

Thursday afternoon Jan 3, 2008

DLP leader David Thompson hosted a press conference today where he distributed the attached documents dealing with a proposed legal framework to promote accountability, transparency and accountability in public life and fight corruption.

The Ministerial Code takes effect immediately after a DLP government is elected. The Freedom of Information Act and Integrity legislation will be dealt with in the first 100 days in office.

Any questions, give me a call. If you were part of the traditional media, you would have been invited to the news conference where you could have asked whatever you wanted.

Best regards

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Communications Director

DLP General Election Campaign 2008

1/ "The Ministerial Code – A Proposal"

DRAFT

(Revised December 15, 2007)

THE MINISTERIAL CODE – A PROPOSAL

BACKGROUND

1. The following pages contain a proposal for a draft code of ethics and procedural guidance for persons who assume ministerial office in a new DLP government. Its purpose is to clearly define the framework within which the bond of trust between the Government and the people of Barbados should be established. The Code which has been adapted from the United Kingdom Ministerial Code.

THE MINISTERIAL CODE

2. Ministers of the Government are expected to behave according to the highest standards of constitutional and personal conduct in the performance of their duties.

3. This Code provides guidance to Ministers on how they should act and arrange their affairs in order to uphold these standards. It lists the principles which may apply in particular situations. It applies to all Ministers of the Government, and covers Parliamentary Secretaries.

4. Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Code and for justifying their actions and conduct in Parliament.

5. Ministers only remain in office for so long as they retain the confidence of the Prime Minister. He is the ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of a breach of those standards, although he will not expect to comment on every allegation that is brought to his attention.

6. The Code should be read against the background of the overarching duty on Ministers to comply with the law, including international law and treaty obligations, to uphold the administration of justice and to protect the integrity of public life. They are expected to observe the Seven Principles of Public Life set out in the appendix to this document, and the following principles of Ministerial conduct:

a. Ministers must uphold the principle of collective responsibility;

b. Ministers have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of their ministries, departments and agencies;

c. It is of paramount importance that Ministers give accurate and truthful information to Parliament. Any inadvertent error should be corrected at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister;

d. Ministers should be as open as possible with Parliament and the public in providing information except where disclosure would be detrimental to the public interest as determined by the relevant statutes;

e. Ministers should similarly require civil servants who give evidence before Parliamentary Committees on their behalf and under their direction to be as helpful as possible in providing accurate, truthful and full information in accordance with the duties and responsibilities of civil servants;

f. Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests;

g. Ministers should avoid accepting any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation;

h. Ministers must not use government resources for Party political purposes. They must uphold the political impartiality of the Civil Service and not ask civil servants to act in any way which would conflict with the accepted code of behaviour of civil servants.

MINISTERS AND APPOINTMENTS

Appointments by Ministers

7. The Prime Minister should be consulted in good time about the appointment or re-appointment of the Chairman and members of statutory boards and agencies.

8. In all such cases, the Prime Minister will need to be informed about the particular requirements of the post, the attributes essential for a candidate and the extent to which candidates meet such requirements. In particular, the Prime Minister should be informed of other factors bearing upon the appointment of particular candidates (e.g. potential conflicts of interest that may arise) and all other relevant information.

MINISTERS AND CIVIL SERVANTS

9. Ministers have a duty to:

a. Give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice, in reaching policy decisions;

b. Uphold the political impartiality of the Civil Service, and not to ask civil servants to act in any way which would conflict with the Civil Service Code;

c. Ensure that any influence over appointments is not abused for partisan purposes; and

d. Observe the obligations of a good employer with regard to terms and conditions of those who serve them.

10. Civil servants should not be asked to engage in activities likely to call in question their political impartiality, or to give rise to the criticism that people paid from public funds are being used for Party political purposes.

The role of the Accounting Officer

11. Under section 18 (1) of the Financial Management and Audit Act, the Director of Finance and Economic Affairs designates the persons who shall be Accounting Officers. The essence of the role is a personal responsibility for the propriety and regularity of the public finances for which he or she is responsible; for keeping proper accounts; for the avoidance of waste and extravagance; and for the efficient and effective use of resources. Accounting Officers answer personally to the Committee of Public Accounts on these matters, within the framework of Ministerial accountability to Parliament for the policies, actions and conduct of their Ministries/Departments.

