeding one year or to both, and where the offence involves the non-disclosure, by the declarant, of property, which should have been disclosed in the declaration, the court convicting the person shall order the person to make full disclosure of the property within a given time and on failure to comply with the order of the court, the said offence shall be deemed to be a continuing offence and the person shall be liable to a further fine of ten thousand dollars for each day on which the offence continues.

REGISTER OF INTERESTS

55. Duty of Member of Parliament and Senator to file statement of registrable interests.

- (1) Every Member of Parliament and Senator shall file with the Commission, a statement of registrable interests.
- (2) A Member of Parliament and Senator shall file his statement of registrable interests in Form 4 as provided for in the the *Fourth Schedule* —
 - (a) within ninety days after the day on which he becomes a Member of Parliament or Senator, in respect of his interests on the day on which he becomes a Member of Parliament or Senator;
 - (b) within ninety days after the 31st day of December in each year during any part of which he was a Member of Parliament or

Senator, in respect of his interests on the 31st day of December in that year.

- (3) Notwithstanding subsection (2)(b), a Member of Parliament or Senator need not file a statement of registrable interests for a particular year if the Member of Parliament or Senator filed a statement in the six months preceding the 31st day of December in that year.
- (4) If a Member of Parliament or a Senator dies, the administrator of his estate is not required to file the statement of registrable interests which the Member of Parliament or Senator would have been required to file, had he lived.

56. Contents of statement of registrable interests.

- (1) A statement of registrable interests shall contain the following information relating to the Member of Parliament or Senator, his spouse and children —
 - (a) particulars of any directorships held in any company or other corporate body;
 - (b) particulars of any contract made with the Government;
 - (c) the name or description of any company, partnership or association in which the person is an investor;
 - (d) a concise description of any trust to which the person is a beneficiary or trustee;
 - (e) any beneficial interest held in land;
 - (f) any fund to which the person contributes;
 - (g) particulars of any political, trade or professional association to which the person belongs;
 - (h) particulars relating to sources of income;
 - (i) any other substantial interest whether of a pecuniary nature or not, which the Member of Parliament or Senator considers may appear to raise a material conflict between his private interests and his public duty.
- (2) Nothing in this section shall be taken to require disclosure of the actual amount or extent of any financial benefit, contribution or interests.

57. Register of interests.

- (1) The Commission shall maintain a register of interests in the prescribed form.
- (2) The Commission shall compile and cause to be entered in the register of interests all information furnished by members of the House and senators

and shall, at the request of any member of the public, permit inspection of the register.

- (3) A Member of Parliament or Senator shall notify the Commission of any changes which may occur in his interests, or those of his spouse or children, within six weeks of the change occurring.

58. Commission may require further particulars.

Where upon examination of a statement of registrable interests, the Commission is of the opinion that it should enquire further into it so as to ascertain whether there has been a full disclosure, the Commission may —

- (a) require the Member of Parliament or Senator that made the statement to attend before it to answer such questions, and to furnish such documents or information as it may require; and
- (b) make such independent inquiries and investigations relating to the statement as the Commission thinks fit.

59. Offence by Member of Parliament or Senator.

- (1) A Member of Parliament or Senator who —
 - (a) fails, without reasonable cause, to file with the Commission a statement of registrable interests required to be filed;
 - (b) knowingly files with the Commission a statement of registrable interests that is not complete or is false in any material particular;
 - (c) fails, without reasonable cause, to comply with a request made under section 4(b) by the Commission respecting the Member of Parliament or Senator's statement of registrable interests within the time specified therefore by the Commission or gives incomplete or false information pursuant to the request; or
 - (d) fails without reasonable cause to attend an inquiry being conducted under section 58 or to furnish any information that the Commission requests him to furnish, or knowingly gives any false or incomplete information at such inquiry,

commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding one year, or to both.

- (2) Where an offence under subsection (1)(a) or (b) involves the non-disclosure of property which should have been disclosed by a Member of Parliament or Senator in a statement of registrable interests, the court convicting the Member of Parliament or Senator shall order him to make full disclosure of the property within a given time.
- (3) If a Member of Parliament or Senator fails to comply with an order made under subsection (2), the offence referred to in subsection (1) shall be

deemed to be a continuing offence and the Member of Parliament or Senator shall be liable to a further fine not exceeding seven thousand dollars for each day on which the offence continues.

60. Disqualification of Member of Parliament or Senator from holding public office.

A Member of Parliament or Senator who is convicted of an offence under section 54 or 59 is liable, in addition to any other penalty prescribed by law, to be disqualified from holding any public office for such period as the court considers appropriate, not exceeding five years from the date of conviction for the offence.

GIFTS

61. Report to Commission of gifts.

- (1) Every person in public life, not being a Commissioner, officer or employee of the Commission, who receives a gift worth more than one thousand dollars shall make a report of that fact to the Commission in the form provided for in Form 5 of the *Fourth Schedule*, stating the name and address of the donor, the description and approximate value of such gift and whether, in the opinion of the donee, the gift is a personal or an official gift.
- (2) Notwithstanding subsection (1), the Commission shall determine whether the gift is a personal gift or an official gift.
- (3) The decision of the Commission made pursuant to subsection (2) shall be final.
- (4) The provisions of this section shall not apply to any personal gift received by a person in public life from a relative or friend, except that a person in public life who is unsure whether a gift received from a relative or friend is an official gift or a personal gift may apply to the Commission seeking its opinion as to the proper classification of the gift.
- (5) A report or an application under subsection (1) and subsection (4) respectively, shall be made to the Commission by the person in public life within thirty days of the receipt of the gift.
- (6) Where, after inquiry, the Commission finds that the gift given to a person in public life was a personal gift and that gift —
 - (a) was trivial; or
 - (b) was not trivial, but was not intended to be a motive or reward for doing or forbearing to do anything in the course of the performance

of his official functions or causing any other person from doing or forbearing to do anything,

the Commission shall allow the person in public life to retain the gift, and in other cases shall direct the person in public life, in writing, to deliver the gift to the Minister responsible for finance within such period, not exceeding thirty days, as may be specified by the Commission, and the person in public life shall comply with the direction within the time so specified.

- (7) The person in public life shall be entitled to notice of the proceedings of any inquiry under subsection (6) and shall be entitled to be represented in the inquiry, either in person or by counsel.

62. Report to Prime Minister of gifts.

- (1) Every person in public life who is a Commissioner, officer or employee of the Commission who receives a gift worth more than one thousand dollars, or whose spouse or child receives such a gift, shall make a report of that fact to the Prime Minister in the form provided for in Form 5 of the *Fourth Schedule*, stating the name and address of the donor, the description and approximate value of the gift and whether, in the opinion of the donee, the gift is a personal or official gift.
- (2) Sections 61(2) to (7) shall apply in respect of the gift, the report and the Commissioner, officer or employee of the Commission referred to in subsection (1) as if the word “Commission” were substituted for the word “Prime Minister”.

63. Penalty for contravening sections 61 or 62.

A person in public life who —

- (a) knowingly makes a report to the Commission under section 61(1), or to the Prime Minister under section 62 which is incomplete or false in any material particular;
- (b) without reasonable excuse fails to comply with section 61(1), or to submit a report or application to the Prime Minister as required under section 62(2); or
- (c) without reasonable excuse fails to comply with a direction given by the Commission under section 61(6), or by the Prime Minister under section 62(2),

is liable, on summary conviction to a fine, which shall not be less than the value of the gift involved in the commission of the offence, or to a term of imprisonment not exceeding three months, or to both.

64. Prosecutions.

No prosecution for an offence under section 63 shall be instituted after five years from the date when the person in respect of whose declaration the alleged offence was committed ceased to be a person in public life.

PART VI – CODE OF CONDUCT

65. Provisions of this Part in addition to and not in derogation of certain Acts.

The provisions of this Part shall be in addition to and not in derogation of the provisions of the Penal Code (*Ch. 84*) or any other written law.

66. Establishment of Code of Conduct.

- (1) There is hereby established a Code of Conduct, being the body of rules contained in the *First Schedule*, for —
 - (a) Ministers;
 - (b) Members of Parliament and Senators; and
 - (c) chief executive officers, members and executive officers of commissions, statutory boards and other public bodies.
- (2) Any person mentioned in subsection (1) who is in breach of any provision of the Code of Conduct is liable on conviction to a fine not exceeding twenty thousand dollars or to a term of imprisonment not exceeding one year, or to both.

67. Complaints to Commission.

- (1) Any person who has reasonable grounds to believe that a person mentioned in section 66(1) has contravened any provision of the Code of Conduct may make a complaint, in writing, to the Commission stating —
 - (a) the particulars of the contravention;
 - (b) the particulars, as far as they are known, of the person against whom the complaint is made;
 - (c) the nature of the evidence that the complainant proposes to produce in respect of the complaint; and
 - (d) such other particulars as may be prescribed by regulations by the Minister.
- (2) A complaint to the Commission under this section may be presented in person, or may be sent by registered post to the Chairman and shall be investigated by the Commission.

- (3) An investigation in respect to a complaint shall not be commenced after two years from the date on which a person mentioned in section 66(1) ceased to be in public life.

68. Commission to investigate on its own initiative.

- (1) The Commission may investigate a contravention of the Code of Conduct by a person mentioned in section 66(1) on its own initiative if it is satisfied that there are reasonable grounds for it to conduct an investigation.
- (2) An investigation shall not be commenced after two years from the date on which a person mentioned in section 66(1) ceased to be in public life.

69. Commission may request further information or hold formal inquiry.

- (1) Where, following the receipt of a complaint under section 67 and an investigation pursuant to section 67 or 68, the Commission is of the opinion that there are reasonable grounds to believe that a person mentioned in section 66(1) contravened the Code of Conduct, it may —
 - (a) request such person, in writing, to furnish any further information or documents that it may require;
 - (b) require such person to attend an inquiry by the Commission at a specified time to be heard on any matter relating to the alleged contravention.
- (2) A person mentioned in section 66(1) who fails without reasonable cause to attend an inquiry being conducted under this section or to furnish any information that the Commission requests him to furnish, or knowingly gives any false or incomplete information at such inquiry, commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars or to a term of imprisonment not exceeding one year, or to both.
- (3) A person who is required to attend an inquiry of the Commission may be represented by counsel and require the Commission to summon witnesses.
- (4) The Commission shall not make any adverse decision without giving a person mentioned in section 66(1) an opportunity to be heard.
- (5) An inquiry shall not be commenced after two years from the date on which a person mentioned in section 66(1) ceased to be in public life.

70. Commission to report its findings.

- (1) The Commission shall prepare a written report of the findings of an inquiry or investigation held under this Part, and indicate its conclusion in the report whether—

- (a) it has not determined that a person mentioned in section 66(1) contravened the Code of Conduct; or
 - (b) it has determined that a person mentioned in section 66(1) contravened the Code of Conduct.
- (2) If the Commission determines that a person mentioned in section 66(1) contravened the Code of Conduct, it may include in the report any recommendations as to the punishment or disciplinary measures that it believes would be appropriate to be taken against such a person.
- (3) The Commission shall send a copy of the report, including copies of evidence and material documents submitted during the inquiry or investigation, to —
 - (a) the employer of a person mentioned in section 66(1), in the case of an alleged contravention of the Code of Conduct by such a person employed by a commission, statutory board, public authority or other body referred to in paragraph (d) of the definition of public body in section 2;
 - (b) the Speaker of the House of Assembly, in the case of an alleged contravention of the Code of Conduct by a Member of Parliament;
 - (c) the Prime Minister, in the case of an alleged contravention of the Code of Conduct by a Minister.
- (4) A person who receives a report from the Commission under subsection (3) in which the Commission has determined that the person who was subject to an inquiry or investigation contravened the Code of Conduct shall —
 - (a) decide without delay what measures shall be taken, if any, in response to the report and shall implement such measures without delay; and
 - (b) inform the Commission, as soon as practicable, but not later than thirty days after receiving the report —
 - (i) of the follow-up actions or disciplinary measures that will be or have been taken against the person who was subject to an inquiry or investigation;
 - (ii) that no further action is required to be taken against the person who was subject to an inquiry or investigation;
 - (iii) that no decision has been made as the measures to be taken in response to the report, of the reasons for the delay, and of the date by which a decision will be made and sent to the Commission.

