

ANTIGUA AND BARBUDA LEGAL ANNEX

REVIEWED LAWS:

- Constitution, 1981
- Integrity in Public Life Act (Including Code of Conduct and Blank disclosure form), 2004
- Notice by the integrity Commission on public officials to submit assets declaration, 2007

RELEVANT ARTICLES:

CONSTITUTION

DISQUALIFICATION'S FROM ELECTION AS A MEMBER OF THE HOUSE.

39.-

1. No person shall be qualified to be elected as a member of the House who-
 - a. is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;
 - b. is a Senator or temporary member of the Senate;
 - c. is an undischarged bankrupt, having been declared bankrupt under any law;
 - d. is a person certified to be insane or otherwise adjudged to be of unsound mind under any law;
 - e. is under sentence of death imposed on him by a court or has been sentenced to imprisonment (by whatever name called) for a term of or exceeding twelve months and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor, or received a free pardon;
 - f. is disqualified for appointment to the House by or under any law by reason of his connection with any offence relating to elections;
 - g. holds or is acting in any public office or in the office of judge of the Supreme Court or Ombudsman or is a member of the Constituencies Boundaries Commission, the Judicial and Legal Services Commission, the Public Service Commission or the Police Service Commission;
 - h. has, within the period of ten years immediately preceding the proposed date of his election as a member of the House, been convicted on indictment by a court of competent jurisdiction of theft, fraud, or other such crime involving dishonesty and who-
 - i. has not appealed against that conviction, or
 - ii. has appealed against that conviction and whose appeal has not been allowed; and
 - iii. has not received a free pardon in respect of the offence; or
 - i. is a minister of religion.

2. Without prejudice to the provisions of subsection (1) (g) of this section, Parliament may provide that a person shall not be qualified for election as a member of the House in any of the following cases-
 - a. if he holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with, the conduct of an election or the compilation or revision of any register of electors for the purposes of an election;
 - b. subject to any exceptions and limitations prescribed by Parliament, if-
 - i. he holds or is acting in any office or appointment prescribed by Parliament either individually or by reference to a class of office or appointment; or
 - ii. he belongs to any armed force of Antigua and Barbuda or to any class of person that is comprised in any such force.
3. For the purpose of subsection (1) (e) of this section.
 - a. two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months but if any of such sentences exceeds that term they shall be regarded as one sentence; and
 - b. no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

TENURE OF SEATS OF MEMBERS OF THE HOUSE.

41.-

1. Every member of the House shall vacate his seat in the House-
 - a. at the next dissolution of Parliament after he has been elected;
 - b. if he ceases to be a citizen;
 - c. if he is absent from the sittings of the House for such period or periods and in such circumstances as may be prescribed in the rules of procedure of the House;
 - d. subject to the provisions of subsection (2) of this section, if any circumstances arise that, if he were not a member of the House, would cause him to be disqualified from election as such by virtue of section 39(1) of this Constitution; or
 - e. if, having been elected to the House by virtue of being a member of a political party, he resigns his party whip and withdraws his allegiance from that party:

Provided that he shall not be required to vacate his seat so long as he remains an independent member of the House.

2.
 - a. If circumstances such as are referred to in subsection (1) (d) of this section arise because a member of the House is convicted of a felony or of any other offence involving dishonesty, sentenced to death or imprisonment,

adjudged to be of unsound mind, or declared bankrupt, or is convicted of any offence relating to elections in circumstances that disqualify him for election to the House, and if it is open to the member to appeal against the decision (either with the leave of a court or other authority or without such leave), he shall forthwith cease to perform his functions as a member of the House but, subject to the provision of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member from time to time, extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so, however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the House.

- b. If on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member, or if, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal to leave to appeal or for any other reason, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.
 - c. If at any time before the member of the House vacates his seat such circumstances as aforesaid cease to exist, his seat shall not become vacant on the expiration of the period referred to in paragraph (a) of this subsection and he may resume the performance of his functions as a member of the House.
3. Where an elected member of the House vacates his seat in the House pursuant to the provisions of paragraph (b) to (e) of subsection (1) of this section or of subsection (2) of this section or where the seat of an elected member of the House is vacant for any other reason except a dissolution of Parliament, there shall be a by-election to fill the seat in the House vacated by that member and the by-election shall be held no later than one hundred and twenty days after the day on which the seat of the member of the House became vacant unless Parliament is sooner dissolved.

NO. OF 2004. THE INTEGRITY IN PUBLIC LIFE ACT, 2004.

1

ANTIGUA AND BARBUDA

No. of 2004

BILL FOR

AN ACT to provide for the establishment of an Integrity Commission for the purpose of receiving declarations of the affairs of persons holding specific positions in public life, for the purpose of establishing probity, integrity and accountability in public life and for related matters.