12. Accounting Officers have a particular responsibility to see that appropriate advice is tendered to Ministers on all matters of financial propriety and regularity and more broadly as to all considerations of prudent and economical administration, efficiency and effectiveness and value for money. If a Minister in charge of a Ministry is contemplating a course of action which would involve a transaction which the Accounting Officer considers would breach the requirements of propriety or regularity, the Accounting Officer will set out in writing his or her objection to the proposal, the reasons for the objection and the duty to inform the Director of Finance and Economic Affairs and the Auditor General should the advice be overruled. If the Minister decides nonetheless to proceed, the Accounting Officer will seek a written instruction to take the action in question. The Accounting Officer is obliged to comply with the instructions, send relevant papers to the Director of Finance and Economic Affairs and the Auditor General, and inform the Accountant General of what has occurred. A similar procedure applies where the Accounting Officer has concerns as regards the value for money of a proposed course of action. The procedure enables the Committee of Public Accounts to see that the Accounting Officer does not bear personal responsibility for the actions concerned.

Civil servants and Party Conferences

13. Ministers should not ask civil servants to attend, or take part in, Party Conferences or meetings of policy or subject groups of any political party. In their official capacity, civil servants should not accept invitations to conferences convened by party political organisations.

MINISTERS' CONSTITUENCY AND PARTY INTERESTS

14. Ministers should not use for Party or constituency work facilities provided at Government expense to enable them to carry out their official duties. Ministers should ensure that expenses for constituency work are not charged to the public purse.

15. Government property should not generally be used for constituency work or party activities.

16. Where Ministers have to take decisions within their Ministries/Departments which might have an impact on their own constituencies, they should, of course, take particular care to avoid any possible conflict of interest.

MINISTERS' PRIVATE INTERESTS

17. Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests, financial or otherwise.

18. It is the personal responsibility of each Minister to decide whether and what action is needed to avoid a conflict or the perception of a conflict and to defend that decision, if necessary by accounting for it in Parliament. The role of the Permanent Secretary is to ensure that advice is available when it is sought by the Minister, either by providing it personally, drawing on precedent and if need be other parts of government including the Secretary of the Cabinet, or to arrange for expert or professional advice from inside or outside Government. In cases of serious difficulty or doubt the matter may be referred to the Prime Minister for a view. But ultimately it is the responsibility of Ministers individually to order their own private lives in such a way as to avoid criticism, and the final decision about what action to take to achieve that is theirs.

19. Where it is proper for a Minister to retain a private interest it is the rule that he or she should declare that interest to Ministerial colleagues if they have to discuss public business which in any way affects it and that the Minister should remain entirely detached from the consideration of that business. Similar steps may be necessary if a matter under consideration in the ministry, department or agency

relates in some way to a Minister's previous or existing private interests such that there is or may be thought to be a conflict of interest. Particular care needs to be taken where financial interests are involved.

20. Personal information which Ministers disclose to those who advise them must be treated in confidence. Should the Ministry receive a request for this information it will take account of a range of factors including the confidentiality of the information. The relevant Minister will also be consulted and his or her views taken into account before a decision is made on disclosure. If an allegation is made that a particular Minister has a conflict of interest it must be for that Minister to explain his/her position and justify what has been done. In doing so, they may wish to make public the list of their private interests and the steps taken to avoid an actual or perceived conflict. It is open to them if they wish to confirm (if it is the case) that they have consulted their Permanent Secretary in accordance with the Code. The Minister should however consult the Permanent Secretary about the content of any such statement before making it to ensure that there is agreement about the content, and any disagreement should be referred to the Prime Minister.

21. The intention of these procedures is not to inhibit the holding of Ministerial office by individuals with wide experience, whether of industry, a profession or some other walk of life, but to ensure that systemic steps are taken to avoid the danger of an actual or perceived conflict of interest.

22. When they take up office Ministers should give up any other public appointment they may hold, except where the Prime Minister determines that the retention of such an appointment would be in the national interest.