PART VII – WHISTLEBLOWER PROTECTION

71. Protected disclosures.

- (1) A public official shall benefit from the protections in sections 79 and 80 if he makes a protected disclosure, in good faith —
 - (a) to a person referred to in sections 72 to 75 of a kind described in those sections;
 - (b) of an exceptionally serious matter, in the circumstances described in section 76; or
 - (c) in the circumstances described in section 77.
- (2) A protected disclosure is a disclosure —
 - (a) that a criminal offence has been committed, is being committed or is likely to be committed;
 - (b) that a person has failed, is failing or is likely to fail to comply with a legal obligation to which he is subject;
 - (c) that a miscarriage of justice has occurred, is occurring or is likely to occur;
 - (d) that the health or safety of an individual has been, is being or is likely to be endangered;
 - (e) that the environment has been, is being or is likely to be damaged; or
 - (f) that information tending to show a matter within any of paragraphs (a) to (e) has been, is being or is likely to be deliberately concealed.
- (3) A disclosure is not a protected disclosure if the public official —
 - (a) commits an offence by making the disclosure; or
 - (b) discloses privileged material or information disclosed to him in the course of obtaining legal advice.
- (4) For the purposes of this section, it is immaterial whether —
 - (a) the matter disclosed occurred, occurs or would occur in The Bahamas or elsewhere; or
 - (b) the law applying to the matter disclosed is that of The Bahamas or of any other country or territory.

72. Disclosure to employer or other responsible person.

- A public official may make a disclosure in connection with his employment —
- (a) to his employer; or
 - (b) to another person,

if the public official reasonably believes that the matter disclosed relates mainly to that person's conduct or to another matter for which that person has legal responsibility.

73. Disclosure to a legal adviser.

A public official may make a disclosure to a legal adviser in the course of obtaining legal advice.

74. Disclosure to Prime Minister.

A public official may make a disclosure to the Prime Minister if the official's employer is —

- (a) an individual appointed under an enactment by the Prime Minister; or
- (b) a body, any of whose members is appointed by the Prime Minister.

75. Disclosure to Commission.

A public official may make a disclosure to the Commission if the person reasonably believes that the information disclosed, and any allegation contained in it, are substantially true.

76. Disclosure of an exceptionally serious matter.

A public official may disclose a matter of an exceptionally serious nature if —

- (a) he reasonably believes that the information disclosed, and any allegation contained in it, is substantially true;
- (b) he does not make the disclosure for the purposes of personal gain; and
- (c) it is reasonable for him to make the disclosure, having regard in particular to the identity of the person to whom the disclosure is made.

77. Disclosure in particular circumstances.

(1) Subject to subsection (2), a public official may make a disclosure in any of the following circumstances —

- (a) he reasonably believes that if he were to make the disclosure to his employer, his employer would subject him to a detriment;
- (b) he reasonably believes that —
 - (i) he cannot make the disclosure to the Commission because the matter to be disclosed is not one that the Commission is willing or able to deal with; and

- (ii) if he were to make the disclosure to his employer, it is likely that evidence relating to the matter would be concealed or destroyed;
 - (c) he has previously made a disclosure of substantially the same information to his employer or to the Commission.
- (2) The official may only make a disclosure under this section if —
 - (a) he reasonably believes that the information to be disclosed, and any allegation contained in it, is substantially true;
 - (b) he does not make the disclosure for personal gain; and
 - (c) it is reasonable for him to make it.
- (3) In determining whether it is reasonable for a public official to make a disclosure under this section, regard must be had in particular to —
 - (a) the identity of the person to whom the disclosure is made;
 - (b) the seriousness of the matter disclosed;
 - (c) whether the matter disclosed is continuing or is likely to occur in the future; and
 - (d) whether the disclosure is in breach of a duty of confidentiality owed by the person's employer to any other person.

78. Previous disclosures of substantially the same information.

- (1) In determining whether it is reasonable for a public official to make a disclosure in the circumstances described in section 77(1)(c), regard must also be had to —
 - (a) any action that his employer or the Commission took or might reasonably be expected to have taken in consequence of the previous disclosure; and
 - (b) in the case of a previous disclosure to his employer, whether in making the disclosure, the official complied with any procedure whose use was authorised by the employer.
- (2) For the purposes of section 77(1)(c), a subsequent disclosure may be regarded as a disclosure of substantially the same information as that disclosed by a previous disclosure even though the subsequent disclosure extends to information about action taken or not taken in consequence of the previous disclosure.

79. Protection vis a vis employer or person in authority.

- (1) An employer or any person in authority over a public official who subjects that official to a detriment by reason only of his having made a protected disclosure under section 71 commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years, or to both.
- (2) A public official who makes a protected disclosure under section 71 does not break a duty of confidentiality to any person by reason only of having made the disclosure.

80. Contractual limitations.

- (1) A provision in an agreement to which this section applies is void in so far as it purports to preclude a person from making a protected disclosure under section 71.
- (2) This section applies to an agreement between a person and his employer, whether or not part of the contract of employment, including an agreement to refrain from instituting or continuing proceedings for breach of contract.

PART VIII – MISCELLANEOUS

81. Assistance by Commissioner of Police.

- (1) Where the Commission requests the Commissioner of Police for any assistance, in connection with the performance of its functions, it shall be the duty of the Commissioner of Police to provide or to ensure the provision of assistance to the Commission.
- (2) Where the Commission is investigating an offence alleged to have been committed by a member of the Royal Bahamas Police Force contrary to this Act —
 - (a) the Commission shall have conduct of the proceedings for the offence; and
 - (b) the investigating officer shall have, for the purposes of the proceedings referred to in paragraph (a), the powers of a police officer.

82. Secrecy.

- (1) Every Commissioner and every person performing any function in the service or as an officer or employee of the Commission shall treat all records, and information relating to declarations, as secret and

confidential and shall not disclose or communicate the text of any record, or information or, declaration to any unauthorised person or to allow any unauthorised person to have access to any records, information or declarations.

- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars or to a term of imprisonment not exceeding three years, or to both.

83. Confidentiality of information.

- (1) Any information received by any Commissioner, officer or employee of the Commission, in the course of the performance of the functions of such person under this Act, including information contained in any document received by that person by virtue of the provisions of this Act, shall not be divulged by any such Commissioner, officer or employee, to any person, except —
 - (a) to the extent necessary to exercise or discharge his functions as such Commissioner, officer or employee; or
 - (b) to comply with the provision of any written law or the order of any court for the purpose of prosecution for an offence.
- (2) Any Commissioner, officer or employee of the Commission who contravenes the provisions of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding two months, or to both.
- (3) Any person who receives any information or anything contained in such documents as aforesaid, knowing or having reasonable ground to believe at the time when he receives it, that it is communicated to him in contravention of this section shall, unless he proves that the communication to him of the information or anything contained in any document was contrary to his desire, commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding two months.

84. Amendment of Schedules.

The Minister may, after consultation with the Commission, by order amend the Schedules to this Act.

85. Annual report by Commission.

- (1) The Commission shall, before the expiry of three months after the expiry of each calendar year, submit to the Minister a report containing a statement of the audited accounts and an account of the activities of the

Commission throughout the preceding calendar year and the difficulties, if any, experienced by the Commission in the performance of its functions.

- (2) The Minister shall cause the report to be laid before the House of Assembly within a period of sixty days from the receipt thereof.

86. Power of Commission to make rules.

Subject to the provisions of this Act and any regulations made thereunder, the Commission may make rules to regulate its procedure.

87. Regulations.

- (1) The Minister may make regulations for giving effect to the provisions of this Act.
- (2) Without prejudice to the generality of the foregoing, the Minister may make regulations to provide for —
 - (a) any matter required to be prescribed by this Act;
 - (b) any matter in relation to any report, investigation or enquiry under this Act;
 - (c) any matter concerning the procedure of the Commission;
 - (d) such other matters as may be necessary or required for the purposes of carrying into effect the provisions of this Act.

88. Repeal.

The Public Disclosure Act (*Ch. 9*) is hereby repealed.

FIRST SCHEDULE

(sections 2 and 66)

CODE OF CONDUCT

Note: This Code of Conduct is binding in law. A breach of this Code of Conduct may also constitute an act of corruption or other criminal offence under the Integrity Commission Act, 2017. Therefore, this Code should be read in conjunction with the Integrity Commission Act, 2017.

CHAPTER 1: CODE OF CONDUCT FOR MINISTERS

Note: For the purposes of this Code of Conduct, a reference to a “Minister” includes and Parliamentary Secretaries.

Overview

- (1) If the public confidence in the integrity of the political directorate of The Bahamas is to become a hall mark of our political culture, it is of the first importance that the Prime Minister and other Ministers of Government observe – and be seen to observe – the highest standards of probity in public life. This can only be achieved if Ministers —
 - (a) hold their positions and powers in trust for the benefit of the Bahamian people;
 - (b) devote themselves to ministerial service as a full-time occupation;
 - (c) avoid any material conflict between their private interests and their public duties;
 - (d) avoid using their ministerial status or influence for the enrichment of themselves or their families;
 - (e) avoid all forms of ethically improper behaviour including the solicitation or acceptance of personal gifts or loans from organisations or individuals who are seeking to obtain or retain the patronage or favour of the Government.
- (2) This chapter of the Code of Conduct provides guidance to Ministers on how they should act, and conduct and arrange their affairs, in order to uphold acceptable ethical standards. It lists the principles which shall apply in particular situations. Ministers are personally and legally responsible for deciding how to act and conduct themselves in the light of this Code and the Seven Principles of Public Life, and for justifying their actions and conduct to the House of Assembly and its committees, and the

public. Additionally, Ministers are expected to observe and uphold these seven principles, which are set out in the appendix to this Code of Conduct.

Ministers Private Interests

- (3) Ministerial service is a full-time calling. Thus private work, whether remunerated or not, must be discontinued upon the assumption of ministerial office. If a Minister requires a reasonably short period of time in order to attend to transitional matters arising out of his separation from the business or profession in which he was formerly engaged, this should be reported without delay to the Prime Minister who will ordinarily allow the relevant Minister to attend to transitional matters but only on the condition that it does not take the Minister away from his official duties and is completed as rapidly as possible.
- (4) As soon as he is appointed, a Minister must resign from any other public office to which he was previously appointed. He must also resign as director and officer of all public or private companies or associations. The only permissible exceptions to the foregoing are personal or family holding companies that are not involved in any business or trade; and charitable, religious or non-profit organisations. The Prime Minister should nonetheless be advised of these exceptions and his approval obtained.
- (5) On his appointment, a Minister should carry out a thorough review of his personal holdings and if it appears that there could be a conflict of interest, he must divest himself of the relevant holdings as soon as reasonably practicable unless he falls within any of the exceptions stated in any of the ensuing paragraphs.
- (6) A Minister who before his appointment was self-employed; engaged in a profession or business, whether individually, in partnership, through a company, trust or some other legal form, is not necessarily required to dispose of his interest but he must make the necessary arrangements immediately to ensure that —
 - (a) he dissociates himself from the management of the relevant partnership, company or business;
 - (b) he causes the relevant partnership, company or business to either remove his name from all business letterheads or amend the same to reflect his inactive status;
 - (c) he ceases to participate in the profits of the partnership, company or business after his appointment as Minister except for an amount each year considered as due to him in return for his previous investment.

- (7) Ministers who have direct contractual relationships with the Government must terminate such relationships upon assuming office unless the nature of the relationship has been fully disclosed in accordance with law and termination would, in the Prime Minister's, not be in the public interest. The views of the Prime Minister in this regard should be conclusive.
- (8) Ministers who hold shares or other equity in companies that have contractual relationships with the Government must divest themselves of such interest upon assuming office. It is recognised that market conditions or the nature of the company's business may be such as to make outright disposal impractical. Such cases should be brought to the attention of the Prime Minister who, if satisfied that outright disposal is impractical, will generally advise the Minister to divest himself of his interest by transferring the same to a blind trust in accordance with section 46 of the Integrity Commission Act, 2017.
- (9) Ministers who hold shares in public companies may choose to divest themselves of such shares either by way of outright sale or by transfer to a blind trust as aforementioned. This requirement does not apply where in the view of the Prime Minister, the shares are not of significant value.
- (10) While in office, Minister should take great care not to make investments which could result in a conflict of interest. In particular, it should be considered a flagrant breach of this Code of Conduct if a Minister, either directly or indirectly, uses "insider information" to make speculative investments in the securities market or to obtain some advantage for himself, a family member or associate in advance of an imminent change in Government policy or revenue measures.
- (11) Whenever Cabinet is due to discuss any matter that could affect the private interest of a Minister, that Minister should declare his interest and withdraw from the meeting for the duration of the discussion.
- (12) Where a Minister is called upon to exercise any power or discretion which could give rise to a conflict of interest, he should immediately inform the Prime Minister and refrain from taking any action in the meantime.
- (13) A Minister should neither nominate nor support the nomination of any person for any local or international prize or honour without the approval of the Prime Minister.
- (14) Ministers must avoid recommending their former firms or businesses to persons seeking the Government's favour or continued favour.
- (15) Ministers should be careful to distinguish between their Ministerial status and their co-existing status as Members of Parliament especially in relation to employment related references.