PART I

PRELIMINARY

1. This Act may be cited as the Integrity in Public Life Act, 2004 and shall come into operation on such day as the Minister may by Notice published in the *Gazette* appoint.

2. In this Act unless the context otherwise requires —

“assets” include all property including monies beneficially held whether in or out of Antigua and Barbuda;

“Commission” means the Integrity Commission established pursuant to section 4;

“document” includes, in addition to a document in writing —

Short title and
commencement.

Interpretation.

(a) any map, plan, graph or drawing;

(b) any photograph;

(c) any disc, tape sound track or other device in which sounds or other data not being visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced therefrom;

(d) any film, including microfilm, negative, tape or other device in which one or more usual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced therefrom;

“income” includes —

(a) money derived from whatever source or acquired in or out of Antigua and Barbuda;

(b) all receipts by way of salary, fees, wages, requisitions, profits, grants, emoluments, rents, interests, commissions, bonus, pensions or annuity and all income within the meaning of the Income Tax Act;

“liability” includes all obligations to pay or to transfer money to another whether in or out of Antigua and Barbuda;

“Minister” means the Minister responsible for Justice and Legal Affairs;

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

(a) a person for, or on behalf of or under the direction of a Ministry, Department of Government or a body enacted by statute or an authority;

(b) a body whether public or private, providing public services;

(c) a member of the Senate or the House of Representatives;

“person in public life” means a person referred to in the First Schedule;

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

“spouse” in relation to a person in public life means a person to whom the person in public life is married or who is living with that person in the circumstances of husband and wife for a period of three years but does not include —

(a) a married spouse who is living separate and apart from the person in public life;

(b) a married spouse who has ceased to live with that person and where proceedings have been instituted for a divorce or judicial separation during the period a declaration is required to be filed.

“statutory body” means a corporation, company, board, commission, authority or other body established by or under any written law to perform public functions on behalf of the Government.

3. This Act applies to every person in public life.

PART II

INTEGRITY COMMISSION

4. (1) There is hereby established an Integrity Commission.

(2) The Commission shall consist of a chairman and two other members.

(3) The members of the Commission shall be appointed by the Governor-General acting in his own discretion.

(4) The members of the Commission shall be persons of integrity one of whom is a lawyer who has practiced law in the Commonwealth for no less than ten years and one of whom is a
Application of
the Act.

Establishment of
Integrity
Commission.

public accountant entitled, under the Accountancy Profession Act, 1992, to practise as such and who has so practised for no less than ten years.

(5) A member shall, before assuming the functions of his office, make and subscribe the oath of office and the oath of secrecy in Form 1 in the Third Schedule before the Governor-General.

5. A person shall not be appointed a member of the Commission

if he —

(a) is a member of the House of Representatives or the Senate;

(b) is a person in public life other than as a member of the Commission;

(c) has, at any time during the three years preceding his appointment, been a public officer;

(d) has at any time during the five years preceding his appointment held office in a political party; or

(e) would otherwise be disqualified to be a member of the House of Representatives or the Senate.

6. A member of the Commission shall hold office for a period not exceeding three years and shall be eligible for re-appointment.

7. (1) A member other than the Chairman may at any time resign his office by instrument in writing addressed to the Governor-General and transmitted through the Chairman and from the date specified in the instrument of resignation that person ceases to be a member.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Governor-General and from the date specified in the instrument of resignation that person ceases to be Chairman and member of the Commission.

8. A member of the Commission shall vacate office —

(a) at the expiration of the term of his appointment;

Tenure of
office.

Resignation of
members.

Vacation of
office.

Disqualification
from
membership.

(b) on the absence of the member from three consecutive meetings of the Commission, unless the absence is approved by the Governor-General;

(c) if the member with his consent is nominated for election to the House of Representatives or is appointed a Senator;

(d) if the member is appointed to any public office; or

(e) on his resignation or removal from office.

9. (1) A member of the Commission may be removed from office only for inability to exercise the functions of his office whether arising from infirmity of body or mind or any other cause or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(2) A member of the Commission shall be removed from office by the Governor-General if the question of his removal has been referred to a tribunal appointed under subsection (3) and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(3) If the Governor-General considers that the question of removing a member of the Commission ought to be investigated

(a) the Governor-General shall appoint a tribunal which shall consist of one person being a Judge of the High Court, a Senior Counsel or a Chief Magistrate, to enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member of the Commission ought to be removed under this section; and

(b) a tribunal appointed under paragraph (a), shall give the member of the Commission an opportunity to show cause why he should not be removed from office.

(4) If the question of removing a member of the Commission has been referred to a tribunal under this section, the Governor-Removal from office.