23. Ministers should take care to ensure that they do not become associated with non-public organisations whose objectives may in any degree conflict with Government policy and thus give rise to a conflict of interest. Hence Ministers should not normally accept invitations to act as patrons of or otherwise offer support to pressure groups, or organisations dependent in whole or in part on Government funding. There is normally less objection to a Minister associating him or herself with a charity (subject to the points above) but Ministers should take care to ensure that in participating in any fund-raising activity, they do not place, or appear to place, themselves under an obligation as Ministers to those to whom appeals are directed (and for this reason they should not normally approach individuals or companies personally for this purpose). In any case of doubt, the Prime Minister should be consulted before a Minister accepts an association with such bodies. Ministers should also exercise care in giving public support for petitions, open letters etc.

24. There is no objection to a Minister holding trade union membership but care must be taken to avoid any actual or perceived conflict of interest. Accordingly:

- a. Ministers should arrange their affairs so as to avoid any suggestion that a union of which they are a member has any undue influence;

- b. They should take no active part in the conduct of union affairs, should give up any office they may hold in a union; and should receive no remuneration from a union; but

- c. Ministers may make payments purely to protect future pension rights, if they have been employees of a Union.

Financial interests

25. Ministers must scrupulously avoid any danger of an actual or apparent conflict of interest between their Ministerial position and their private financial interests. In order to avoid such a danger, they should be guided by the general principle that they should either dispose of any financial interest giving rise to the actual or apparent conflict or take alternative steps to prevent it. The Permanent Secretary as Accounting Officer has a personal responsibility for financial propriety and regularity across the Ministry's business, and his or her advice must be given particular weight where such issues arise.

26. Two particular ways in which a conflict of financial interest, or the perception of it, can arise are as follows:

- a. From the exercise of powers or other influence in a way that does or could be considered to affect the value of interests held; or

- b. From using special knowledge acquired in the course of their Ministerial activities in ways which bring benefit or avoid loss (or could arouse reasonable suspicion of this) in relation to their private financial interests.

27. Apart from the risk to the Minister's reputation, two legal obligations must be born in mind. Any exercise or non-exercise by a Minister (including a Law Officer) of a legal power or discretion or other influence on a matter in which the Minister has a pecuniary interest could be challenged in the courts and, if the challenge is upheld, could be declared invalid.

28. If for any reason the Minister is unable or unwilling to dispose of a relevant interest, he or she should consider, with the advice of the Permanent Secretary of the Ministry and, where necessary, an external adviser what alternative measures would sufficiently remove the risk of conflict. These fall into two types: those relating to the interests themselves, and those relating to the handling of the decisions to be taken or influenced by the Minister.

29. Unless adequate steps can be taken in relation to the financial interests, the Ministry must put processes in place to prohibit access to certain papers and ensure that the Minister is not involved in certain decisions and discussions. The extent to which this can be done depends on the specific powers under which the Minister would be required to take decisions.

Partnerships

30. Ministers who are partners, whether in professional firms, for example solicitors, accountants etc, or in other businesses, should, on taking up office, cease to practise or to play any part in the day-to-day management of the firm's affairs. They are not necessarily required, however, to dissolve their partnership or to allow, for example, their annual practising certificate to lapse. Beyond this it is not possible to lay down precise rules applicable to every case; but any continuing financial interest in the firm would make it necessary for the Minister to take steps to avoid involvement in relevant decisions.

Directorships

31. Ministers must resign any directorships they hold when they take up office. This applies whether the directorship is in a public or private company and whether it carries remuneration or is honorary. The only exception to this rule is that directorships in private companies established in connection with private family estates or in a company formed for the management of apartments of which the Minister is a tenant may be retained subject to the condition that if at any time the Minister feels that conflict is likely to arise between this private interest and public duty, the Minister should even in those cases resign the directorship. Directorships or offices held in connection with charitable undertakings should also be resigned if there is any risk of conflict arising between the interests of the undertakings and the Government. It is a well established and recognised rule that no Minister or public servant should accept gifts, hospitality or services from anyone which would, or might appear to, place him or her under an obligation. The same principle applies if gifts etc are offered to a member of their family.