Ministers and Cabinet

- (16) Cabinet and Cabinet Committee meetings take precedence over all other Ministerial business, although it is understood that Ministers will occasionally have to be absent due to unavoidable commitments.
- (17) The principle of collective responsibility, save where it is explicitly set aside, applies to all Government Ministers. It requires that Ministers should be able to express their views frankly in the expectation that they can argue freely in private while maintaining collective responsibility in public when decisions have been reached. This in turn requires that the privacy of opinions expressed in Cabinet and Ministerial Committees, including in correspondence, should be maintained.
- (18) The internal process through which a decision has been made, or the level of Committee by which it was taken should not be disclosed. Decisions reached by the Cabinet or by Ministerial Committees are binding on all members of the Government. They are, however, normally announced and explained as the decision of the Minister concerned.
- (19) Matters wholly within the responsibility of a single Minister and which do not significantly engage collective responsibility need not be brought to the Cabinet or to a Ministerial Committee unless the Minister wishes to inform his colleagues or to have their advice. The Secretary to Cabinet can advise on whether a matter should be brought to Cabinet or Ministerial Committee where a ministry is unsure.
- (20) When there is a difference of opinion between ministries, it should not be referred to the Cabinet until other means of resolving it have been exhausted. It is the responsibility of the initiating ministry to ensure that proposals have been discussed with other interested ministries and the outcome of these discussions should be reflected in the paper submitted to Cabinet or a Cabinet Committee.

Ministers and the House of Assembly

- (21) Ministers in the House of Assembly must keep separate their roles as Minister and Member of Parliament or party representative.
- (22) Ministers have a duty to the House of Assembly and its committees to account, and be held to account, for the policies, decisions and actions of their ministries and departments.
- (23) It is of paramount importance that Ministers give accurate and truthful information to the House of Assembly and its committees, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead the House of Assembly or its committees may be expected to offer their resignation to the Prime Minister.

- (24) Significant announcements of Government policy should be made in the first instance, in the House of Assembly.
- (25) A copy of the text of an oral statement in the House of Assembly should be usually shown to the Opposition at least one hour before it is made.
- (26) At the same time, a copy of the final text of an oral statement should be in all cases sent in advance to the Speaker.
- (27) Every effort must be made to ensure that where a former Minister or a Ministerial colleague and a fellow Member of Parliament is mentioned in a statement or report which prompts a Ministerial statement, he is given as much notice as is reasonably possible.
- (28) Ministers should be as open as possible with the House of Assembly and its committees about the actions and decisions they take, and the reasons behind them, refusing to provide information only when disclosure would not be in the public interest.
- (29) Ministers should also be as open and transparent as possible in their public statements about the actions and decisions they take, and the reasons behind them. They should also require public officers from their ministry who comment in public on the workings of government to be as helpful as possible in providing accurate, truthful and full information.

Role of the Attorney-General

- (30) It is a Minister's responsibility to ensure that the Office of the Attorney-General be consulted in good time before the Government is committed to critical decisions involving legal considerations.
- (31) By convention, written opinions of the Office of the Attorney-General, unlike other ministerial papers, are generally made available to succeeding Administrations.
- (32) When advice from the Office of the Attorney-General is included in correspondence between ministers or in papers for Cabinet, it may if necessary be summarised, but if this is done, the complete text of the advice should be attached.
- (33) The fact that the Attorney-General has advised or not advised and the content of his or her advice must not be disclosed outside Government and the Integrity Commission without his authority.

Elections

- (34) In the period between an election being called, and the election taking place, the Government retains its responsibilities to govern, and Ministers remain in charge of their Departments. Essential business must be carried on. However, it is customary for Ministers to observe discretion in

initiating any new action of a continuing or long-term character. Decisions on matters of policy on which a new Government might be expected to want the opportunity to take a different view from the present Government should be postponed until after the election, provided that such postponement would not be detrimental to the public interest or wasteful of public money.

- (35) During the election period, official support, and the use of public resources, including publicity, will not generally be provided for Ministerial announcements – especially where those announcements could have a bearing on elections. Special care should be taken in respect of paid publicity campaigns which should not be open to criticism that they are being undertaken for party political purposes.
- (36) Public officers should not be asked to carry out new research or develop new arguments for use in election debate.
- (37) Care should also be taken over decisions and announcements of decisions made at an official level which may have a bearing on elections. In some cases, it may be better to defer an announcement until after the elections, but this would need to be balanced against any implication that deferral could itself influence the elections – and decisions should not be postponed where that would be detrimental to the public interest or wasteful of public money. Each case will need to be considered on its merits. If in doubt, public officers should consult the Permanent Secretary, and the Permanent Secretary may wish to consult the Public Service Commission.

Ministers' relations with public officers

- (38) Ministers must treat public officers with courtesy and respect.
- (39) The Permanent Secretary will arrange an orientation and briefing session covering finances, policy and strategy for a Minister taking up office, at a time convenient to the Minister; the Minister has a duty to attend the orientation and briefing.
- (40) Ministers are responsible for setting policy and strategy. Public officers, under the management of the Ministry's Permanent Secretary, are responsible for implementing policy, for applying policy to individual cases, and for managing the day to day operations and finances of the Ministry.
- (41) In setting policy and strategy, and any other decisions they make, Ministers have a duty to give fair consideration and due weight to informed and impartial advice from public officers. They must recognise the obligations of public officers to meet accepted professional standards

in providing that advice, and not seek to influence public officers to depart from those standards in providing advice.

- (42) Ministers must not intervene in issues affecting a public officer's career such as recruitment, promotion, reward, discipline and dismissal. Where Ministers have a concern about a public officer below the level of Permanent Secretary, they should discuss that with the Chairman of the Public Service Commission.
- (43) Ministers also have a duty to ensure that any broader influence they have over the management of the Public service, including promotion, reward, and discipline, and employment conditions, is not abused for party political purposes or personal interests.

Ministers and statutory bodies and boards

- (44) Ministers must respect the statutory role and autonomy of statutory bodies and boards. Any involvement that Ministers have in appointments to statutory bodies and boards, and officers or employees of those bodies and boards, must reflect the public interest rather than party political or personal interest.

Ministers and Government publications and documents

- (45) Before publishing a policy statement or a consultation paper, Ministers and their officials should consider whether it raises issues which require full collective ministerial consideration through Cabinet or a Cabinet Committee. The expectation is that most such papers will need collective agreement prior to publication. Any publication containing a major statement of Government policy should be circulated to the Cabinet before publication. This rule applies to papers containing major statements even when no issue requiring collective consideration is required.
- (46) Where commercially sensitive material is involved, no copies of government publications should be made available to the media or any other person outside government prior to publication.
- (47) Ministers relinquishing office should hand back to their Ministry any Cabinet documents and other ministry and government papers in their possession.
- (48) On a change of Government, the Governor-General will issue special instructions about the disposal of Cabinet and ministry papers of the in their possession.
- (49) Ministers must honour any confidentiality requirements on classified documents in perpetuity, including after they leave office.

Ministers and the communication and presentation of government policy

- (50) Official facilities paid for out of public funds can be used for Government publicity and advertising but shall not be used for the dissemination of material which is essentially party political.
- (51) Ministers should ensure that their statements are consistent with collective Government policy. Ministers should take special care in referring to subjects which are the responsibility of other Ministers.
- (52) Ministers must only use official machinery for distributing texts of speeches relating to Government business. Speeches made in partly political context must be distributed through the party machinery.
- (53) Ministers invited to broadcast on radio, television or webcasts in a political or private capacity should consider if such a broadcast would have a bearing on another ministry's responsibilities, in which case they should clear the matter with the ministerial colleague concerned before agreeing to the invitation.
- (54) Ministers may contribute to a book, journal or newspaper, with reference to their duty to observe the principle of collective Ministerial responsibility. No payment should be accepted for such articles.
- (55) Ministers shall not accept payment for speeches or media articles of an official nature or which directly draw on their responsibilities or experience as Ministers or with a view to donating the fee to charity. If the organisation in question insists on making a donation to a charity then it should be a charity of the organisation's choice.
- (56) Ministers shall not, while in office, write and publish a book on their ministerial experience. After leaving office, Ministers must submit a draft of any such book to the relevant authority in advance of publication for comment.

Gifts

- (57) Ministers should not accept gifts that might be perceived to create an obligation to the donor.

Travel by Ministers and Ministers' spouses and Special Advisers

- (58) Ministers must ensure that they always make efficient and cost-effective travel arrangements, and that these arrangements are consistent with the government travel policy currently in force. Official transport should not normally be used for travel arrangements arising from Party or private business.

- (59) Ministers should make it their personal responsibility to approve the size and composition of Ministerial delegations, keeping delegations as small as possible.
- (60) When Ministers travel on official business, their travel expenses should be borne by the ministry. Offers of free travel should not normally be accepted. The only exception to this is in the case of an offer of transport from an overseas government provided no undue obligation is created. All overseas travel by a Minister should receive prior approval of the Cabinet.
- (61) If a Minister is away with permission and is called back for ministerial or Parliamentary reasons, the cost of the extra journey back and forth may be met by public funds.
- (62) Ministers shall abide by the Government policy on the use of official cars.
- (63) Where travel is for a mix of political and official engagements, it is important that the ministry and the Party each meet a proper proportion of the actual cost.
- (64) Air miles and other benefits earned through travel paid for from public funds, for example, access to special departure lounges or booking arrangements which go with membership of frequent flier clubs, should be used only for official purposes or else forfeited. If it is impracticable to use the benefits for Government travel, there is no objection to Ministers donating them to charity if this is permissible under the terms of the airline's scheme and the charity is one chosen by the airline.
- (65) The expenses of a Minister's spouse or partner when accompanying the Minister on the latter's official duties may be paid from public funds provided that it is clearly in the public interest that he or she should accompany the Minister. The agreement of the Prime Minister and the Minister of Finance where the Prime Minister is not the Minister of Finance, must be obtained on each occasion before travel.
- (66) Ministers will wish to be satisfied that their travel arrangements can withstand public scrutiny. Ministries will publish, at least annually, details of all trips by Ministers costing more than five hundred dollars, together with the total annual cost of travel by the Minister and accompanying persons.
- (67) The expenses of a Special Adviser when accompanying the Prime Minister on the latter's official duties may occasionally be paid from public funds provided that the Permanent Secretary of Office of the Prime Minister agrees that it is clearly in the public interest that he should accompany the Prime Minister. Where the travel is related to a mix of Party and official business, the Party should bear an appropriate share of the costs. The Office of the Prime Minister will publish the total annual cost of travel by Special Advisers.

Special Advisers

- (68) The Prime Minister may appoint not more than two special advisers.
- (69) All Special Advisers are covered by Chapter 4 of this Code of Conduct [Chapter on Special Advisers].

CHAPTER 2: CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT AND SENATORS

Overview

- (1) This Code applies to the conduct of a Member of Parliament and Senator (hereinafter referred to as “Members”) in relation to his membership in the House of Assembly or Senate. The Code does not seek to regulate the conduct Members in their purely private and personal lives or in the conduct of their wider public lives unless such conduct significantly damages the reputation and integrity of the House of Assembly or Senate as a whole or that of its members.
- (2) The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the House of Assembly and Senate, and, where applicable, those which apply to Members falling within the scope of the Code of Conduct for Ministers.
- (3) Additionally, Members are expected to observe and uphold the Seven Principles of Public Life, which are set out in the appendix to the Code of Conduct.

General and specific obligations

- (4) Members have a general duty to act in the interests of all the residents of The Bahamas and of the nation as a whole; and where applicable, a special duty to their constituents.
- (5) By virtue of the oath, or affirmation, of allegiance taken by all Members when they are elected to the House of Assembly or Senate, Members have a duty to be faithful and bear true allegiance to The Commonwealth of The Bahamas.
- (6) Members should act on all occasions in accordance with the public trust placed in them. They should always behave with probity and integrity, especially in their use of public resources.
- (7) Information that Members receive in confidence in the course of their duties in the House of Assembly or Senate should be used only in connection with those duties. Such information must never be used for the purpose of financial gain or to bring the House of Assembly or Senate into disrepute. Members have a special obligation to protect the confidentiality

of any classified documents and to follow the necessary security procedures in relation to them.