General may suspend the member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General acting as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the member of the Commission should not be removed.

(5) In this section “misbehaviour” includes communicating confidential information to any unauthorized person.

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

11. The members of the Commission shall receive such remuneration as shall be determined by resolution of the House of Representatives.

12. (1) The functions of the Commission shall be —

(a) to receive and retain all declarations filed with it under this Act;

(b) to receive and investigate complaints regarding noncompliance with or contravention of any provisions of this Act or the Prevention of Corruption Act, 2004;

(c) to make inquiries as it considers necessary in order to verify or determine the accuracy of a declaration

filed under this Act;

(d) to conduct an investigation into any offence of corruption under the Prevention of Corruption Act, 2003 if it is satisfied that there are grounds for an investigation;

(e) to examine the practices and procedures of Statutory Corporations and Departments of Government to determine whether there are corrupt practices;

(f) to advise Statutory Corporations and Departments of Government of any change in practice or procedure which may be necessary to eliminate corrupt practices;

Publication in the *Gazette*.

Remuneration of members.

Functions of the Commission.

(g) to perform such other functions as is required by this Act.

(2) In the performance of its functions the Commission and the staff of the Commission shall not be subject to the control or direction of any other person or authority.

13. (1) The Commission shall have the same powers, rights and privileges as a commission of inquiry appointed under the Commissions of Inquiry Act.

(2) The Commission shall meet at such times as may be convenient for the transaction of its business.

(3) The proceedings of the Commission shall not be affected by any defect in the appointment of a member or any vacancy in its membership.

(4) Subject to this Act, the Commission shall make rules governing its procedure.

14. The declarations filed with the Commission and the records of the Commission in respect of these declarations are secret and confidential and shall not be made public, except where a particular declaration or record is required to be produced by Order of Court for the purpose of, or in connection with any court proceedings or enquiry in respect of a declaration under this Act, the Prevention of Corruption Act, 2004 or the Perjury Act.

15. (1) Every member of the Commission and every person performing any function in the service of the Commission shall treat all declarations, records or information relating to such declarations as secret and confidential and shall not disclose or communicate same to any unauthorised person or allow any such person to have access to any such records, information or declaration.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of twenty five thousand dollars or three years imprisonment or to both such fine and imprisonment.

(3) An unauthorised person is a person other than a person authorised to receive information —

Powers, etc, and
independence of
Commission.

Cap. 91

Secrecy and
confidentiality.

Information

not to be

communicated

to unauthorised

persons.

(a) under this Act in relation to the financial affairs of persons in public life; or

(b) by reason of an Order of a Judge of the High Court.

(4) Where an unauthorised person publishes information which is submitted by a person in public life pursuant to Part III of this Act he commits an offence and is liable on summary conviction to a fine of twenty five thousand dollars or three years imprisonment or to both such fine and imprisonment.

PART III

DISCLOSURE OF AFFAIRS

16. (1) Every person in public life shall file a declaration in Form 2 in the Third Schedule with the Commission setting out —

(a) his income, assets and liabilities;

(b) his public and private offices;

(c) the assets of his children above eighteen years old and of any relative which were acquired partly or fully with his income;

(d) the assets of his or her spouse and of their children below eighteen years old;

(e) any gifts received in the course of the performance of his public functions; and

(f) such other information required to be set out in Form 2 in the Third Schedule.

(2) The Commission shall examine every declaration filed to ensure that it is in compliance with this Act.

(3) Where the Commission upon examination of a declaration filed pursuant to subsection (1) is of the opinion that it is necessary or expedient to request further information in order to determine the accuracy of a declaration, the Commission may

request the person in public life to furnish any other documents or information as may be required within a specified period.

Declaration of
affairs.

(4) Where upon an examination under subsection (2) the Commission is satisfied that a declaration has been fully made it shall issue a certificate in Form 3 in the Third Schedule.

17. (1) A person who is a person in public life on the date of commencement of this Act shall within three months from the date of commencement file a declaration pursuant to section 16 and thereafter on or before the 31st day of March in each year during any part of which he remains a person in public life.

(2) A person who becomes a person in public life after the commencement of this Act shall file a declaration pursuant to section 16 within three months of his becoming a person in public life and thereafter on or before the 31st day of March in each year during which he remains a person in public life.

(3) Where a person ceases to be a person in public life he shall furnish a declaration at the end of six months from the date on which he so ceases.

(4) Where a person in public life dies, the declaration which he would have been required to file had he lived shall not be filed.

(5) Every member of the Commission shall file a declaration in Form 2 in the Third Schedule with the Governor-General before he assumes office and thereafter on or before the 31st day of March of each year.

(6) The Governor-General shall appoint an auditor to examine and verify the accuracy of a declaration filed under this section and the auditor shall submit a report to the Governor-General.