Acceptance of gifts

32. This is primarily a matter which must be left to the good sense of Ministers. But any Minister in doubt or difficulty over this should seek the Prime Minister's guidance. The same rules apply to the acceptance of gifts from donors with whom a Minister has official dealings in this country as to those from overseas, that is:

a. Receipt of gifts should be reported to the Permanent Secretary;

b. Gifts of small value (say, up to \$250) may be retained by the recipient;

c. Gifts of a higher value should be handed over to the Ministry for disposal, except that:

(1) The recipient may purchase the gift at its cash value (abated by \$250);

(2) If the Ministry judges that it would be of interest, the gift may be displayed or used in the Ministry;

(3) If the disposal of the gift would cause offence or if it might be appropriate for the recipient to use or display the gift on some future occasion as a mark of politeness, then the gift should be retained in the Department for this purpose for a period of up to five years;

d. Gifts received overseas worth more than the normal travellers' allowances should be declared at importation to Customs and Excise who will advise on any duty and tax liability. In general, if a Minister wishes to retain a gift he or she will be liable for any tax or duty it may attract.

33. Gifts given to Ministers in their Ministerial capacity become the property of the Government and do not need to be declared.

APPENDIX

The Seven Principals of Public Life

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

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

2/ "A Model Freedom Of Information Law"

A MODEL FREEDOM OF INFORMATION LAW

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A MODEL FREEDOM OF INFORMATION LAW

An Act to promote maximum disclosure of information in the public interest, to guarantee the right of everyone to access information, and to provide for effective mechanisms to secure that right.

Be it enacted by [insert relevant body, such as the Parliament] as follows:

PART I: DEFINITIONS AND PURPOSE

Definitions

1. In this Act, unless the context otherwise requires: –

- (a) “commissioner” is the office of the Information Commissioner, established by Part V, or the holder of that office, as the context may require;
- (b) “information officer” is an individual with specific responsibilities under this Act, required to be appointed by every public body pursuant to section 16(1);
- (c) “official” means any person employed by the relevant body, whether permanently or temporarily and whether part-time or full-time;
- (d) “minister” means the Cabinet minister responsible for the administration of justice;
- (e) “private body” has the meaning given by sub-section 6(3);
- (f) “public body” has the meaning given by sub-section 6(1) and (2);
- (g) “publish” means make available in a form generally accessible to members of the public and includes print, broadcast and electronic forms of dissemination;
- (h) “personal information” means information which relates to a living individual who can be identified from that information; and
- (i) “record” has the meaning given by section 7.

Purpose

2. The purposes of this Act are: –

- (a) to provide a right of access to information held by public bodies in accordance with the principles that such information should be available to the public, that necessary exceptions to the right of access should be limited and specific, and that decisions on the disclosure of such information should be reviewed independently of government; and
- (b) to provide a right of access to information held by private bodies where this is necessary for the exercise or protection of any right, subject only to limited and specific exceptions.

PART II: THE RIGHT TO ACCESS INFORMATION HELD BY PUBLIC AND PRIVATE BODIES

Freedom of Information

3. Everyone shall have the right to freedom of information, including the right to access information held by public bodies, subject only to the provisions of this Act.

General Right of Access

4. (1) Any person making a request for information to a public body shall be entitled, subject only to the provisions of Parts II and IV of this Act: –

(a) to be informed whether or not the public body holds a record containing that information or from which that information may be derived; and

(b) if the public body does hold such a record, to have that information communicated to him or her.

(2) Any person making a request for information to a private body which holds information necessary for the exercise or protection of any right shall, subject only to the relevant provisions of Parts II and IV of this Act, be entitled to have that information communicated to him or her.

Legislation Prohibiting or Restricting Disclosure

5. (1) This Act applies to the exclusion of any provision of other legislation that prohibits or restricts the disclosure of a record by a public or private body.

(2) Nothing in this Act limits or otherwise restricts the disclosure of information pursuant to any other legislation, policy or practice.

Public and Private Bodies

6. (1) For purposes of this Act, a public body includes any body: –

(a) established by or under the Constitution;

(b) established by statute;

(c) which forms part of any level or branch of Government;

(d) owned, controlled or substantially financed by funds provided by Government or the State; or

(e) carrying out a statutory or public function,

provided that the bodies indicated in sub-section (1)(e) are public bodies only to the extent of their statutory or public functions.

(2) The Minister may by order designate as a public body any body that carries out a public function.

(3) For purposes of this Act, a private body includes any body, excluding a public body, that: –

- (a) carries on any trade, business or profession, but only in that capacity; or
- (b) has legal personality.