- (8) Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from the public purse is in accordance with the rules laid down on these matters. Members shall ensure that their use of public resources is always in support of their duties in the House of Assembly or Senate. It should not confer any undue personal or financial benefit on themselves or anyone else, or confer undue advantage on a political organisation.
- (9) Members shall never undertake any action which could cause significant damage to the reputation and integrity of the House of Assembly or Senate as a whole or of its members generally. Members should behave with courtesy to each other.

Members relations with public officers

- (10) Members must not intervene in issues affecting a public officer's career such as recruitment, promotion, reward, discipline and dismissal or his assignment or allocation of responsibilities.
- (11) Members must treat public officers with courtesy and respect.

CHAPTER 3: CODE OF CONDUCT FOR CHIEF EXECUTIVE OFFICERS, MEMBERS AND OTHER EXECUTIVE OFFICERS OF COMMISSIONS, STATUTORY BOARDS AND OTHER PUBLIC BODIES

Note: For the purposes of this Code of Conduct, a reference to “public bodies” refers to corporations, commissions, statutory boards, public authorities or other public bodies established by an Act of Parliament or subsidiary companies of such corporations, commissions, statutory boards, public authorities or other public bodies that receive any payment of monies appropriated by Parliament.

Overview

- (1) This chapter of the Code of Conduct covers and regulates the conduct of Chief Executive Officers (hereinafter “CEO's”), board members and employees of public bodies who are persons in public life as defined in the Second Schedule of the Integrity Commission Act, 2017. It also sets out the framework and the standard benchmark to guide and inform policy formulations, procedures, practices and processes of the relevant public bodies.

- (2) CEO's, board members and employees of public bodies who are persons in public life are expected to observe and uphold the Seven Principles of Public Life, which are set out in the appendix to the Code of Conduct.
- (3) Given the fact that there are a number of public bodies with their varying roles and functions, it is not possible to draw up a code that can be uniformly applied to all. Individual public bodies should be encouraged to formulate and make available to their entire organisation, their own code of conduct based on the legislation establishing them as well as the guidance and benchmark in this chapter that take account of their own particular characteristics and circumstances.

General duties of CEO's, board members and employees of public bodies

- (4) CEO's, board members and employees of public bodies who are persons in public life —
 - (a) are bound by and should be committed to decisions legitimately taken by the boards of their public bodies;
 - (b) should provide quality advice or direction to their public bodies and thus must have a sound understanding of the organisation's operation, keep their relevant skills and knowledge up to date and be conversant with relevant issues and trends;
 - (c) must act honestly and in good faith with the highest standard of due care and diligence in the performance of their duties;
 - (d) must in particular —
 - (i) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
 - (ii) not delegate decisions, except as permitted by law;
 - (iii) not act under other direction, except as permitted by law;
 - (iv) not act for their own benefit or for the benefit of any other third person; and
 - (v) not act capriciously or unreasonably;
 - (e) should be aware of the role of the Board and other organs of their public bodies;
 - (f) should be aware of the role of the Minister and Ministry to which they report.
- (5) CEO's, board members and employees of public bodies who are persons in public life must at all times —
 - (a) observe the highest standards of propriety involving impartiality, integrity and objectivity in relation to the stewardship of public funds and the management of the public bodies concerned;

- (b) maximize value for money through ensuring that services are delivered in the most economical, efficient and effective way, within available resources, and with independent validation of performance achieved wherever practicable; and
 - (c) be accountable to the House of Assembly, users of services, individual citizens and employees for the activities of the public bodies concerned, their stewardship of public funds and the extent to which key performance targets and objectives have been met.
- (6) Persons in public life who are board members of public bodies should —
- (a) ensure that the information provided to the relevant ministry and the Government in general, is sufficient to allow an evaluation of how well the organisation has fulfilled its objectives. The legislation governing each public body and other ministerial directives generally prescribe minimum level of information disclosure, but such persons should ensure that the organisation's reporting exceed these minimum requirements;
 - (b) be well informed about the operations of the entity it governs;
 - (c) be well informed about the relevant regulations which govern the entity, including those governing the use of public funds;
 - (d) make appropriate arrangements for induction and training in conjunction with the relevant ministry;
 - (e) review their own performance and that of the organisation for which they are responsible;
 - (f) act in the best interest of the organisation it governs. This in effect will mean that they should —
 - (i) not present any sectional interest at the expense of the interest of the organisation. In determining what are the best interest of the organisation, they shall have regard to the interests of its employees and its shareholders, in this case, the government and the general public;
 - (ii) not misuse property held in a fiduciary capacity;
 - (iii) not place themselves in a position where their duty as such persons and personal interest conflict. Any such conflict must be resolved in favour of their duties as specified persons in public life;
 - (iv) not promote personal interest by making or pursuing a gain in circumstances in which there is a conflict or a real or substantial possibility of a conflict, between their personal interest and those whom they are bound to protect, that is, employees, the government and the general public; and

- (v) not misuse information gained in the course of their public service for personal gain or for political purpose, nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations. Information should only be disclosed for the purposes of the exercise or performance of their functions, for the purposes of any legal proceedings pursuant to the requirements of any written law, or when authorised by the organisation;
- (g) disclose personal interest in any matter before the board and abstain from any discussion or voting in relation to such matters. In considering whether a real danger of bias exists in relation to a particular decision, board members should assess whether they, a close family member, a person living in the same household, or a firm, business or organisation with which they are connected is likely to be affected more than the generality of those affected by the decision in question;
- (h) be mindful of the requirement of the Integrity Commission Act, 2017 to file their declarations as and when due, as well as gift reporting requirements.

Corporate responsibilities of board members

- (7) It is also the responsibility of board members to —
 - (a) ensure that high standards of corporate governance are observed at all times. This entails that the following be in place —
 - (i) ethical structures that provide assurance that there is consistent ethical behaviour throughout the organisation (e.g. Code of Conduct);
 - (ii) internal accountability structures that provide assurance on internal controls and management of the organisation;
 - (iii) external accountability and reporting structures that make the organisation's performance visible; and
 - (iv) financial and resource management structures that provide assurance that those resources are being managed efficiently, effectively and ethically;
 - (b) insure that public bodies comply with all statutory or administrative requirements for the use of public funds;
 - (c) all major decisions involving any corporation's assets and their financing, annual operating and capital budgets, new project proposals and borrowing requests, etc., must be reviewed and approved by the board;

- (d) establish the overall strategic direction of the organisation, through a Corporate Plan, within the policy and resources framework agreed with the relevant Minister and after consultation with management;
- (e) ensure that the board operates within the limits of its statutory authority and any delegated authority agreed with the relevant ministry;
- (f) ensure that all dealings with the public are conducted in an open, transparent and responsible manner;
- (g) ensure that they can demonstrate that they are using resources to good effect, with propriety, and without grounds for criticism that public funds are being used for private, partisan or party political purposes.

The workings of the board

- (8) Good practices for an effective board include —
 - (a) a working partnership between the board and executive management, with the board providing the oversight and guidance and management responsible for the day to day operations;
 - (b) a strong independent element on the board who are able to bring an objective view to board deliberations. Independence should be taken as independent of management and free from any business or other relationship which could materially interfere with the exercise of their judgment;
 - (c) a board size small enough for effective decision making, to provide a more focused debate on important issues such as financial reporting, etc. and the establishment of various subcommittees; and
 - (d) a chairman who ensures full discussion of agenda items at meetings.
- (9) Board members should request in advance of a board meeting, the draft agenda, minutes of the previous meeting and the relevant information relating to matters to be discussed, well in advance.
- (10) Board meetings are the main forums for board members to fulfill their responsibilities, providing an opportunity to receive information, develop an understanding of important issues and influence the direction of the organisation. Board members should therefore fully understand their specific roles and responsibilities prepare well and actively participate in such meetings.
- (11) There are no set requirements as to how and when board meetings are to be conducted, beyond those of an organisation's enabling legislation and companies law. The most important factor is to maintain an open and inclusive atmosphere.

- (12) The frequency of meetings will depend on an organisation's specific situation, and on internal and external events and circumstances. As a general rule, full board meetings should be held no less than quarterly. Board committees may meet less frequently, perhaps three or four times a year, but again this will vary with circumstances.
- (13) The papers prepared for each meeting will vary depending on the organisation, and the circumstances of the meeting itself. Basic papers seen as necessary to enable board members to play a useful part include —
 - (a) the agenda, generally prepared or approved by the Chairman;
 - (b) minutes of the previous meeting, usually provided by the organisation's secretary;
 - (c) the CEO's operational report, giving an overview of major events affecting the organisation since the previous meeting;
 - (d) the financial report, presenting up to date statements of operating profit or loss, cash flow and availability of finance; and
 - (e) any other report relevant to the agenda facing the board.

Accountability for public sector resources

- (14) Board members have a duty to ensure the safeguarding of public funds and resources. This can be taken to include all forms of receipts from fees, charges and other sources, and the proper custody of assets, which have been publicly funded. Appropriate measures should be taken to ensure that the organisation in question at all times conducts its operations as economically, efficiently and effectively as possible, with full regard to the relevant statutory provisions.
- (15) Public sector resources fall into four categories, namely —
 - (a) *Assets and liabilities*: sound asset management requires that assets contribute to achieving the desired outcomes and be used at the optimal level. Furthermore, assets should be adequately maintained and protected against loss or damage through appropriate risk management initiatives. The cost of owning, operating and maintaining assets should also be minimized.
 - (b) *Human resources*: sound human resource management requires all roles and responsibilities to be clearly defined. Staff should have the appropriate skills to perform their job effectively and be given developmental opportunities. Performance appraisals should be regularly undertaken to determine competency and required skills development. Furthermore, a succession plan for key positions should be in place and periodically reviewed.

- (c) *Information*: sound management of information for decision making and service delivery requires public records to be properly kept and privacy of information, where required, to be maintained.
 - (d) *Finances*: sound management of finances requires the accounting processes to be efficient and effective. The administration of the organisation's finances should be done in a timely and accurate manner. Key to the accountability function of boards is the preparation of annual budgets outlining planned performance and the proposed allocation of available resources among the correcting priorities. These should be prepared annually along with a corporate plan, including a capital budget and borrowing plan. Audited financial statements should also be prepared annually and presented to the board for approval.
- (16) Board members should ensure that they receive periodic reports prepared by management that outline and explain how the corporation has performed relative to the objectives set out in the approved plan and the actual results for the period under review. The board should also request the CEO and management to provide additional information where necessary.
- (17) Underlying all of the above is also the responsibility of a Board of Directors to ensure the establishment of a system of internal controls that —
- (a) enable the business to identify, measure, monitor and respond appropriately to significant business, operational, financial and compliance risks;
 - (b) safeguard assets from inappropriate use and loss from fraud or error;
 - (c) ensure the quality of internal and external reporting through the proper maintenance of records and information flows; and
 - (d) facilitate compliance with applicable laws and regulations and internal policies.

CHAPTER 4: CODE OF CONDUCT FOR SPECIAL ADVISERS

Overview of the Code

- (1) This chapter of the Code provides guidance to Special Advisers on how they should conduct themselves in order to uphold acceptable ethical standards. The responsibility for the management and conduct of Special Advisers, including discipline, rests with the Prime Minister who appointed them.

- (2) Special Advisers are employed to help the Prime Minister on matters where the work of Government and the work of the Government Party overlap and where it would be inappropriate for public officers to become involved. Special Advisers are an additional resource for the Prime Minister providing assistance from a standpoint that is more politically committed and politically aware than would be available to the Prime Minister from the Public Service, who are bound by a duty of political impartiality.
- (3) Special Advisers however have a duty to serve the Government as a whole and not just the Prime Minister.
- (4) Special Advisers, who are unpaid, or paid for by third parties, are also subject to this Code. All Special Advisers are expected to behave in a way that upholds the highest standards of integrity, honesty, and propriety.
- (5) Special Advisers are expected to observe and uphold the Seven Principles of Public Life, which are set out in the appendix to this Code of Conduct.

Status of Special Advisers

- (6) Special Advisers' appointments end as soon as one of the following occurs: an election is called; the Administration which appointed them leaves office; or the Prime Minister ceases to hold office.
- (7) The responsibility for the management and conduct of Special Advisers, including discipline, rests with the Prime Minister. In managing and disciplining Special Advisers, the Prime Minister must take account of the advice and recommendations of the Integrity Commission and the Public Service Commission.

