

PARLIAMENT OFFICE
PUBLIC BUILDINGS,
GEORGETOWN

27th November, 1995.

The following Bill which were introduced in the National Assembly were published for general information.

F. A. Narain,
Clerk of the National Assembly.



GUYANA

BILL No. 17 of 1995
INTEGRITY COMMISSION BILL 1995
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A BILL**INTITULED**

AN ACT to provide for the establishment of an Integrity Commission and to make provisions for the purpose of securing the integrity of persons in public life.

Enacted by the Parliament of Guyana:-

A.D. 1995

PART 1
PRELIMINARY

- | | |
|-----------------|---|
| Short title. | 1. This Act may be cited as the Integrity Commission Act 1995. |
| Interpretation. | <p>2. In this Act -</p> <p>(a) "assets" of a person means all property, including any right of interest in property and money, beneficially held by the person in Guyana or elsewhere;</p> <p>(b) "chairman" means chairman of the Commission, and includes an <u>ad hoc</u> chairman appointed under section 7;</p> <p>(c) "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;</p> |
| Schedule 11 | <p>(d) "Code of Conduct" means the body of rules contained in Schedule 11;</p> <p>(e) "Commission" means the Integrity Commission established by section 3;</p> |
| Schedule 111 | <p>(f) "Form" means a form in Schedule 111.</p> <p>(g) "liabilities" of a person means all the obligations of the person to pay money in Guyana or elsewhere;</p> <p>(h) "member" means a member of the Commission, and includes an <u>ad hoc</u> member appointed under section 7 and the chairman;</p> <p>(i) "person in public life" means a person who holds any specified office.</p> |
| Schedule 1 | <p>(j) "specified office" means an office listed in Schedule 1;</p> |

- (k) "spouse" includes reputed wife and reputed husband;
- (l) "tribunal" means any person appointed as a tribunal under section 21;

PART 11

INTEGRITY COMMISSION

3. (1) There is hereby established a commission to be known as the Integrity Commission which shall consist of a chairman and two other members.

Establishment
of Integrity
Commission.

(2) The Chairman shall be appointed from among persons who are, or who have been, or who are qualified to be appointed as, a Puisne Judge of the High Court.

(3) The two other members shall be appointed from among persons appearing to the President to be qualified as having had experience of, and shown capacity in, law, administration of justice, public administration, social service, finance or accountancy.

(4) The chairman and other members shall be appointed by the President after consultation with the Minority Leader.

(5) The chairman and other members may be appointed either full time or part time.

(6) The names of the chairman and other members of the Commission as first constituted and every change in the membership thereof shall be published in the Gazette.

(7) The Commission shall be a body corporate.

4. (1) Subject to the provisions of section 5, the chairman or any other member shall be appointed for such period, being not less than one year not more than three years, as may be specified by the President when appointing him; and the emoluments and other terms and conditions of appointment of the chairman and other member shall be such as may be determined by the President.

Terms and
conditions of
chairman and
other members.

(2) Except where the appointment of the chairman or other member is terminated under section 5 (1), the chairman or other member shall be eligible for re-appointment on the expiry of his term.

Termination
of appoint-
ment and
resignation.

5. (1) The appointment of the chairman or any other member may be terminated by the President if the chairman or other member -

- (a) is convicted for the breach of any provisions of the Code of Conduct;
- (b) is convicted of any other offence;
- (c) is guilty of misconduct;
- (d) becomes of unsound mind or incapable of carrying out his duties;
- (e) becomes bankrupt or compounds with his creditors;
- (f) is absent, except on leave granted by the Commission, from all meetings of the Commission held during two consecutive months, or during any three months in any period of twelve months;
- (g) fails to carry out all or any of the duties or functions conferred or imposed on him by this Act:

Provided that the appointment of the chairman or other member shall not be terminated under this subsection unless he has been given a reasonable opportunity of being heard.

(2) The chairman or any other member may resign by letter addressed to the President.

Oath of Office.