18. (1) Where a person in public life holds property in trust for another person he shall so state in his declaration but shall not be required to disclose the terms of the trust.

(2) A person in public life who has assets in a blind trust shall file a copy of the trust deed with the Commission.

(3) Where the assets of a person in public life are in a blind trust he does not have to give more particulars in his declaration than the amount and description of those assets placed in that trust and the date the trust was created.

Filing of
declaration.

Trust property
and blind trusts.

4) A blind trust is created where a person in public life enters into an agreement with a qualified trust company whereby —

(a) after he ceases to be a person in public life full and

proper accounting will be made to him regarding the management of the trust;

(b) all or part of his assets are conveyed to the trust for its administration, control and management in its absolute discretion without recourse or reporting to the persons beneficially entitled to those assets; and

(c) conversion of the assets into other assets are not to be communicated to him until he ceases to be a person in public life.

(5) A trust company is a qualified trust company where —

(a) no more than ten percent of the issued shares in the trust company or any of its affiliates is held by the person in public life entering into an agreement with it or by an associate; and

(b) the person in public life holds no directorship or office in the trust company or any of its affiliates.

(6) For the purposes of this section reference to a spouse includes a single person who was living together with a single person of the opposite sex or of the same sex as his or her spouse for a period of not less than five years.

(7) For the purposes of subsection (7) a reference to a single person includes a reference to a widow or widower or to a person who is divorced.

(8) For the purpose of this section a company is an affiliate of another company where the first mentioned company holds more than five percent of the issued shares in the second mentioned company or where the second mentioned company holds more than ten percent of the issued shares in the first mentioned company.

(9) For the purpose of subsection (4) “control” shall be construed within the meaning of “controlled company” as Cap. 212 provided for in the Income Tax Act.

(10) A person in public life who fails to comply with 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.

19. For the purposes of a declaration pursuant to section 16 the income, assets and liabilities of a person in public life include the income, assets and liabilities acquired held or incurred by any other person as his agent or on his behalf.

20. (1) Where a person who is required to file a declaration under section 16 fails to file a declaration, the Commission shall publish that fact in the *Gazette* and send a report, for appropriate action —

(a) in the case of the President of the Senate and of the Speaker of the House of Representatives, to the

Governor-General;
(b) in the case of a Senator, to the President of the Senate;

(c) in the case of a Member of the House of Representatives, to the Speaker of the House of Representatives;

(d) in the case of a person appointed by a Service Commission, to the relevant Service Commission;
or

(e) in the case of a person appointed holding office in a statutory body, to the person or authority having power to make an appointment to that office.

(2) Where criminal proceedings are instituted against a person in public life under this Act no disciplinary proceedings shall be instituted pending the determination of the criminal proceedings.

(3) A person in public life who, without reasonable cause, fails to make a declaration as required by section 16 shall, by reason of that failure, vacate all offices in public life held by him and the Commission may order that he be disqualified from holding any office in public life for such period as the Commission may determine.

Income, assets
and liabilities of
agent.

Failure to file
declaration.

PART IV

CODE OF CONDUCT

21. (1) Every person in public life shall observe the Code of Conduct specified in the Second Schedule.

(2) A person in public life who is in breach of the Code of Conduct commits an offence and is liable on summary conviction, to a fine of fifty thousand dollars or to three years imprisonment or to both such fine and imprisonment.

22. (1) A person who has reasonable grounds to believe that any person in public life is in breach of any provision of the Code of Conduct may make a complaint in writing to the Commission and shall state in the complaint the particulars of the breach including —

(a) the period within which the breach was committed;
(b) the names and addresses of persons involved in the commission of the breach.

(2) A person making a complaint under subsection (1) shall produce to the Commission —

(a) evidence to support the complaint including documentary evidence and sworn statements;

(b) such other particulars as may be prescribed by Regulations.

(3) A person who makes a complaint under this section shall not be liable in civil or criminal proceedings unless it is proved that the complaint was not made in good faith.

23. Where a complaint has been made to the Commission under section 22, the Commission after examining the complaint may reject the complaint if the Commission is of the opinion that —

(a) the complaint is frivolous or vexatious;

(b) it does not pertain to a matter the Commission is empowered to deal with under this Act:

Code of

Conduct.

Complaints to

Commission.

Rejection of

complaint.

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

24. (1) Where upon examination of a complaint made under section 22, the Commission is of the view that an investigation is necessary, it shall inquire into the matter.

(2) In conducting an inquiry under this section the Commission shall have the same powers to summon witnesses as a commission of inquiry under the Commissions of Inquiry Act.

(3) The sittings of the Commission to take evidence or hear submissions in the course of any inquiry under subsection (1) shall be held in camera.