Nature of a Special Adviser's Work

- (8) The nature of the work of a Special Adviser include —
 - (a) reviewing papers going to the Prime Minister, and giving advice on ministerial business, drawing attention to any aspect which they think has party political implications, and ensuring that sensitive political points are handled properly;
 - (b) checking facts and research findings from a party political viewpoint;
 - (c) preparing speculative policy papers which can generate long-term policy thinking within the Office of the Prime Minister, including policies which reflect the political viewpoint of the Party;
 - (d) contributing to policy planning within the Office of the Prime Minister, including ideas which extend the existing range of options available to the Prime Minister with a political viewpoint in mind;

- (e) liaising with the Party, to ensure that the Office of the Prime Minister's own policy reviews and analysis take full advantage of ideas from the Party;
- (f) maintaining contact with Party members, Members of Parliament, Senators and officers, and helping to brief them on issues of Government policy;
- (g) liaising with Party officers on Parliament or Senate matters;
- (h) liaising with outside interest groups including groups with apolitical allegiance;
- (i) speech writing and related research, including adding party political content to material prepared by public officers;
- (j) representing the views of the Prime Minister to the media including a Party viewpoint;
- (k) providing expert advice as a specialist in a particular field.

Conduct of Special Advisers

- (9) Special Advisers are exempt from the general requirement on public officers that they should be appointed on merit and behave with political impartiality and objectivity. In all other respects they are required in the same way as public officers to observe and uphold the Seven Principles of Public Life as set out in the Appendix to this Code.
- (10) Special Advisers should conduct themselves with integrity and honesty. Like other public officers who are specified persons in public life, they are subject to the Integrity Commission Act, 2017, and should pay particular attention to its requirements. In particular, they must not misuse their official position or information acquired in the course of their official duties to further their private interests or the private interests of others – to do so is an act of corruption under the Integrity Commission Act, 2017 and as such may be a criminal offence as well as a breach of this code. Special Advisers should not receive benefits of any kind which others might reasonably see as compromising their personal judgement or integrity. They are required to declare details of gifts and hospitality received in accordance with the rules set out in the Integrity Commission Act, 2017. The Office of the Prime Minister will publish on an annual basis, information about gifts and hospitality received by Special Adviser(s).
- (11) Special Advisers' actions should not be influenced or seen to be influenced by the hope or expectation of future employment with a particular firm or organisation.
- (12) Special Advisers must declare to the Permanent Secretary an interest in relation to any case or application which comes before the Prime Minister

or Office of the Prime Minister officials. They must also declare to the Permanent Secretary an interest in relation to any case or application which comes before the Prime Minister, if they or the Prime Minister get involved in that case or application in any way.

- (13) Special Advisers must not deceive or knowingly mislead Parliament, the Senate or the public.
- (14) Special Advisers must not, without authority, disclose official information which has been communicated in confidence in Government or received in confidence from others in the course of Government work.
- (15) The preparation or dissemination of inappropriate material or personal attacks has no part to play in the job of being a Special Adviser as it has no part to play in the conduct of public life. Any Special Adviser found to be disseminating inappropriate material will automatically be dismissed by the Prime Minister.

Special Advisers' relations with the Public Service

- (16) In order to provide effective assistance to the Prime Minister, Special Advisers should work closely with officers at the Office of the Prime Minister, and establish relationships of confidence and trust. Special Advisers do not, however, have the authority to direct public servants to carry out a particular task or commit the Office of the Prime Minister to undertake a specific cause of action.
- (17) Where Special Advisers are having significant meetings, or activities within the Office of the Prime Minister or within the public sector to discuss policy or expenditure, either with public officers in other parts of government, or with outside stakeholders, a public officer should be present. Where such meetings arise without being planned, Special Advisers should inform officials in the Office of the Prime Minister that the meeting took place and give an outline of what was discussed.
- (18) Special Advisers must not use governmental resources for party political purposes, and should avoid anything which might reasonably lead to that perception. When working in the Office of the Prime Minister or other government premises, or using government resources, Special Advisers are there to serve the objectives of the Government and that Office. It is this which justifies their access to government resources, and explains why their participation in party politics must be regulated. (Using government resources for party political purposes is an act of corruption under the Integrity Commission Act, 2017 and as such may be a criminal offence, as well as a breach of this Code of Conduct.)
- (19) Special Advisers must uphold the political impartiality of the public service and not ask or influence public officers to act in any way which

would conflict with their duties of impartiality and objectivity as set out in this Code of Conduct, the Public Service Act (*Ch. 39*), General Orders, the Integrity Commission Act, 2017 or any other law in force in the The Bahamas.

- (20) Special Advisers may, on behalf of the Prime Minister —
- (a) convey to officials the Prime Minister’s views and work priorities, including on issues of presentation. In doing so, they must take account of public officers’ workloads and any priorities the Prime Minister has set;
 - (b) request officials to prepare and provide information and data, including internal analyses and papers;
 - (c) hold meetings with officials to discuss the advice being put to the Prime Minister.
- (21) Special Advisers must —
- (a) treat public officers with courtesy and respect;
 - (b) respect the public service’s duty of impartiality, and the obligations of public officers to meet accepted professional standards in providing advice;
 - (c) keep Office of the Prime Minister officials informed of their activity, including meetings with statutory bodies and boards, and external stakeholders.
- (22) Special Advisers must not —
- (a) directly instruct public officers to carry out a particular task;
 - (b) ask or seek to influence public officers to do anything which is inconsistent with their obligations under the Public Service Act (*Ch. 39*) and General Orders or the ethical values as set out in the Integrity Commission Act, 2017; nor ask or seek to influence public officers to do anything inconsistent with this Code of Conduct;
 - (c) behave towards permanent public officers in a way which would be inconsistent with the standards set by the Office of the Prime Minister for conduct generally;
 - (d) authorise the expenditure of public funds, have responsibility for budgets, or any involvement in the award of external contracts;
 - (e) exercise any power in relation to the management of any part of the public service;
 - (f) intervene in issues affecting a public officer’s career such as recruitment, promotion, reward, discipline and dismissal;
 - (g) exercise any statutory or prerogative power;

- (h) suppress or supplant the advice being prepared for the Prime Minister by public officers, although they may comment on such advice.

If a Special Adviser significantly exceeds his responsibilities to the point which adversely affects the ability of the Office of the Prime Minister or its officers to perform their role, then this should be reported to the Prime Minister.

- (23) The Prime Minister has the authority, under this Code, to remove the Special Adviser from the building if he considers it appropriate and proportionate in the circumstances to do so.
- (24) Where a Special Adviser is uncertain about whether an activity is acceptable according to this Code, or the Integrity Commission Act, 2017, he should seek advice in advance from the Permanent Secretary of the Office of the Prime Minister or the Integrity Commission.
- (25) Where any public officer has concerns about any request coming from a Special Adviser, they should discuss that concern with their line manager, the Special Adviser concerned, or their Permanent Secretary. If a public officer feels for whatever reason that he is unable to do this then he may wish to raise the concern with the Integrity Commission or the Public Service Commission.
- (26) Public officers who believe they or other public officers are being asked or influenced to act against their duties or values as set out in this Code, the Public Service Act (*Ch. 39*) or General Orders or the Integrity Commission Act, 2017 or any other law in force in The Bahamas, have a duty to report this to the relevant authority or authorities. Special Advisers must recognise and respect this duty. Public officers are protected against suffering any disadvantage or detriment as a result of making such a report.

Special Advisers' relations with the media

- (27) Special Advisers should not speak in public for the Prime Minister or the Office of the Prime Minister.
- (28) Special Advisers are able, in background briefing to the media, to represent the Prime Minister's views on Government policy with a degree of political commitment that would not be possible for public servants. Briefing on purely party political matters must be handled by the Party machine.
- (29) Special Advisers must not take public part in political controversy whether in speeches or letters to the Press or in books, articles or leaflets; and must observe discretion and express comment with moderation, avoiding personal attacks.

- (30) All contacts with the media should be authorised by the Prime Minister.
- (31) Special Advisers must not publish or broadcast personal memoirs reflecting their experience in Government while in government employment.

Special Advisers' relations with the Government Party

- (32) Special Advisers provide assistance to the Prime Minister on the development of Government policy and its presentation, and on liaison between the Government and the Governing Party. It is in the interests of Government that the Governing Party is properly informed about the development of policy; and also that the Governing Party have the opportunity to contribute ideas to policy development. Special Advisers have a legitimate role in both these areas, which they can discharge with a degree of party political commitment and association which would not be permissible for a public officer.
- (33) In all contacts with the Party, Special Advisers must observe normal public service rules on confidentiality unless specifically authorised, in a particular instance, by the Prime Minister.
- (34) In liaising between Government and the Government Party, Special Advisers must not use Government resources for party political purposes, and must uphold the political impartiality of the public service.
- (35) Special Advisers must not take part in the work of the Party's national organisation, and will resign on the announcement of a General Election.
- (36) Special Advisers may give advice and support to the Prime Minister when the Prime Minister is taking part in party political activities – including in internal party matters such as party elections – but must do while on leave or at times which do not interfere with their normal duties, for example, out of office hours and not on government premises.

Special Advisers' rights and responsibilities after leaving government employment

- (37) On leaving government employment, Special Advisers are obliged to return any government documents or papers they have in their possession.
- (38) Special Advisers are required to submit an application to the Integrity Commission for any appointments or employment they wish to take up within two years of leaving government employment. Decisions on applications are taken by the Integrity Commission based on advice from the Permanent Secretary of the Office of the Prime Minister.
- (39) Any manuscripts for publication or broadcast which reflect Special Advisers' experience in Government must be submitted for comment to

the Permanent Secretary of the Office of the Prime Minister, in good time in advance of publication.

- (40) Special Advisers must continue to observe their duties of confidentiality after they have left their employment as a special adviser. They continue to be bound by duties of confidentiality in relation to any classified documents in perpetuity.

APPENDIX

The Seven Principles of Public Life

1. Selflessness

Holders of public office should make decisions solely on the basis of public interest. They should not do so in order to gain financial or material benefits for themselves, members of their family or their friends.

2. Integrity

Holders of public office should not place themselves under any financial or other obligation to individuals or organisations that might compromise them in the performance of their official duties.

3. Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices solely on merit.

4. Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to scrutiny appropriate to their office.

5. Openness

Holders of public office must be open about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly so demands.

6. Honesty

Holders of public office have an obligation to declare any private interest related to their public duties and to take steps to resolve any conflicts in a way that protects the public interest.

7. Leadership

Holders of public office should promote and support these principles by leadership and example.

SECOND SCHEDULE

(sections 2 and 3(2))

THE INTEGRITY COMMISSION

1. Constitution of the Commission.

- (1) The Commission shall consist of seven Commissioners, namely —
 - (a) a person is a justice or retired justice of the Supreme Court or Court of Appeal in The Bahamas, appointed by the Prime Minister, after consultation with the Leader of the Opposition;
 - (b) a chartered or certified accountant of at least seven years standing, appointed by the Governor-General, after consultation with The Bahamas Institute of Chartered Accountants;
 - (c) a person who is a counsel and attorney-at-law of ten or more years standing, appointed by the Governor-General after consultation with The Bahamas Bar Association;
 - (d) a member of the clergy, appointed by the Prime Minister, after consultation with The Bahamas Christian Council;
 - (e) two persons appointed by the Prime Minister on the recommendation of members of civil society; and
 - (f) a person appointed by the Prime Minister, after consultation with the Leader of the Opposition.
- (2) Persons appointed as Commissioners in accordance with paragraphs (1)(e) and (f) —
 - (a) shall be persons of high integrity who are able to exercise competence, diligence and sound judgment in fulfilling their responsibilities under this Act;

- (b) may include such other persons as the Prime Minister considers qualified to be appointed, having knowledge and experience in at least one of the following areas —
 - (i) public administration;
 - (ii) economics or financial matters; or
 - (iii) crime and fraud investigation.

2. Disqualification from appointment.

A person shall not be qualified to be appointed as a Commissioner if that person —

- (a) is a Member of Parliament;
- (b) has, at any time during the three years preceding the appointment, been a public officer; or
- (c) has, at any time during the five years preceding the appointment, held office in a political party.

3. Tenure of office

All Commissioners shall be appointed by instrument in writing and shall, subject to the provisions of this *Schedule*, hold office for a period of three years and shall be eligible for re-appointment.

4. Re-appointment

A Commissioner shall be eligible for re-appointment for one further term only and such term shall be for a period of three years or less.

5. Appointment of Chairman

- (1) The Prime Minister, acting in his discretion, shall appoint one of the Commissioners to be the Chairman to the Commission.
- (2) The Chairman shall preside at all meetings of the Commission at which he is present, and in the case of the absence of the Chairman from any meetings, the Commissioners present and forming a quorum shall elect one of their number to preside at the meeting.