6. It shall be the duty of a person appointed as the chairman or other member to make and subscribe, before entering upon the duties of his office, an oath or affirmation that he will faithfully, fully and impartially, and to the best of his ability, discharge the trust, and perform the duties devolving upon him by virtue of

his appointment, which oath or affirmation may be taken before any magistrate or justice of the peace, and shall be deposited by the chairman or other member with Head of the Presidential Secretariat.

7. (1) Where, in the opinion of the President, the chairman or any other member is interested in any matter before the Commissioner or any person who is a party to any proceedings before the Commission, the President may appoint another person, who is qualified for such appointment, as *ad hoc* chairman or other member as the case may be, temporarily for the purpose of that matter, and while the Commission deals with the aforesaid matter, the chairman or other member so interested shall not participate in its sittings.

Ad hoc members.

(2) The remuneration and the other terms and conditions of appointment of an *ad hoc* chairman or other member shall be such as may be determined by the President.

(3) Except where inconsistent with this section, the provisions of sections 3, 4, 5 and 6 shall *mutatis mutandis* apply to the appointment and other matters relating to an *ad hoc* chairman or other member.

8. (1) The Commission shall perform the functions conferred on it by this Act.

Functions of Commission.

(2) The Commission shall have the power to do anything which in the opinion of the Commission is calculated to facilitate the proper performance of its functions or is incidental thereto.

(3) In the exercise and discharge of its functions, the Commission shall not be subject to the direction or control of any other person or authority.

9. (1) The headquarters of the Commission shall be in Georgetown, but the Commission may hold its sittings at any other place in Guyana, and with the permission of the President, at any place outside Guyana.

Sittings of Commission.

(2) Where the chairman cannot for any reason attend any sitting of the Commission, he may authorise in writing any other

member to preside at the sitting.

(3) No sitting or decision of the Commission, or any other act or thing done in pursuance of the powers conferred on it, shall be deemed to be invalid or ineffective only on the ground that -

- (a) there was a vacancy in the membership of the Commission or that any member did not participate in any particular sitting of the Commission;

Provided that the chairman, or other member authorised by the chairman under subsection (2), and one other member participated in the sitting of the Commission or agreed on the decision or other act or thing, as the case may be;

- (b) there was any defect in the appointment or qualification of any person purporting to be a member thereof; or
- (c) there was any minor irregularity (not calculated to cause any prejudice, or injustice or hardship to any person) in the performance of its function .

Procedure of
Commission.

10. (1) Subject to the provisions of this Act and any regulations made thereunder, the Commission may regulate its own procedure and may make rules for that purpose.

Cap. 19:03

(2) For the purpose of the performance of its functions under this Act, sections 10, 11, 12, 13, 14 and 17 of the Commissions of Inquiry Act shall *mutatis mutandis* apply to the Commission subject to the modifications that -

- (a) a reference to the commissioners shall be deemed to be a reference to the Commission;
and
- (b) the form of summons for the attendance of witnesses or other persons or production of documents shall be in Form 1.

Form 1

11. (1) The funds and resources of the Commission shall consist of -

Funds of
Commission.

- (a) sums provided to the Commission by or under any appropriation law;
- (b) sums allocated from time to time to the Commission from loan funds;
- (c) sums borrowed by the Commission for the purpose of meeting any of its obligations or the performance of any of its functions;
and
- (d) all other sums or property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions.

(2) The charges of any amount which may be allocated to the Commission for any loan funds shall be met by the Commission except that all or any part of such charges may be met out of moneys provided by or under any appropriation law.

(3) For the purposes of this section, the expression "loan funds" means such as may be made available from time to time to the Government by way of loan.

12. (1) The Commission may, acting within the funds and resources available to it -

Officers and
employees of
Commission.

- (a) employ a secretary and such other officers and employers 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 secretary and other officers and employees of the Commission employed under subsection (1) and of professional persons retained under that sub-section shall be such as may be determined or varied by the Commission from time to time.

(3) For the purpose of the performance of the functions conferred on the Commission it may, with the consent of the appropriate authority, utilise the services of any public officer or other employee of Government.

No. 21
of 1988

(4) Section 28 of the Public Corporations Act 1988 shall *mutatis mutandis* apply to public officers, persons (not being public officers) holding appointments in the public service and teachers referred to therein, who are seconded, temporarily transferred or transferred in the Commission as if the Commission were a public corporation.