(4) The complainant and the person in public life against whom any inquiry is held under this section are entitled to notice of the proceedings of the inquiry and to be represented at the inquiry either personally or by an Attorney-at-Law.

25. (1) On conclusion of an inquiry under section 24, the Commission shall forward the report to the Governor-General, and if it is of the opinion that the evidence before it may warrant that the Director of public Prosecution take action against the person the Commission shall forward a copy of the report to him.

(2) Where the Commission has forwarded to the Director of Public Prosecutions a report under subsection (1), the Director of Public Prosecutions shall inform the Commission and the Governor-General, in writing about the action taken in pursuance of the report and any other relevant evidence.

PART V

GIFTS

26. (1) A person in public life shall not accept any gift or reward from any person as —

(a) an inducement for any official act to be done by him;

or

(b) a reward for any official act done by him.

Investigation of
breach of Code
of Conduct.

Report to
Governor-
General and
D.P.P.

Report of gifts.

(2) Notwithstanding subsection (1), a person in public life may accept a gift or reward from —

(a) a community organization on a social occasion which represents the creativity of that organization; or

(b) a foreign dignitary where the person in public life has reasonable grounds to believe that the refusal to accept it may offend the foreign dignitary.

(3) Where a person in public life accepts a gift or reward in the circumstances specified in paragraph (b) of subsection (2), he shall make a report of that fact in Form 4 in the Third Schedule to the Commission within seven days of the receipt of the gift.

(4) Where the Commission determines that the gift was given to the person in public life as a personal gift and was not intended to be a motive or reward for doing or abstaining from doing 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.

(5) Where the Commission finds through the inquiry that the gift was given to the person in public life —

(a) as a State gift; or

(b) personally, but was intended to be a motive or reward for doing or abstaining from doing 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 direct the person in public life in writing to deliver the gift to the Financial Secretary on behalf of the State within such period not exceeding fourteen days as may be specified by the Commission, and the person in public life shall comply with the direction within the time so specified.

(6) Where a gift is delivered to the Financial Secretary pursuant to subsection (4) it shall be dealt with as a gift to the State.

(7) Any person in public life who fails to comply with the direction given by the Commission under subsection (5) commits an offence and is liable on conviction to a fine equal to the value of the gift involved or ten thousand dollars, whichever is greater or to a term of imprisonment not exceeding twelve months.

PART VI

MISCELLANEOUS

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

28. The Commission shall keep proper accounts of all sums appropriated, its assets and liabilities and those accounts shall be audited annually by the Director of Audit or an auditor appointed by the Governor-General.

29. (1) The Commission shall prepare and submit to the Minister on or before June 30th in each year a report on the activities of the Commission during the preceeding year and its audited accounts.

(2) A copy of the report together with the auditor's report shall be laid before the House of Representatives at the sitting following the receipt of the report.

(3) The report under subsection (1) shall not disclose the particulars of any declaration filed with the Commission.

30. (1) The Governor-General shall appoint a Secretary to the Commission on such terms and conditions as he may determine.

(2) The Secretary shall —

(a) be entitled to attend meetings of the Commission;

(b) record the minutes of each meeting; and

(c) subject to the direction of the Commission, perform all functions necessary for the efficient and effective discharge of the functions of the Commission.

(3) The Commission shall be provided with staff adequate for the prompt and efficient discharge of its functions under this Act.

Accounts and

Audit.

Annual reports.

Funds of the

Commission.

Secretary and

staff of the

Commission.

(4) The staff of the Commission shall be public officers appointed by the Public Service Commission.

(5) Every person appointed under this section or authorized to perform any functions under this Act shall, before assuming his functions, make and subscribe the oath of office and the oath of secrecy in Form 1 in the Third Schedule before the Chairman.

31. All expenses incurred by the Commission for the purposes of this Act are a charge of the on the Consolidated Fund.

32. (1) A person who —

(a) fails without reasonable cause to furnish to the Commission a declaration or further particulars thereof which he is required to furnish in accordance with this Act; or

(b) knowingly makes a declaration which is false in some material particular,
commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of three years or to both such fine and imprisonment.

(2) Where the offence under subsection (1) involves the nondisclosure of property acquired while in public life, the Court may, if satisfied that such property was acquired in contravention of this Act or any other law, in addition to the penalty specified under subsection (1) —

(a) where the property involved is situated in Antigua and Barbuda declare that it be forfeited to the State; or

(b) where the property involved is situated outside Antigua and Barbuda, order that an amount equivalent to the value of the property as assessed by the Court be paid by the person in public life to the State.