6. Acting appointments

If a Commissioner is absent or unable to act, the Prime Minister may, after consultation with the Leader of the Opposition, appoint a person to act in the place of that Commissioner for a specified period of time and such appointment shall be made in the same manner as would be required in the case of the substantive appointment.

7. Vacancy in the membership of the Commission

- (1) The office of a Commissioner shall become vacant —
 - (a) at the expiration of the term specified in the Commissioner's instrument of appointment;
 - (b) if he notifies the Prime Minister, by writing under his hand, of his intention to resign his office and such resignation shall take effect when the letter of resignation is received by the Prime Minister;
 - (c) on the death or retirement of a Commissioner; or
 - (d) on the absence of a Commissioner from three consecutive meetings of the Commission, unless that absence is approved by the Prime Minister.
- (2) A Commissioner may be removed from office by the Prime Minister for inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause, or for misbehaviour and shall not be removed except in accordance with the provisions of this paragraph.
- (3) A Commissioner shall be removed from office by the Prime Minister if the question of his removal from office has been referred to a Tribunal appointed under subparagraph (4) and the Tribunal has recommended to the Prime Minister that the Commissioner ought to be removed for inability to discharge the functions of his office for misbehaviour.
- (4) Where the Prime Minister, acting after consultation with the Leader of the Opposition, considers that the question of removing a Commissioner ought to be investigated, the Prime Minister shall appoint a Tribunal which shall consist of three persons, of whom —
 - (a) one is to be a justice of the Supreme Court or the Court of Appeal; and
 - (b) one is to be a person who is a counsel and attorney-at-law of at least ten years standing,to enquire into the matter and report on the facts thereof to the Prime Minister and recommend to him whether the Commissioner ought to be removed under this paragraph.
- (5) The Tribunal appointed under this paragraph shall give the Commissioner an opportunity to show cause as to why he should not be removed from office.
- (6) Where the question of removing a Commissioner has been referred to a Tribunal under this paragraph, the Prime Minister, acting after consultation with the Leader of the Opposition may suspend the Commissioner from the exercise of the functions of his office.

- (7) A suspension may at any time be revoked by the Prime Minister and shall in any case cease to have effect if the Tribunal recommends to the Prime Minister that the Commissioner should not be removed.
- (8) Pursuant to this paragraph, if any vacancy occurs in the membership of the Commission, that vacancy shall be filled by the appointment of another person from the categories of persons in paragraph 3.

8. Remuneration

The Commissioners shall be paid such remuneration and allowances as the Governor-General may determine.

9. Interest in matter or proceedings before the Commission

- (1) Where the Chairman or any other Commissioner is interested in any matter before the Commission or any person who is a party to any proceedings before the Commission, the Chairman or other Commissioner so interested shall disclose the nature of his interest to the Commission and shall not participate in its sittings in relation to the said matter or person.
- (2) Where, in the opinion of the Prime Minister or of the Commission, the Chairman or any other Commissioner is interested in any matter before the Commission or any person who is party to any proceedings before the Commission, the Prime Minister or the Commission, as the case may be, shall direct the Chairman or other Commissioner not to participate in the sittings of the Commission in relation to the said matter or person.

10. Oath

A Commissioner shall, before assuming the functions of his office, make and subscribe the oath of office and the oath of secrecy in the form provided for in Form 6 of the *Fourth Schedule*.

11. Gazetting of membership

The appointment, resignation, revocation of appointment or death of a Commissioner shall be published in the *Gazette*.

12. Seal and execution of documents

- (1) The seal of the Commission shall be such device as the Commission shall determine and —
 - (a) shall be kept in the custody in the custody of the Secretary; and

- (b) affixed to instruments pursuant to a resolution of the Commission.
- (2) The seal of the Commission shall be authenticated by the signature of the Chairman and one other Commissioner.

THIRD SCHEDULE

(section 2)

SPECIFIED OFFICES

1. Members of Parliament
2. Members of Cabinet
3. Senators
4. Governor-General
5. Secretary to Cabinet
6. Parliamentary Secretaries
7. Financial Secretary
8. Permanent Secretaries
9. Under Secretaries/Deputy Permanent Secretaries (or post of equivalent rank)
10. Auditor-General
11. Treasurer
12. Commissioner of Police and all gazetted police officers
13. Commander Defence and all persons at or above the rank of Lieutenant Commander
14. Ombudsman
15. Chief Medical Officer
16. Surveyor-General
17. Parliamentary Commissioner
18. Director and Deputy Director of Planning
19. Registrar, Deputy Registrar and Assistant Registrars of the Supreme Court
20. Registrar of the Court of Appeal
21. Comptroller and Deputy Comptroller of Customs
22. Heads of Diplomatic Missions of The Bahamas (whether resident or non-resident) accredited to any other country or any international organisation
23. Heads of all Government Departments
24. Managing Directors and Board members of State owned or controlled banks
25. Managing Directors and Board members of State owned or controlled institutions
26. Members of the Public Service Commission
27. Members of the Judicial and Legal Services Commission
28. Members of the Police Service Commission
29. Members of the Constituencies Commission
30. Members of the Public Service Board of Appeal

31. Chairmen, Chief Executive Officers, Directors, Deputy Directors, General Managers and Heads of Department of all public corporations and other bodies corporate and agencies (including companies and bodies established by or under any statute) owned by the State or in which the controlling interest is vested in the State or in any agency on behalf of the State
32. Commissioners, officers and employees of the Integrity Commission
33. Any person who has a statutory duty to record the minutes of meetings of a commission, statutory board, public authority or public body who signs the entity's books and is involved in its business and affairs
34. Any person who acts in an office referred to in this *Schedule* for a continuous period of six months or more.

FOURTH SCHEDULE

FORM 1
(section 11(1))

INTEGRITY COMMISSION

SUMMONS TO WITNESS

To:.....A.B..... of

Whereof complaint has been made before the Integrity Commission that C.D.....(state concisely the substance of the complaint) and it has been made to appear to the Commission that you are likely to give material evidence on behalf of the complainant/person in public life in this behalf :

This is to require you to be and appear at o' clock on the day of 20..... at before the Commission in the said place, to testify what you know concerning the maker of the said complainant.

Dated this day of , 20

.....
Chairman of the Integrity Commission

FORM 2
(section 44)

THE INTEGRITY COMMISSION

DECLARATION OF INCOME, ASSETS AND LIABILITIES
(of Declarant, Spouse and Dependent Children)

Warning: Under section 51 of the Integrity Commission Act, 2017 it is an offence (punishable by a fine of \$15,000 or 1 year imprisonment or both) to knowingly file with the Commission or the Prime Minister, a declaration that is not complete, or which is false in any material particular.

PART A

I. DECLARANT
NAME <i>(surname, first name, middle initial):</i>
ADDRESS:
MARITAL STATUS <i>(single, married*, divorced, widowed):</i>
EMPLOYMENT FOR THE LAST FIVE YEARS <i>(please include position held and employer):</i>

II. DECLARANT'S SPOUSE**
NAME OF DECLARANT'S SPOUSE <i>(surname, first name, middle initial):</i>

<p>EMPLOYMENT FOR THE LAST FIVE YEARS <i>(please include position held and employer):</i>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

III. DECLARANT'S CHILD/CHILDREN***		
NAME	DATE OF BIRTH	PLACE OF BIRTH

***Note:** For the purposes of this declaration, a declarant is considered to be married whether or not separated, living separate and apart, or in divorce proceedings.

****Note:** Section 2 of the Integrity Commission Act provides that a “SPOUSE” in relation to a person in public life, means a person —

- (a) to whom a person in public life is married; or
- (b) who is living with a person in public life in circumstances of husband and wife for a continuous period of one year during the period covered by the person's declaration.

*****Note:** Section 2 of the Integrity Commission Act provides that a “CHILD” in relation to a person, means the person's child who has not attained the age of eighteen years and is not married and includes a step-child or an adopted child; and, in respect of a man, includes a child born out of wedlock of whom the man had been adjudged the father by a court of competent jurisdiction or whom the man had acknowledged to his own child.

PART B

DETAILS OF INCOME

(Of Declarant, Declarant's Spouse and Dependent Children)

Please state how received or receivable. (E.g. as salary, fees as Director or Consultant, commission, bonus, dividends, provisional fees, rent, interest, pension, annuity, gifts, in kind or cash and other receipts or transfers whether the source of income is domestic or international.)

Name and address of source of income	Recipient's name (state whether Declarant, Spouse or Dependent Child)	How Received (if gift, give brief description. If rent, state where from, e.g. house or land)	Gross Annual Earnings (\$)

PART C

**DETAILS OF ASSETS
(Of Declarant, Declarant's Spouse and Dependent Children)**

Note: Assets include those held overseas.

For each asset valued \$50,000 or more, please state the source and date of financing used for its purchase (e.g. mortgage, loan or savings).

I. PROPERTY/LAND

Parcel no. and location of land/property	Name held (Declarant, Spouse or Dependent Child)	Date of acquisition	Original purchase price (\$) or other consideration for its acquisition	Total of any additional investment (\$)	Estimated value (as of date of disclosure)	Source/date of funding (mortgage, loan, savings)

Additional information (please indicate whether purchase was freehold, subject of certificate pending litigation, a gift, held in trust, or subject to any discount whatsoever, etc.) —

.....

.....

.....

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.....

.....

Have you **sold or transferred any property in the last 3 years?** (Please check the appropriate box):

- yes
- no

If yes, give details —

Parcel no. and location of land/property	Date sold/transferred	Amount	To whom

II. AMOUNTS HELD IN BANKS AND FINANCIAL INSTITUTIONS

Name and address of Institution	Type of account	In whose name held (Declarant, Spouse or Dependent Child)	Account number	Balance as at date of disclosure

III. LIFE INSURANCE POLICIES					
Company	Type of policy/Date of maturity	In whose name held (Declarant, Spouse or Dependent Child)	Annual premium paid (\$)	Sum assured (\$)	Cash surrender value (\$)

IV. Do you hold any shareholdings in a company or holdings in a partnership or joint venture? (Please check the appropriate box):

- yes
- no

If yes, give details —

Name of company	Nature of business	Stock units/shares held	In whose name held (Declarant, spouse or Dependent Child)	Market value as at date of disclosure (\$)*

*Note: If you have a majority shareholding and/or you are the owner of the company please state market value of company. Otherwise, please state market value of shares held.

V. Do you hold any Directorships or Partnerships? (Please check the appropriate box):

yes

no

If yes, give details —

Name of company	Nature of business	Declarant/Spouse/Dependent Child	Director/Partner	Date of Appointment

VI. Please give details of other assets held —

Asset	In whose name held (Declarant, Spouse or Dependent Child)	Book value at date of disclosure
(a) Motor vehicles (including heavy duty equipment):		
(b) Boats:		
(c) Government Bonds:		
(d) Other:		

PART D

DETAILS OF LIABILITIES
(Of Declarant, Declarant's Spouse and Dependent Children)

I. Please give details of any mortgages you have obtained —

Name and address of lender	Name of borrower (Declarant, Spouse or Dependent Child)	Property/As set Mortgaged	Original Loan (including interest) (\$)	Date incurred	Amount paid for the last year	Balance owing at date of disclosure

II. Judgement Debts :					
Name and address of organisation/ person owed	Name of debtor (Declarant, Spouse or Dependent Child)	Date debt incurred	Original debt (\$)	Amount repaid during year (\$)	Amount owing as date of disclosure (\$)
III. Please provide details of any other liabilities:					
Name and address of	Name of debtor	Date debt	Original debt (\$)	Amount repaid	Amount owing as at

organisation/person owed	(Declarant, Spouse, Dependent Child)	incurred		during year (\$)	date of disclosure (\$)

PART D

ASSETS OF RELATIVES ACQUIRED PARTLY OR WHOLLY WITH DECLARANT'S INCOME

Please provide as much detail as possible, including name of relative, nature of relation, nature and value of asset, etc. —

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PART E

GIFTS RECEIVED IN THE COURSE OF OFFICIAL FUNCTIONS OF THE DECLARANT

Complete this section if you have received a gift, fee or personal benefit as an incident of the protocol or social obligations that normally accompany the responsibilities of your office, where the value of the gift exceeds \$1,000 or where the total value of the gifts, fees or benefits received directly or indirectly from one source, in any 12 month period, exceeds \$1,000.