(5) The Commission may, with the approval of the President, make such provisions as it deems appropriate for the payment of pension, gratuity or other allowances in respect of the service of its officers and other employees on their retirement from their employment with the Commission.

(6) In 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 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.

PART 111

FINANCIAL DISCLOSURE

Declaration
of financial
affairs.

13. (1) Every person who is a person in public life, not being a member of the Commission, shall -
- (a) each year, on or before such date as may be specified by the Commission with reference to that year; 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 containing the particulars referred to in subsection (4) with reference to the relevant date; and each of the members of the Commission shall file with the President similar declarations on or before the dates on which such declarations are required by other persons in public life.

(2) Without prejudice to the provisions of subsection (1) -

(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 containing the particulars referred to in subsection (4) 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 member of the Commission, file with the Commission; or

(ii) if he is a member of the Commission, file with the President,

a declaration containing the particulars referred to in subsection (4) with reference to the date on which he becomes a person in public life,

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.

(3) Every person who was a person in public life on the 1st June, 1991 or became a person in public life during any period after that date but before the commencement of this Act, and ceased to be a person in public life before the commencement of this Act, shall within thirty days from such commencement file with the Commission two declarations containing the particulars referred to in subsection (4), one with reference to the relevant date and the other

with reference to the date on which he ceased to be a person in public life.

(4) A declaration under subsections (1), (2) or (3) shall give full, true and complete particulars of the assets and liabilities as on the relevant date, and the income during a period of twelve months immediately prior to the relevant date, of the person filing the declaration (whether the assets were held by that person in his own name or in the name of any other person) and of the spouse and children of such person to the extent to which such person has knowledge of the same.

Form 2

(5) A declaration under subsection (1), (2) or (3) shall, as far as possible, be in Form 2.

(6) In this section "relevant date" -

- (i) for the purpose of subsection (1), means the date specified by the Commission for the purposes of subsection (1) (a) or the date on which a person ceases to be a person in public life, as the case may be;
- (ii) for the purposes of subsection (2), the date referred to in paragraph (a) or (b) thereof;
- (iii) for the purposes of subsection (3), the 1st June, 1991 or the date on which the person first became a person in public life during any period after that date, as the case may be.

Trust property.

14. 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, he shall so state in his declaration but shall not be required to disclose the terms of the trust.

Full disclosure.

15. (1) A person in public life is required to disclose in his declaration, under section 13, 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 purpose of a declaration under section 13, the income, assets and liabilities of a person in public life, his spouse and his children shall include the income, assets and liabilities ac

quired, 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 13.

16. (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.

Blind trusts.

(2) Where the assets of a person in public life are placed in a blind trust, he need not in his declaration under section 13, give more particulars of those assets than the amount and description of the assets placed in that trust and the date of so doing.

(3) 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.

(4) 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 or persons 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.
- (5) A trust company is a qualified trust company where -
- (a) it is incorporated in Guyana and is carrying on business in Guyana;
 - (b) no more than five per cent nominal value of the 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.

(6) For the purposes of this section, a company is the affiliate of another company where it holds more than five per cent of the nominal value of the issued shares in that other company or where that other company holds more than five per cent of the nominal value of the issued shares in the first mentioned company.

(7) For the purposes of this section, a person is associated with another where that other person is -

- (a) the spouse or child of the person; or
- (b) the partner of the person in a professional, trade, or commercial undertaking; or
- (c) a corporation and the first mentioned person or any person mentioned in paragraph (a) controls the corporation, its holding corporation or a corporation affiliated with either.

Receipt and
examination
of declarations.

17. The Commission or the President, as the case may be, shall -

- (a) receive, examine and retain all declarations 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.

18. The Commission or the President, 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 17 (b) and the declarant shall comply with the request within the time specified therefor by the Commission or the President, as the case may be.

Commission or the President may require further particulars.

19. Where a person who is required to do so fails to file a declaration in accordance with this Act or to furnish particulars under section 18, the Commission or the President, as the case may be, shall publish the fact in the Gazette.