(3) Property acquired from a person referred to under subsection (2) by a bona fide purchaser for value without notice of any offence by that person is not liable to forfeiture, but the Court may order that an amount equivalent to the value of the property or the price paid by the purchaser, whichever is the greater, shall be paid by the person in public life to the State.

Expenses of the
Commission.
Offences.

FIRST SCHEDULE

PERSONS IN PUBLIC LIFE

1. Member of the Commission and the Secretary to the Commission
2. Members of the House of Representatives
3. Members of the Senate
4. President of the Senate
5. Speaker of the House of Representatives
6. Parliamentary Secretaries
7. Secretary to the Cabinet
8. Members of the Barbuda Council
9. Members of the Electoral Commission
- 10 . Financial Secretary and Deputy Financial Secretary
11. Budget Director and Deputy Budget Director

12. Permanent Secretaries, Principal Assistant Secretaries and Assistant Secretaries

13. Heads and Deputy Heads of Diplomatic Missions

14. Solicitor General

15. Clerk to Parliament

(4) Payment of all sums due to the State pursuant to subsection (2) or (3) may be recovered as a debt due to the State.

33. The Minister may, by Order which shall be subject to affirmative resolution of the House of Representatives, amend any of the Schedules.

34. Subject to this Act and to Regulations made hereunder the Commission may make rules to regulate its procedure.

35. The Minister may make Regulations with respect to —

(a) any matter that is required to be prescribed by Regulation under this Act; and

(b) generally, for the effective implementation of this Act.

Amendment of

Schedules.

Power of

Commission to

make rules.

Regulations.

(Section 2)

16. Chief Establishment Officer

17. Accountant General and Deputy Accountant General

18. Managers, Heads and Deputy Heads of Departments and Divisions

19. Commander and Deputy Commander of the Defence Force

20. Commissioner and Deputy Commissioner of the Police Force

21. Police Officers of the rank of Inspector and above

22. Chief Immigration Officer, Deputy Chief Immigration Officer and all other Immigration Officers

23. Superintendent of Prison

24. All commissioned and warrant officers of the Antigua and Barbuda Defence Force

25. Comptroller of Customs and all Customs Officers

26. Commissioner of Inland Revenue and all Inland Revenue Officers

27. Legal Officers employed by the Government of Antigua and Barbuda

28. Director of Public Prosecutions

29. Magistrates

30. Labour Commissioner and Deputy Labour Commissioner

31. Chief Technical Officers of Ministries

32. Members of the Public Service Commission

33. Members of the Police Service Commission

34. Member of the Public Service Board of Appeal

35. Members of the Boards or governing bodies of statutory bodies

- 36. Chief Executives and deputy chief executives, by whatever name known, of statutory bodies
- 37. Heads and Deputy Heads of Divisions of statutory bodies
- 38. Members of the Tenders Board
- 39. All Public Officers including non-established officers receiving a salary in excess of \$4,000.00 per month

SECOND SCHEDULE

CODE OF CONDUCT

A person in public life shall not —

(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 favours of any kind over and above that which he is lawfully entitled to receive for the performance of his duties;

(Section 21)

(b) in the course of the performance of his official functions discriminate against any person with respect to terms, conditions and privileges of employment or other official matters because of that person's race, place of origin, political opinion, colour, creed or gender;

(c) for himself or for anyone else accept any gifts, benefit or advantage from any one, except personal gifts from his spouse, relatives or friends, or personal gifts given otherwise than as a motive or reward for doing or forbearing to do anything in the performance of his official functions or causing any other person from doing or forbearing to do anything; but this paragraph does not apply to gifts received on behalf of the State by a person in public life in the course of the performance of his official functions;

(d) allow private interests 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; and 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 required 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) while he is a person in public life, acquire, or become a partner or shareholder in, or director or manager of a firm or company which has or had a contract with the Government or with the public body of which that person is or was a member or employee, during the tenure of his

office; but this paragraph does not apply where the person to whom this Code applies makes a public disclosure of such partnership, shareholding or other interest.

(j) in the course of the performance of his official duties, aid, abet, counsel, procure or command any other person to commit a breach of this Code of Conduct.

THIRD SCHEDULE

FORMS

FORM 1 (Sections 4 (5) and 30 (3))

OATHS

Oath of Office

I,do swear that I will exercise the functions of Chairman/Member/Secretary/employee of the Integrity Commission without fear or favour, affection or ill-will according to the Constitution and laws of Antigua and Barbuda.

So help me God!

Sworn before me this.....day of....., 20.....

.....
GOVERNOR-GENERAL/CHAIRMAN

ANTIGUA AND BARBUDA

Oath of Secrecy

I,Chairman/Member/Secretary/employee 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 expect with the authority of an order of court or the Integrity Commission and to such extent as may be required for the good management of the affairs of that Commission directly reveal the business or the proceedings of the Integrity Commission or the nature or any content of any document.