List all gifts, fees or benefits received directly or indirectly from one source in any 12 month period, where their total value exceeds \$1,000 —

Date of receipt	Name and address of donor	Description of gift, fee or benefit	Value (\$)

PART F

TRUST PROPERTY AND BLIND TRUST			
Name and address of Institution	In whose name held (Declarant, Spouse or Dependent Child)	State number of units held in trust	Value as at date of disclosure (\$)
I,, hereby certify that the above Declaration gives full, true and complete particulars of—			

- (a) income earned by myself, my spouse or dependent child for the financial year ending 30th June 20..... and of any gifts received by me during that year; and
- (b) assets owned by me and other relevant family members (including trust property of which I am a beneficiary), as of the date of this Declaration; and
- (c) my liabilities, as of the date of this Declaration.

This Declaration is true to the best of my knowledge and belief and I make it knowing that I am liable to criminal prosecution if I have made any statement which I know to be false, or do not believe to be true.

Dated this..... day of..... 20.....

.....
Declarant

FORM 3

(section 50(5)(a))

INTEGRITY COMMISSION

CERTIFICATE OF COMPLIANCE

(FOR THE PERIOD)

The Integrity Commission certifies that it has examined the declaration filed with the Commission and is satisfied that full disclosure has been made by..... of

(Name)

(Address)

in accordance with the Act.

.....
(Name of Chairman)
Chairman of the Integrity Commission

FORM 4
(section 55(2))

INTEGRITY COMMISSION

STATEMENT OF REGISTRABLE INTERESTS

Note: Pursuant to section 51 of the Integrity Commission Act, 2017 this statement must be completed by Members of Parliament and Senators. There is no requirement to disclose in this statement the actual amount or extent of any financial benefit, contribution or interests. Please notify the Commission of any change that occurs in this statement within six weeks of such change occurring.

Warning: Failure to file to a statement, the filing of an incomplete statement or the filing of a statement that is false in any material particular is an offence punishable by a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding one year, or to both.

Name (<i>surname, first name, middle initial</i>):
Address:
Date elected to House of Assembly or appointed to Senate:
Marital status:
Name of spouse*:
Name/s of child/children:
.....
.....
.....
.....
.....
.....
.....

**STATEMENT OF REGISTRABLE INTERESTS FOR THE YEAR ENDED
31ST DECEMBER, 20.....**

Complete this form and file it together with the Declaration of Income, Assets and Liabilities that you are required to file with the Integrity Commission.
(Where there is insufficient space, additional information may be supplied on separate sheets of paper).

1. I/MY SPOUSE/MY CHILD hold(s) directorships in the following companies or other corporate bodies:

Name of Company/Corporate Body	Address

2. I/MY SPOUSE/MY CHILD am (is) a party to, or a partner in a firm or a director or manager of a company that is a party to a contract with the Government of The Bahamas, or has (have) an interest in such a contract as follows:

Date and nature of contract	Particulars of interest in contract or obligation undertaken

3. I/MY SPOUSE/MY CHILD have (has) investments in the following companies, partnerships or associations:

Name and address of company/partnership/association	Brief particulars of entity

4. I/MY SPOUSE/MY CHILD hold(s) the position of beneficiary or trustee in the following trusts:

Name of trust and position held	Brief particulars of trust

5. I/MY SPOUSE/MY CHILD have (has) beneficial interests in the following lands:

Location, description and area of lands	Beneficial interest

6. I/MY SPOUSE/MY CHILD have (has) made contributions to the following funds:

Name and address of fund	Controller of fund

7. I/MY SPOUSE/MY CHILD hold(s) memberships in the following political, trade or professional associations:

Name and address of association	Type of association (Political/Trade/Professional)

8. I/MY SPOUSE/MY CHILD have (has) received income from the following sources:

Description of income	Source

9. I/MY SPOUSE/MY CHILD have (has) the following other substantial interests which may appear to raise a material conflict between my private interest and my public duty:

Name of interest (pecuniary or non-pecuniary)

Declaration

I,, hereby declare that the contents of my statement of registrable interests are true to the best of my knowledge and I make it knowing that I am liable to criminal prosecution if I have made a statement which I know to be false, or do not believe to be true.

Dated this day of 20.....

Signature of member:.....

In the presence of:..... (*Name of witness*)

..... (*Address of witness*)

Dated this day of 20.....

Signature of witness:.....

FORM 5
(section 61(1) and 62(1))
INTEGRITY COMMISSION
REPORT OF GIFT RECEIVED

Warning: Under section 60 of the Integrity Commission Act, 2017 it is an offence, punishable by imprisonment and/or a fine, for a person in public life to knowingly make an incomplete or false report contrary to sections 58 or 59.

Name of Declarant:.....

Position of Declarant:..... **Date of receipt of gift:**.....

Description of gift:

.....
.....

State whether in your opinion the gift is a personal or official gift:

.....
.....

Name of beneficiary:.....

Relationship to Declarant:.....

Value of gift (\$):.....

Name and address of person making the gift:

.....
.....
.....

Details of person making the report:

Name:.....

Signature:.....

Date:.....

FORM 6

(second schedule, paragraph 10)

INTEGRITY COMMISSION

OATH OF OFFICE AND SECRECY

I,, being appointed Chairman/Commissioner/Secretary of the Integrity Commission, do swear that I will not on any account or at any time disclose any opinion, advice or privileged information of the Integrity Commission and that I will not, except with the authority of the Supreme Court or the Integrity Commission and to such extent as may be required for the good management of the affairs of the Commission, directly or indirectly, reveal the business or the proceedings of the Integrity Commission or the nature or any content of any document.

OBJECTS AND REASONS

This Bill seeks to provide for the establishment of a body to be known as the integrity commission to promote and enhance ethical conduct for parliamentarians, public officials and other persons; to provide measures for the prevention, detection and investigation of acts of corruption; to repeal the public disclosure act and to provide for matters connected therewith.

Part I of the Bill sets out the preliminary provisions, and in that connection:

Clause 1 of the Bill provides for the short title and commencement.

Clause 2 of the Bill provides for the interpretation of certain terms used throughout the Bill.

Part II of the Bill sets out provisions related to the Integrity Commission, and in that connection:

Clause 3 of the Bill provides for the establishment of the Integrity Commission, which shall be a body corporate.

Clause 4 of the Bill provides for the functions of the Commission, some of which include receiving and keeping on record all declarations, statements of registrable interests and reports of gifts forwarded by persons in public life; receiving, inquiring into and investigating any complaint or report of an alleged act of corruption under Part III, an alleged contravention of the Code of Conduct; educating the public against corruption, and monitoring legislative and administrative practices implemented to combat corruption.

Clause 5 of the Bill provides for the powers of the Commission. For instance, the Commission has such powers as may be requisite or incidental for or in connection with the performance of its functions and to exercise and perform such other responsibilities and powers as may be assigned to it.

Clause 6 of the Bill makes provision for the officers and employees of the Commission as well as for their remuneration and other terms of conditions.

Clause 7 of the Bill provides for the funds of the Commission to consist of such funds as may be appropriated to the Commission by Parliament.

Clause 8 of the Bill provides for the keeping of proper accounts of receipts, payments, assets and liabilities by the Commission and for those accounts to be audited annually by an auditor appointed in each year by the Commission with the approval of the Minister.

Clause 9 of the Bill provides for the Commission to regulate its own procedure and to make rules for that purpose.

Clause 10 of the Bill makes provision for the meetings and proceedings of the Commission, which shall meet at such times as may be expedient for the carrying out of its functions.

Clause 11 of the Bill provides for the Commission to have the powers of a justice of the Supreme Court to summon and examine witnesses.

Clause 12 of the Bill provides for immunity of Commissioners and persons who assist the Commission in the conduct of its inquiry and of witnesses.

Clause 13 of the Bill provides for the duties of witnesses summoned.

Clause 14 of the Bill provides for witnesses to be examined on oath and for the oral examination of witnesses for the purposes of verifying facts, etc.

Clause 15 of the Bill provides for any witness who gives false evidence in an inquiry to be liable for prosecution for perjury.

Clause 16 of the Bill provides for a person whose conduct is the subject of an inquiry by the Commission to be entitled to be represented by counsel.

Clause 17 of the Bill provides for the attendance of police officers during the proceedings of the Commission for the purpose, *inter alia*, of preserving order.

Part III of the Bill sets out provisions relating to acts of corruption, and in that connection:

Clause 18 of the Bill provides that the provisions of Part III are in addition to and not in derogation of the provisions of the Penal Code (*Ch. 84*), the Prevention of Bribery Act (*Ch. 88*), any other law or the Common Law.

Clause 19 of the Bill makes provisions for a list of acts of corruption, which include soliciting or accepting, whether directly or indirectly, any article, money or other benefit or advantage for oneself or another person for doing an act or for omitting to do an act in the performance of one's functions as a public official; improperly influencing the appointment of, or the dismissal, suspension or other disciplinary action against a public official; and during the performance of one's official duties, pursuing a course of conduct with respect to another public officer which amounts to offensive sexual comments, gestures or physical contact or other conduct of that kind.

Clause 20 of the Bill provides for the offences in respect of procuring tenders.

Clause 21 of the Bill makes provision for the offences and penalties in respect of a person who commits an act of corruption under sections 19 and 20. This clause provides that in addition to the imposition of a fine and term of imprisonment, the court may: confiscate any property connected to an act of corruption for which a person was convicted, except where such property was acquired *bona fide* without notice that an act of corruption was committed; make an order directing payment to a public body of the value of any property obtained by the convicted person in relation to the act of corruption for which he was convicted.

Clause 22 of the Bill provides for the presumption of corruption where satisfactory evidence is provided that demonstrates that in seeking to obtain a contract from the Government, etc., a person received or gave money, a gift or any other benefit, unless the contrary is proved on a balance of probabilities.

Clause 23 of the Bill provides for an offence to be committed where a person who is or was a public official is found to be in possession of property or a pecuniary resource disproportionate to his known sources of income, and he fails to produce satisfactory evidence to prove the possession of the property or pecuniary resource was acquired by lawful means.

Clause 24 of the Bill provides for it to be a defence in proceedings for an offence concerning an alleged act of corruption for the accused to prove that any property, gift or pecuniary resource in relation to the alleged act of corruption, was acquired by lawful means and the accused shall be acquitted of the offence if he produces satisfactory evidence, on a balance of probabilities, that the property, gift or resource was acquired by lawful means.

Clause 25 of the Bill provides for the making of complaints of acts of corruption by persons who have reasonable grounds to believe that a person in public life has committed an act of corruption. Such complaints may be made orally or in writing and with or without disclosing the complainant's identity. This clause further provides that no action, suit, prosecution or other proceedings shall be instituted against a person who makes a complaint in good faith. Also, this clause makes it an offence for a person to take any harmful action against another person, including interfering with the other person's lawful employment or occupation, on the ground that the person made a complaint.

Clause 26 of the Bill provides for the recording of complaints by the Commission. The Commission supplies a copy of a complaint to the complainant and examines the matter in order to determine whether or not an investigation is warranted. In order to determine whether or not to investigate, the Commission considers the seriousness of the conduct to which the matter relates and whether or not the matter is frivolous or vexatious.

Clause 27 of the Bill provides for a duty of public officials to report acts of corruption to the Commission where an official knows or suspects that another person has been, is, or is likely to be engaged in an act of corruption.

Clause 28 of the Bill provides for the Commission to investigate a complaint or report by forwarding a matter to an investigating officer where it has decided such an investigation shall occur and upon the completion of an investigation the investigating officer shall prepare and submit a report of his findings to the Commission.

Clause 29 of the Bill provides for the Commission to hold an inquiry and give the public official an opportunity to be heard where the Commission receives a report from an investigating officer's findings on a matter. On the conclusion of an inquiry, the Commission submits a report containing its recommendations along with the investigator's report and any documents to the Director of Prosecutions if it considers that a criminal offence may have been committed. Where a public official has been

exonerated following an inquiry into an allegation of corruption, the Commission shall in writing inform the person who made the complaint of the finding of the inquiry; inform the public official, in writing, of the finding of the inquiry; and publish the finding of the inquiry in the *Gazette* and in one daily newspaper.

Clause 30 of the Bill provides for the Director of Public Prosecutions to institute and undertake criminal proceedings against a person where he considers that a person ought to be prosecuted for an offence. The Director of Public Prosecutions shall then inform the Commission of any action taken following the receipt of a report from the Commission against a person in public life; the appropriate Service Commission where a report relates to a public officer; and the appropriate commission, statutory board, public authority or body with which the person in public life is employed.

Clause 31 of the Bill provides that it is an offence for a person to maliciously make a false allegation or maliciously provide false information related to an act of corruption.

Part IV of the Bill sets out provisions relating to investigations, and in that connection:

Clause 32 of the Bill provides for the interpretation of certain terms used in Part IV, namely, “device” and “material”.