Failure to file declaration or furnish particulars.

20. The Commission may in writing request a declaration to furnish such further information or documents and may conduct an inquiry to verify any declaration or other statement filed with it.

Commission may hold formal inquiry.

21. (1) Where in the opinion of the President, further information or documents are required from a member of the Commission in respect of his declaration, the President shall, after consultation with the Minority Leader, appoint a person in public life or his spouse, as a tribunal to require the declarant to furnish such further information or documents and to conduct any inquiry, where found necessary, to verify the declaration, document or other statement filed with the tribunal.

Further information from members of Commission in respect of their declarations.

(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 re-

quire 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 therefor by the Tribunal, so as to assist it in verifying the declaration.

(3) An inquiry under this section shall not be commenced after five years from the date on which the person in respect of whose declaration the inquiry is being conducted ceased to be a person in public life.

Cap. 19:03

(4) In conducting an inquiry under this section, a tribunal shall have and exercise all the powers of a commissioner appointed under the Commissions of Inquiry Act, save that the proceedings shall be held in private.

(5) Where after an inquiry under this section a tribunal that a declarant had in fact made full disclosure in his declaration, it shall public a statement to that effect in the Gazette.

(6) Where after an inquiry under this section a tribunal finds that the declaration which gave rise to the inquiry was in fact full and proper, the declarant shall be reimbursed from the Consolidated Fund for all expenses incurred by him in connection with the inquiry.

Offences and penalties.

22. (1) Any person who, -

(a) being a person in public life, -

- (i) fails, without reasonable cause, to file with the Commission or the President, as the case may be, a declaration which he is required to file in accordance with the provisions of this Act, or
- (ii) knowingly files with the Commission or the President a declaration that is not complete or is false in any material particular; or

- (b) fails, without reasonable cause, to comply with a request made under section 18 or 21 (2) by the Commission, the President or a tribunal, within the time specified therefor by the Commission, the President or the tribunal, as the case may be, or given incomplete or false information pursuant to the request; or
- (c) fails, without reasonable cause, to attend an inquiry being conducted under section 21, pursuant to a request under section 21 (2), 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.

shall be liable, on summary conviction, to a fine or twenty-five thousand dollars and to imprisonment for a term of not less than six months nor more than one year, and where the offence involves the non-disclosure, by the declarant, of property, which should have been disclosed in the declaration, the magistrate convicting the person may -

- (i) where the property involved is situated in Guyana, declare that it is forfeited to the State; and
- (ii) where the property involved is situated outside Guyana, order that an amount equivalent to the value of the property (the value to be assessed as directed by the magistrate), be paid by the person in public life to the State.

(2) Notwithstanding anything in subsection (1), where any property owned by a person in public life or his spouse or child, and liable for forfeiture under subsection (1), has been acquired from the owner, before criminal proceedings are instituted against the person in public life under subsection (1) for an offence involving the non-disclosure of the property, by a bona fide purchaser for value without notice of the commission of the offence, the property shall not be forfeited to the State under this section, but an amount equivalent to the value of the property or the price paid by

the purchaser, whichever is greater, shall be paid by the person in public life to the State.

(3) All sums due to the State pursuant subsection (1) (ii) or subsection (2) may be recovered in like manner as a debt due to the State.

Prosecutions.

23. No prosecution for an offence under section 22, shall be instituted -

- (a) without the written consent of the Director of Public Prosecutions; or
- (b) 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.

Expenses incurred in preparation of declarations tax deductible.
Cap. 81:01

24. For the purpose of the Income Tax Act, all disbursements and expenses reasonably incurred in a year of assessment by a person in public life in connection with the preparation of a declaration required to be furnished by him under this Act shall be deemed to be incurred by him wholly and exclusively in acquiring his income for that year of assessment.

PART IV

CODE OF CONDUCT

Provisions of this Part in addition to and not derogation of certain Acts.
Cap. 8:01
Cap. 8:02

25. The provisions of this Part shall be in addition in and not in derogation of the provisions of the Criminal Law (Offences) Act, the Summary Jurisdiction (Offences) Act or any other written law.