.....
Sworn before me this.....day of....., 20.....

.....
GOVERNOR-GENERAL/CHAIRMAN

ANTIGUA AND BARBUDA

FORM 2 (Sections 16 and 17)

DECLARATION OF INCOME, ASSETS AND LIABILITIES

NAME OF DECLARANT.....

ADDRESS.....

NAME OF SPOUSE.....

ADDRESS.....

NAMES OF CHILDREN.....

.....
ADDRESS.....

.....
1. INCOME:

Income — received or receivable as salary, fees as director or consultant, commission, bonus, dividends, provisional fees, rent, gifts in kind or cash and other receipts or transfers (state name and address of each source)

2. ASSETS:

(a) Real Property

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 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 separately, 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).

(e) Directorships and partnerships.

(Identify enterprise, nature of its business, date of appointment as director).

(f) Other Assets

Motor vehicles (including heavy duty equipment)

Boats

Government Bonds

Other

3. LIABILITIES

(a) Mortgages

(b) Judgement Debts

(c) Other Liabilities

4. PUBLIC AND PRIVATE OFFICES

5. ASSETS OF CHILDREN ABOVE 18 YEARS

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

7. ASSETS OF SPOUSE AND CHILDREN BELOW 18 YEARS

8. GIFTS RECEIVED IN THE COURSE OF OFFICIAL FUNCTIONS

9. TRUST PROPERTY AND BLIND TRUSTS

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

I

hereby declare that this Declaration gives full, true and complete particulars of the assets and liabilities and other matters as on the relevant date, that

is.....and the income during the period of twelve months immediately prior to that date, of myself to the extent to which I have knowledge of the same.

.....
Declarant.

**FORM 3
CERTIFICATE**

NAME OF DECLARANT.....

The Commission hereby certifies that it has examined the declaration submitted by the declarant and is satisfied that a full disclosure has been made in accordance with this Act.

.....
Chairman Integrity Commission

**FORM 4 Section 26 (1))
REPORT OF GIFT RECEIVED**

To: The Chairman
Integrity Commission

Name of Declarant:

Position of Declarant:

Description of Gift:

Person who made the Gift:

Passed the House of Representatives
this day of , 2004.

Speaker.

Clerk to the House of Representatives.

Passed the Senate this
day of , 2004.

President.

Clerk to the Senate.

Date of Gift:

Value of Gift:

.....
Signature Date

**FORM 5
SUMMONS TO WITNESS BEFORE THE INTEGRITY COMMISSION**

A.B., Complainant

C.D., (name of person in public life alleged to be in breach of the Code of Conduct).

TO....., 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 requires 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 matter of the said
complainant.
Dated this.....day of....., 20.....

.....
Chairman of the Integrity Commission

EXPLANATORY MEMORANDUM

1. The Bill makes provision for persons holding certain public offices to declare annually their income, assets and liabilities to an Integrity Commission. The Bill also sets out a Code of Conduct for public officials.
2. Clause 4 of the Bill establishes the Integrity Commission which shall consist of three persons all appointed by the Governor-General in his own discretion.
3. Clause 5 outlines those persons who are disqualified from membership of the Commission.
4. Clauses 6 to 9 of the Bill make provisions to guarantee the independence of the members and staff of the Integrity Commission. The members cannot be removed from office except for inability to exercise their functions due to infirmity of body or mind or for misbehaviour on the recommendation of a tribunal appointed by the Governor-General.
5. Clause 12 of the Bill sets out the functions of the Integrity Commission which include receipt and examination of all declarations filed by public officials, investigation of complaints relating to non-compliance with or contravention of the provisions of the Prevention of Corruption Act, 2004 and the examination of the practices and procedures of Departments of Government and Statutory Bodies.
6. Clause 13 makes provision for the Commission and the staff of the Commission not to be subject to the control or direction of any other person or authority in the discharge of its functions.
7. Clauses 14 and 15 make provisions for declarations filed with the Commission to be confidential and make it an offence for any such information to be disclosed to an unauthorized person.
8. Clauses 16 and 17 require every public official who holds an office listed in the First Schedule to file with the Integrity Commission annually a declaration of his income, assets and liabilities, etc. The declaration must also include the income, assets and liabilities of the public official's spouse and dependent children.
9. Clauses 21 to 24 make provision for public officials to comply with the Code of Conduct set out in the Second Schedule and for complaints to be made to the Commission where there is a breach of the Code of Conduct.

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by Walter A. Massiah, Government Printer
— By Authority, 2004.

10. Clause 26 makes provision for gifts to be reported to the Commission and for the Commission to determine whether the gift is a State gift or whether the public official should keep the gift.