Clause 33 of the Bill provides for the Commission to designate a person employed under section 6(1) as an investigating officer and to issue to such officers a warrant card, such an investigating officer is not member of the Royal Bahamas Police Force and is not subject to direction of control by the Commissioner of Police or the Police Force Act, 2009, any such Regulations or Police Force Orders.

Clause 34 of the Bill provides for investigating officers to have the powers of a police officer to arrest any person whom he reasonable suspects to have committed an offence punishable by imprisonment under the Act. Further, upon such an arrest, the investigating officer shall forthwith deliver the arrested person to the custody of the Royal Bahamas Police Force and the arrested person shall, as soon as practicable, be brought before a court of competent jurisdiction to be further dealt with according to law.

Clause 35 of the Bill provides for an investigating officer to, with the assistance of the Attorney-General, apply to a justice of the Supreme Court in chambers for an order to make a device or material available.

Clause 36 of the Bill provides for the authority for searches and seizures by an investigating officer.

Clause 37 of the Bill provides for an offence where a person resists or obstructs an investigating officer in the execution of his duty.

Clause 38 of the Bill provides for a person to make a complaint in writing against the conduct of an investigating officer and such complaints shall be referred to the Complaints Panel.

Clause 39 of the Bill provides for the Governor-General to appoint persons to the Complaints Panel to hear and adjudicate complaints made pursuant to section 38. Such Panel shall consist of a magistrate or justice or retired magistrate or justice, who shall serve as the chairman, the Commissioner of Police (*ex officio*), and a person, other than a member or former member of the Royal Bahamas Police Force, who shall represent the public.

Clause 40 of the Bill provides for the Complaints Panel to dispose of complaints without investigation if in its opinion the complaint is trivial, frivolous, vexatious or made in bad faith, or having regard to all the circumstances, an investigation or further investigation is not necessary or reasonably practicable.

Clause 41 of the Bill provides for the Commission to investigate complaints that are not disposed of informally.

Clause 42 of the Bill makes provision for the Complaints Panel to review complaints and submit a complaint review report to the Commission.

Clause 43 of the Bill provides for the Commission to give effect to any recommendations in a complaint review report.

Part V of the Bill sets out provisions for financial disclosure, and in that connection:

Clause 44 of the Bill provides for the filing of a declaration of financial affairs to the Commission by every person who is a person in public life, not being a Commissioner, officer or employee of the Commission, each year on or before the 30th day of January, and where such a person ceases to be a person in public life within thirty days from the date on which the person so ceases to be a person in public life. This clause also provides for a similar declaration to be filed with the Prime Minister by every Commissioner, officer and employee of the Commission.

Clause 45 of the Bill provides for a person in public life who holds any money or other property in trust for another person, not being his spouse or child or another person in public life to state that fact in his declaration.

Clause 46 of the Bill provides for a person in public life to make full disclosure in his declaration of his income, assets and liabilities and those of his spouse and children that, by the exercise of reasonable care, should be known to him.

Clause 47 of the Bill provides for a person in public life to place his assets or part thereof in a blind trust for the purposes of the Act and to file a copy of the trust deed with the Commission. Additionally, this clause states when a blind trust is created and who is a qualified trust company.

Clause 48 of the Bill makes provision for the receipt and examination of declarations by the Commission or the Prime Minister, as the case may be.

Clause 49 of the Bill makes provision for the Commission or Prime Minister to require further particulars from a declarant in relation to his financial affairs.

Clause 50 of the Bill provides for the Commission to hold a formal inquiry to verify any declaration or other statement filed with it. A person in public life who is required to attend the Commission may be accompanied and represented by counsel and a certified accountant and require the Commission to summon witnesses. Also, the Commission shall not make any adverse decision without giving the person in public life an opportunity to be heard and where the Commission is satisfied that a declaration has been fully made and all questions satisfactorily answered, or that a declaration is incomplete but the declarant cannot reasonably obtain the information required to complete it, the Commission shall forward a certificate of compliance to the person in public life and publish a statement to that effect in the Gazette and in a daily newspaper. Additionally, an inquiry shall not be commenced after two years from the date on which the person ceased to be a person in public life.

Clause 51 of the Bill provides for the Prime Minister to, after consultation with the Leader of the Opposition, appoint a fit and proper person as a tribunal to require a Commissioner, officer or employee of the Commission to furnish further information or documents, and to conduct an inquiry, where fond necessary, to verify the declaration, document or other statement filed with the tribunal.

Clause 52 of the Bill provides for the Commission to publish in the *Gazette* and in one daily newspaper the failure of a person in public life to file a declaration in accordance with section 44. It also provides for the Commission to send a report of that fact to the appropriate commission, statutory board, public authority or other body, and in any case, to send a report of that fact to the Director of Public Prosecutions who may, *inter alia*, take such action as he thinks appropriate.

Clause 53 of the Bill provides for the Commission to report unsatisfactory declarations to the appropriate commission, statutory board, public authority or other body, and to the Director of Public Prosecutions.

Clause 54 of the Bill provides for the offences and penalties with respect to the filing of declarations and other related matters.

Clause 55 of the Bill provides for the duty of a Member of Parliament and Senator to file a statement of registrable interests within ninety days after the day on which he becomes a Member of Parliament or Senator in respect of his interests on the day on which he becomes a Member of Parliament or Senator, and in each year, within ninety days after the 31st day of December.

Clause 56 of the Bill provides for the contents of a statement of registrable interests, which include particulars of any contract made with the Government, any beneficial interest held in land, and particulars relating to sources of income.

Clause 57 of the Bill provides for the Commission to maintain a register of interests in the prescribed form.

Clause 58 of the Bill provides for the Commission to require further particulars from a Member of Parliament or Senator by requiring such person to attend before it and answer questions and to furnish documents or information that it may require. The Commission may also make such independent inquiries and investigations relating to the statement as it thinks fit.

Clause 59 of the Bill provides for the offences with respect to the filing of the registrable interests by Member of Parliament or Senator and other related matters.

Clause 60 of the Bill provides for the a Member of Parliament or Senator to be disqualified from holding public office if he is convicted of an offence under section 54 or 59.

Clause 61 of the Bill provides for every person in public life, not being a Commissioner, officer or employee of the Commission, who receives a gift worth more than one thousand dollars to make a report of that fact to the Commission.

Clause 62 of the Bill provides for every person in public life who is a Commissioner, officer or employee of the Commission who receives a gift worth more than one thousand dollars, or whose spouse or child receives such a gift to make a report of that fact to the Prime Minister.

Clause 63 of the Bill provides for the penalty with respect to the reporting of gifts.

Clause 64 of the Bill provides for no prosecutions in respect to an offence under section 63 to be instituted after five years from the date when the person in respect of

whose declaration the alleged offence was committed ceased to be a person in public life.

Part VI of the Bill sets out provisions with respect to the Code of Conduct, and in that connection:

Clause 65 of the Bill provides that the provisions of this Part shall be in addition to and not in derogation of the provisions of the Penal Code (*Ch. 84*) or any other written law.

Clause 66 of the Bill makes provision for the establishment of a Code of Conduct for Ministers, Members of Parliament and Senators, and chief executive officers, members and executive officers of commissions, statutory boards and other public bodies.

Clause 67 of the Bill provides for any person who has reasonable grounds to believe that a person mentioned in section 66 has contravened any provision of the Code of Conduct to make a complaint, in writing, to the Commission.

Clause 68 of the Bill provides for the Commission to investigate a contravention of the Code of Conduct on its own initiative.

Clause 69 of the Bill provides for the Commission to request further information or hold a formal inquiry in respect of a contravention of the Code of Conduct. This clause also provides that a person who is required to attend an inquiry of the Commission may be represented by counsel and may require the Commission to summon witnesses. Also, an inquiry shall not be commenced after two years from the date on which a person mentioned in section 66 ceased to be in public life.

Clause 70 of the Bill provides for the Commission to prepare a written report of the findings of an inquiry or investigation under this Part.

Part VII of the Bill sets out the provisions with respect to whistleblower protection, and in that connection:

Clause 71 of the Bill provides for protected disclosures. It defines what are protected disclosures and when a disclosure is not protected.

Clause 72 of the Bill provides for a public official to make a disclosure in connection with his employment to his employer or to another person if the public official reasonably believes that the matter disclosed relates mainly to that person's conduct or to another matter for which that person has responsibility.

Clause 73 of the Bill provides for a public official to make a disclosure to a legal adviser in the course of obtaining legal advice.

Clause 74 of the Bill provides for the circumstances under which a public official may make a disclosure to the Prime Minister.

Clause 75 of the Bill provides for a public official to make a disclosure to the Commission reasonably believes that the information disclosed, and any allegation contained in it, are substantially true.

Clause 76 of the Bill provides for a public official to make a disclosure of a matter of an exceptionally serious nature in specified circumstances.

Clause 77 of the Bill provides for a public official to make a disclosure in particular circumstances, such as where he reasonably believes that if he were to make the disclosure to his employer, his employer would subject him to detriment.

Clause 78 of the Bill makes provision for previous disclosures of substantially the same information as well as defines when a disclosure may be regarded as such.

Clause 79 of the Bill provides for an offence where an employer or any person in authority over a public official who subjects the official to a detriment by reason only of his having made a protected disclosure.

Clause 80 of the Bill provides for a provision in an agreement between a person and his employer, whether or not part of the contract of employment to be void in so far as it precludes a person from making a protected disclosure.

Part VIII of the Bill sets out the miscellaneous provisions, and in that connection:

Clause 81 of the Bill provides for the Commission to request assistance from the Commissioner of Police in connection with the performance of its functions. It further provides that where the Commission investigates an alleged offence committed by a member of the Royal Bahamas Police Force that is contrary to the Act, the Commission shall have conduct of the proceedings for the offence and the investigating officer shall for the purposes of conducting the proceedings, have the powers of a police officer.

Clause 82 of the Bill provides for every Commissioner and every person performing any function in the service or as an officer or employee of the Commission to treat all records, and information relating to declarations, as secret and confidential.

Clause 83 of the Bill makes provision for the confidentiality of information received by any Commissioner, officer or employee of the Commission in the course of the performance of his functions under the Act.

Clause 84 of the Bill provides for the Minister to amend the Schedules, after consultation with the Commission.

Clause 85 of the Bill provides for the making of an annual report by the Commission, containing a statement of the audited accounts and an account of the activities of the Commission throughout the preceding calendar year of the difficulties, if any, experienced by the Commission in the performance of its functions.

Clause 86 of the Bill provides for the Commission to make rules to regulate its procedure.

Clause 87 of the Bill makes provision for the Minister to make regulations for giving effect to the provisions of the Act.

Clause 88 of the Bill provides for the repeal of the Public Disclosure Act (*Ch. 9*).

The *First Schedule* to the Bill sets out the Code of Conduct for Ministers, Members of Parliament and Senators, and Chief Executive Officers, Members and Other Executive Officers of Commissions, Statutory Boards and Other Public Bodies. The Appendix to the Code of Conduct sets out the Seven Principles of Public Life.

The *Second Schedule* to the Bill sets out provisions with respect to the constitution of the Integrity Commission and other matters related to the Commission. The Commission is to seven members, namely —

- (a) a person is a justice or retired justice of the Supreme Court or Court of Appeal in The Bahamas, appointed by the Prime Minister, after consultation with the Leader of the Opposition;
- (b) a chartered or certified accountant of at least seven years standing, appointed by the Governor-General, after consultation with The Bahamas Institute of Chartered Accountants;
- (c) a person who is a counsel and attorney-at-law of ten or more years standing, appointed by the Governor-General after consultation with The Bahamas Bar Association;
- (d) a member of the clergy, appointed by the Prime Minister, after consultation with The Bahamas Christian Council;
- (e) two persons appointed by the Prime Minister on the recommendation of members of civil society; and
- (f) a person appointed by the Prime Minister, after consultation with the Leader of the Opposition.

Persons who are appointed in accordance with paragraphs (e) and (f) —

- (a) shall be persons of high integrity who are able to exercise competence, diligence and sound judgment in fulfilling their responsibilities under this Act;
- (b) may include such other persons as the Prime Minister considers qualified to be appointed, having knowledge and experience in at least one of the following areas —
 - (i) public administration;
 - (ii) economics or financial matters; or
 - (iii) crime and fraud investigation.

The *Third Schedule* to the Bill provides for the specified offices. A person in public life, according to section 2, is a person who holds any of these offices.

The *Fourth Schedule* to the Bill provides for the forms. Form 1 is the summons to a witness. Form 2 is the declaration of income assets and liabilities. Form 3 is the certificate of compliance. Form 4 is the statement of registrable interests. Form 5 is the form for reporting gifts received. Form 6 is the oath of office and secrecy.