Powers of appropriate disciplinary authority preserved.

26. The provisions of this Part shall be without prejudice to the powers conferred upon the appropriate disciplinary by the Constitution.

27. (1) There is hereby established a Code of Conduct, being the body of rules contained in Schedule 11, for every person in public life.

Code of
Conduct.
Schedule 11

(2) Any person in public life who is in breach of any provisions of the Code of Conduct shall be liable, on summary conviction, to a fine of twenty-five thousand dollars and to imprisonment for a period of not less than six months nor more than one year.

28. (1) Any person who has reasonable grounds to believe that any person in public life is guilty of breach of any provision of the Code of Conduct may make a complaint in writing to the Commission stating -

Complaint to
Commission.

- (a) the particulars of the breach;
- (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.

29. Where a complaint has been to the Commission under section 28, the Commission after considering the complaint and, where found necessary, examining the complaint, may reject the complaint if the Commission is of the opinion that -

Commission
may reject
complaint.

- (a) the complaint is frivolous or that it does not pertain to a matter the Commission is empowered to deal with under this Act; or
- (b) there has been undue delay in making the complaint after the complainant has come to know of the commission of the breach complained of;

Provided that no complaint shall be rejected by the Commission without giving the person who made the complaint a reasonable opportunity of being heard.

Investigation of
breach of Code
of Conduct.

30. (1) Where upon examination of a complaint made under section 28, or otherwise, the Commission is of the view that an investigation is necessary to ascertain whether any person in public life is guilty of breach of any provision of the Code of Conduct, it may inquire into the matter.

(2) The sittings of the Commission to take evidence or to hear arguments in the course of any inquiry under subsection (1) shall be held in public.

(3) The complainant and the person in public life against whom any inquiry is held under this section shall be entitled to notice of the proceedings of the inquiry and to be represented in the inquiry either personally or through an attorney-at-law.

Report to
Director of
Public
Prosecutions.

31. (1) On the conclusion of any inquiry under section 30, the Commission shall submit a report to the Director of Public Prosecutions.

(2) A copy of the report referred to in subsection (1) shall be submitted to the President.

(3) Where the Director of Public Prosecutions is satisfied, on the examination of the report referred to in subsection (1) and other relevant evidence, that any person in public life ought to be prosecuted for an offence under section 27 (2), he shall institute and undertake criminal proceedings against the person in public life.

(4) Where the Commission has forwarded to the Director of Public Prosecutions a report under subsection (1), he shall inform the Commission and the President, in writing, the action taken by him pursuant to the report.

21

PART V

GIFTS

32. (1) Every person in public life who receives a gift worth more than ten thousand dollars shall make a report of that fact to the Commission stating the name and address of the donor, the description and approximate value of such gift and whether, in the opinion, the gift is a personal or a State gift.

Report to
Commission
of gifts.

(2) The Commission shall determine whether the gift is a personal gift or a State gift.

(3) The decision of the Commission made in pursuance of 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.

Provided that a person in public life who is unsure whether a gift received from a relative or friend is a State gift or a personal gift may apply to the Commission seeking its opinion as to the proper classification of the gift.

(5) A report under subsection (1) or an application under the proviso to subsection (4) shall be made to the Commission by the person in public life within thirty days of the receipt of the gift.

(6) Where the Commission finds that inquiry that the gift was given to the person in public life personally and,

(i) was trivial; or

(ii) 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 writ-

ing to deliver the gift to the Minister assigned responsibility 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 through an attorney-at-law.

Penalty for
contravening
section 32

33. Any person in public life who -
- (a) makes a report to the Commission under section 32 (1) which is incomplete or false in any material particular;
 - (b) fails to comply with the proviso section 32 (4); or
 - (c) fails to comply with a direction given by the Commission under Section 32 (6), shall be 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, and to imprisonment for three months.

PART VI

MISCELLANEOUS

Assistance by
Commissioner
of Police.

34. Where the Commission requests the Commissioner of Police for any assistance, in connection with the performance of its functions, either by the Commissioner of Police or by any other member of the Police Force, it shall be the duty of the Commissioner of Police to provide or to ensure the provisions of such assistance to the Commission.