11. Clauses 27 to 31 make provision for the Commission to be provided with adequate staff for the discharge of its functions. The staff of the Commission shall be public officials appointed by the Public Service Commission. All expenses of the Commission would be paid from the Consolidated Fund. The Commission would be required to submit annual reports to the House of Representatives.

Justin L. Simon,
Attorney General
and Minister of Justice and Legal Affairs.

ANTIGUA AND BARBUDA
INTEGRITY IN PUBLIC LIFE ACT, 2004
ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement.
2. Interpretation.
3. Application of the Act.
4. Establishment of Integrity Commission.
5. Disqualification from membership.
6. Tenure of office.
7. Resignation of members.
8. Vacation of office
9. Removal from office.
10. Publication in the *Gazette*.
11. Remuneration of members.
12. Functions of the Commission.
13. Powers, etc. and independence of Commission.
14. Secrecy and confidentiality.
15. Information not to be communicated to unauthorized persons.
16. Declaration of affairs.
17. Filing of declaration.
18. Trust property.
19. Income, assets and liabilities of agent.
20. Failure to file declaration.
21. Code of Conduct.
22. Complaint to Commission.
23. Rejection of complaint.
24. Investigation of breach of Code of Conduct.
25. Report to Director of Public Prosecutions and Governor General.
26. Report of gifts.
27. Funds of the Commission.

28. Accounts and audit.
29. Annual reports.
30. Secretary and staff of the Commission.
31. Expenses of the Commission.
32. Offences.
33. Amendment of Schedules.
34. Power of Commission to make rules.
35. Regulations.

FIRST SCHEDULE

Persons in Public Life

SECOND SCHEDULE

Code of Conduct

THIRD SCHEDULE

Forms

Integrity Commission Office

January 30, 2007

St. John's, Antigua

http://www.ab.gov.ag/gov_v2/government/notices/notices2007/notice_2007jan30_id1.html

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The Integrity Commission hereby gives Notice those persons who held or hold the following listed positions in Public Service effective 1st January, 2006 are affected under the Integrity in Public Life Act, 2004. The said persons are kindly asked to collect a Declaration of Income, Assets and Liabilities Form from the office of the Integrity Commission located at the R.I.O.A. (Francis) Building, Ground Floor, High Street, St. John's, Antigua. Please be reminded that the Declarations are due on or before 31st March, 2007 and on or before 31st March each year thereafter. Persons affected may direct questions on this matter to the Commission's Secretary at telephone number 268-562-5514 on weekdays, Monday to Friday.

1. Member of the Commission and the Secretary to the Commission
2. Members of the House of Representatives
3. Members of the Senate
4. President of the Senate
5. Speaker of the House of Representatives
6. Parliamentary Secretaries
7. Secretary to the Cabinet

8. Members of the Barbuda Council
9. Members of the Electoral Commission
10. Financial Secretary and Deputy Financial Secretary
11. Budget Director and Deputy Budget Director
12. Permanent Secretaries and Principal Assistant Secretaries
13. Heads and deputy Heads of Diplomatic Missions
14. Solicitor General
15. Clerk to Parliament
16. Chief Establishment Officer
17. Accountant General and Deputy Accountant General
18. Managers, Heads and Deputy Heads of Departments and Divisions
19. Commander and Deputy Commander of the Defence Force
20. Commissioner and Deputy Commissioner of the Police Force
21. Police Officers of the rank of Inspector and above
22. Chief Immigration Officer, Deputy Chief Immigration Officer and Senior Immigration Officers
23. Superintendent of Prison and the Chief Officer
24. All commissioned and warrant officers of the Antigua and Barbuda Defence Force
25. Comptroller of Customs, Deputy Comptroller of Customs and Senior Customs Officers
26. Commissioner of Inland Revenue, Deputy Commissioners, Senior Inland Revenue Officers and Auditors of Inland Revenue
27. Legal Officers employed by the Government of Antigua and Barbuda
28. Director of Public Prosecutions
29. Magistrates
30. Labour Commissioner and Deputy Labour Commissioner
31. Chief Technical Officers of Ministries
32. Members of the Public Service Commission
33. Members of the Police Service Commission
34. Member of the Public Service Board of Appeal
35. Chairman, Deputy Chairman and Secretary of the Boards or governing bodies of statutory bodies
36. Chief Executives and Deputy Chief Executives, by whatever name known, of statutory bodies
37. Heads and Deputy Heads of Divisions of statutory bodies
38. Members of the Tenders Board
39. Tax Compliance Officers
40. Director of Audit and Deputy Director of Audit
41. Members of the Tax Appeal Board

42. Property Evaluation Officers

43. Senior Casino Inspectors

Please be guided accordingly.