Confidentiality
of information.

35. Any information received by any member, or by any officer or other 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 member, or by any such officer or employee, to any person except to the extent necessary to exercise or discharge his functions as such member or officer or employee or to comply with the provisions of any written law or the order of any court of for the purpose of prosecution for an offence.

36. The Minister may be order, which shall be subject to negative resolution of the National Assembly, amend any of the Schedules.

Amendment of Schedules.

37. (1) The commission shall, before the expiry of three months after the expiry of each calendar year, submit to the Minister a report containing 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.

Annual report by Commission.

(2) The Minister shall lay before the National Assembly a copy of the report with any explanation that the Minister may wish to offer in regard to any matter stated in the report.

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

Power of Commission to make rules.

39. (1) The Minister may make regulations to carry out the purposes of this Act.

Power of the Minister to make regulations.

(2) Without prejudice to the generality of the foregoing, and in particular, such regulations may provide for all or any of the following matters-

- (a) the procedure of the Commission;
- (b) particulars that a complaint under section 28 should contain;
- (c) any other matter that is required to be, or may be, prescribed by regulations under this Act.

Constitutional privileges and immunities not affected.

40. For the removal of doubts it is hereby declared that this Act shall not be deemed to affect or modify in any way any privilege or immunity granted to the holder of any office by the Constitution.

Repeal of Integrity Commission Act 1991 No. 21 of 1991.

41. The Integrity Commission Act 1991 is hereby repealed.

PART VII
CREATION OF NEW OFFENCE AND
AMENDMENT OF CERTAIN ENACTMENTS

Possession of unaccounted property or pecuniary resource.

42. (1) Where a person who is or was a person in public life, or any other person on his behalf, is found to be in possession of property or pecuniary resource disproportionate to the known sources of income of the first mentioned person, and that person fails to produce satisfactory evidence to prove that the possession of the property or pecuniary resource was acquire by lawful means, he shall be liable, on summary conviction, to a fine and to imprisonment for a term of not less than six months nor more than three years.

(2) In imposing a fine under subsection (1) on a person found guilty 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.

Amendment of Evidence Act. Cap. 5:03

43. The Evidence Act is hereby amended in the following respects -

- (a) in the definition of "banker's book" in section 2, by the insertion, after the word "business of a bank", of the words "and any electronic equipment or object on which particulars of any transaction made by the bank are stored";
- (b) in section 11, by the insertion, after the words "special cause", of the words "or pursuant to a summons issued by the Integrity Commission established by the Integrity Commission Act 1995".

44. Section 332 (1) of the Criminal Law (Offences) Act is hereby amended -

Amendment of
Criminal law
(Offences) Act.
Cap. 8:01

- (a) by the substitution, for the words "(1) In this Title, of the words, "In This Title";
- (b) by the substitution, for the words "public servant", of the words "(1) "public servant";
- (c) in the definition of "public servant" -
 - (i) by the substitution, for the full stop at the end of paragraph (m), of a semicolon;
 - (ii) by the insertion, after paragraph (m), of the following paragraph as paragraph (n) -

"(n) every person, other than a person falling under any of the description in the preceding subparagraphs, who holds an office listed in Schedule I of the Integrity Commission Act 1995,"

No. of 1995

SCHEDULE I

SPECIFIED OFFICES

S. 2(j)

The President of Guyana
 The Speaker of the National Assembly
 Ministers including Ministers of State
 Secretary to the Cabinet.
 Parliamentary Secretaries
 Members of the Supreme Congress of the People
 Members of the regional Democratic Councils
 Clerk of the National Assembly
 Attorney-General (if not a Member of the Cabinet)
 Head of the Presidential Secretariat
 Director of Protocol, Office of the President
 Chief of Protocol, Ministry of Foreign Affairs
 Permanent Secretaries and Deputy Permanent Secretaries
 Ombudsman

Director of Public Prosecutions
 Solicitor-General
 Chief Parliamentary Counsel
 Auditor General
 Secretary to the Treasury
 Commission of Police
 Chief of Staff, Guyana Defence Force
 Director General, Guyana National Service
 Commandant, Guyana People's Militia
 Members, Elections Commission
 Members, Judicial Service Commission
 Members, Public Service Commission
 Members, Police Service Commission
 Members, Teaching Service Commission
 Members, Public Service Appellate Tribunal
 Police Complaints Authority
 Heads of Diplomatic Missions of Guyana accredited to any other
 country or any international organisation
 Governor, Deputy Governor and Heads of Divisions of the Bank of
 Guyana
 Managing Directors and Managers of State owned or controlled
 banks
 Heads of all Government Departments
 Commissioner of Lands and Surveys
 Commissioner of Geology and Mines
 Commissioner of Forests
 Commissioner of Inland Revenue
 Comptroller of Customs and Excise
 Judges of the Supreme Court
 Magistrates
 Commissioner of Title
 Registrar of the Supreme Court
 Registrar of Deeds
 Official Receiver
 Public Trustee
 Chief Executive Officer, Deputy Chief Executive Officer and Heads
 of Departments, Public Corporation Secretariat
 Chairmen, Managing Directors, Chief Executive Officers, General
 Managers and Heads of Departments 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
 Vice Chancellor, Registrar, and Deans of Faculties of the
 University of Guyana
 Registrar General
 Chief Elections Officer and Commission of Registration

Mayors and Deputy Mayors and Town Clerks of the City of
 Georgetown, Town of New Amsterdam and other towns
 Members of the Integrity Commission
 Regional Executive Officer and Heads of Departments of Regional
 Democratic Councils

Note: Where not less than twenty per cent of the nominal value
 of the issued shares of a company is held by the Govern-
 ment or any agency on behalf of the Government, for the
 purpose of this Act it shall be deemed that the company is
 controlled by, or the controlling interest in the company is
 vested in, the Government or an agency on behalf of the
 Government.

SCHEDULE II

S. 2 (d)

CODE OF CONDUCT

No person in public life shall-

- (a) in return for anything done, or to be done, or omitted to
 be done in the execution of his duties, ask for or accept
 for himself or any person, any money, property, benefits
 or favour of any kind over and above that which he is law
 fully entitled to received for the performance of his duties;
- (b) in the course of the performance of his official functions
 discriminate against any person with respect to terms, con-
 ditions and privileges of employment or other official
 matters because of such person's race, place of origin,
 political opinions, colour, creed or gender;
- (c) for himself or for anyone else accept any gift, benefit
 or advantage from any one, save personal gifts from a

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relative or friend, or personal gifts given otherwise than as a motive or reward for doing or forbearing to do any thing in the performance of this official functions or causing any other person from doing or forbearing to do anything:

Provided that this provision shall not apply to gifts received on behalf of the State by any person in public life in the course of the performance of his official functions;

- (d) allow private interest to conflict with his public duties or improperly influence his conduct in the performance of his public duties;
- (e) allow the pursuit of his private interest to interfere with the proper discharge of his public duties:

Provided that any conflict between his private interests and his public duties shall be resolved in favour of his public duties;

Provided that any conflict between his private interests and his public duties shall be resolved in favour of his public duties;

- (f) use his official influence in support of any scheme or in furtherance of any contract or proposed contract or other matter in regard to which he has an interest;
- (g) for his personal advantage, benefit or gain, make use of, or communicate to anyone except in the performance of his official duties, the contents of any document, or any information or matter acquired in the course of his official duties which are not available to the public;
- (h) use or allow the use of public property (including money), equipment, supplies or services for any purpose other than for officially approved purposes;
- (i) during the performance of his official duties, pursue, a course of conduct which amounts to offensive sexual comments,

gestures or physical contact or other conduct of that kind;

- (j) in the course of the performance of his official duties pursue a course of conduct by which he exploits his position or authority for his sexual gratification;
- (k) in the course of the performance of his official duties, aid abet, counsel, procure or command any other person to commit a breach of any of the provision of this Code of Conduct.

SCHEDULE III

FORMS

FORM I

SUMMONS TO WITNESS

BEFORE THE INTEGRITY COMMISSION

A.B., Complaint

c.D., (Name of Person in public life alleged to be in breach of the Code of Conduct).

To E.F., of

Whereof complaint has been made before the Integrity Commission for 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 complaint/person in public life in this behalf:-

This is to require you to be and appear at
o'clock.....on.....day,
the.....day of.....19.....

at.....before the Commission in the said place, to testify what you know concerning the matter of the said complaint.

Dated this day of 19.....

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

FORM 2

DECLARATION OF INCOME, ASSETS AND LIABILITIES

Name of Declarant.....

Address.....

Name and address of spouse and children of Declarant.....

.....
.....

1. Income:

Income -- receive or receivable (state name and address of each source) as salary, fees as director or consultant, commission, bonus, dividends, professional fees, rents, gifts in kind or cash and any other receipts or transfers.

2. Assets:

(a) description, and value in the opinion of the declarant, including a copy of the latest valuation thereof, if any, and the purchase price or other consideration for its acquisition (where land and buildings thereon are owned by the declarant, this should be shown separately from land owned without buildings).

Location:

Rents (state from whether house or land).

- (b) Cash in Bank:**
(Identify each bank separately and state amount).
- (c) Life Insurance Policies:**
(Identify each company separated, state annual premiums, cash surrender value of policy and date of maturity).
- (d) Shareholdings in companies and holdings in partnership and joint ventures:**
(List each enterprise separately, the nature of its business and the number of shares held and their current value)
- (e) Directorship and partnerships:**
(Identify enterprise, nature of its business and date of appointment as director or partner).
- (f) Other Assets:**
Motor Vehicles
Boat
Government Bonds
Other

3. Liabilities:

- (a) Mortgages**
- (b) Judgement Debts**
- (c) Other Debts**

Dated this day of ,19....

.....
Declarant.

I.....hereby declare that this declaration gives full, true and complete particulars of the assets and liabilities as on the relevant date, that isand the income during a period of twelve months immediately prior to that date, of myself, and of my spouse and children to the extent to which I have knowledge of the same.

.....
Declarant

EXPLANATORY MEMORANDUM

This Bill seeks to achieve a high level of integrity among persons in public life and seeks to replace the Integrity Commission Act 1991 (No. 21 of 1991) enacted by the previous Parliament, but never enforced. Persons in public life, under the Bill, are those holding any of the offices listed in Schedule I.

2. Part II of the Bill seeks to establish an Integrity Commission and to make provisions in respect of related matters like terms and conditions of appointment of members, funds, etc.

3. Part III of the Bill seeks to make provisions relating to disclosure of assets, liabilities and annual income of persons in public life, Persons in public life, who are not members of the Integrity Commission, are required by the Bill to submit annual declaration in regard to the above matters to the Integrity Commission, and members of the Integrity Commission are required by the Bill to make similar declaration to the President. Clause 22 of the Bill seeks to prescribe penalties for failing to submit the declaration, submitting an incomplete declaration or submitting a declaration which is false in any material particular, etc.

4. Part IV of the Bill seeks to establish a Code of Conduct which every person in public life is required to comply with. The Code of Conduct is set out in Schedule II. This Part also seeks to lay down procedures for making a complaint to the Integrity Commission when a person in public life commits a breach of the Code of Conduct and to prescribe the penalty for breach of the Code of Conduct.

5. Part V of the Bill seeks to make provisions in regard in gifts on behalf of the State and personal gifts received by persons in public life.

6. Clause 42 in Part VIII of the Bill creates a new offence. The basis element of this new offence is possession of property or pecuniary resource disproportionate to the known sources of income of a person in public life. The penalty sought to be prescribed for this offence is fine and imprisonment for a term of not less than six months nor more than three years.

7. Clause 43 of the Bill seeks to make clarifjcatory amendments in sections 2 and 11 of the Evidence Act. Cap. 5:03 and clause 44 of the Bill seeks to make a consequential amendment in section 332 of the Criminal Law (Offences) Act, Cap. 8:01.

8. The Integrity Commission Act 1991 (No. 21 of 1991) is sought to be repealed by clause 41 of the Bill.

Bernard De Santos
Attorney General and
Minister of Legal Affairs