Records

7. (1) For purposes of this Act, a record includes any recorded information, regardless of its form, source, date of creation, or official status, whether or not it was created by the body that holds it and whether or not it is classified.

(2) For purposes of this Act, a public or private body holds a record if: –

- (a) the public or private body holds the record, other than on behalf of another person; or
- (b) another person holds the record, on behalf of the public or private body.

Request for Information

8. (1) For purposes of section 4, a request for information is a request in writing to any official of a public or private body that is in sufficient detail to enable an experienced official to identify, with reasonable effort, whether or not the body holds a record with that information.

(2) Where a request for information pursuant to section 4(1) does not comply with the provisions of sub-section (1), the official who receives the request shall, subject to sub-section (5), render such reasonable assistance, free of charge, as may be necessary to enable the request to comply with sub-section (1).

(3) An individual who is unable, because of illiteracy or disability, to make a written request for information pursuant to section 4(1) may make an oral request, and the official who receives an oral request shall, subject to sub-section (5), reduce it to writing, including their name and position within the body, and give a copy thereof to the person who made the request.

(4) A request for information under section 4(2) must identify the right the person making the request is seeking to exercise or protect and the reasons why the information is required to exercise or protect that right.

(5) An official who receives a request for information may transfer that request to the Information Officer for purposes of complying with sub-sections (2) and/or (3).

(6) A public or private body may prescribe a form for requests for information, provided that such forms do not unreasonably delay requests or place an undue burden upon those making requests.

(7) A public or private body which receives a request for information shall provide the requester with a receipt documenting the request.

Time Limits for Responding to Requests

9. (1) Subject to sub-section (3), a public or private body must respond to a request for information pursuant to section 4 as soon as is reasonably possible and in any event within twenty working days of receipt of the request.

(2) Where a request for information relates to information which reasonably appears to be necessary to safeguard the life or liberty of a person, a response must be provided within 48 hours.

(3) A public or private body may, by notice in writing within the initial twenty day period, extend the period in sub-section (1) to the extent strictly necessary, and in any case to not more than forty working days, where the request is for a large number of records or requires a search through a large number of records, and where compliance within twenty working days would unreasonably interfere with the activities of the body.

(4) Failure to comply with sub-section (1) is deemed to be a refusal of the request.

Notice of Response

10. (1) The response under section 9 to a request for information pursuant to section 4(1) must be by notice in writing and state: –

(a) the applicable fee, if any, pursuant to section 11, in relation to any part of the request which is granted, and the form in which the information will be communicated;

(b) adequate reasons for the refusal in relation to any part of the request which is not granted, subject only to Part IV of this Act;

(c) in relation to any refusal to indicate whether or not the public body holds a record containing the relevant information, the fact of such refusal and adequate reasons for it; and

(d) any right of appeal the person who made the request may have.

(2) The response under section 9 to a request for information pursuant to section 4(2) must be by notice in writing and state: –

(a) in relation to any part of the request which is granted, the applicable fee, if any, pursuant to section 11, and the form in which the information will be communicated; and

(b) in relation to any part of the request which is not granted, adequate reasons for the refusal.

(3) In relation to any part of a request that is granted, communication of the information must take place forthwith, subject only to Section 11.

Fees

11. (1) The communication of information pursuant to a request under section 4 by a public or private body may, subject to subsections (2) and (3), be made conditional upon payment by the person making the request of a reasonable fee, which shall not exceed the actual cost of searching for, preparing and communicating the information.

(2) Payment of a fee shall not be required for requests for personal information, and requests in the public interest.

(3) The Minister may, after consultation with the Commissioner, make regulations providing: –

(a) for the manner in which fees are to be calculated;

(b) that no fee is to be charged in prescribed cases; and

(c) that any fee cannot exceed a certain maximum.

(4) A public body shall not require payment of a fee under sub-section (1) where the cost of collecting that fee would exceed the amount of the fee.

Means of Communicating Information

12. (1) Where a request indicates a preference as to the form of communication of information contained in sub-section (2), a public or private body communicating information pursuant to a request for information under section 4 shall, subject to sub-section (3), do so in accordance with that preference.

(2) A request may indicate the following preferences as to the form of communication of information: –

(a) a true copy of the record in permanent or other form;

(b) an opportunity to inspect the record, where necessary using equipment normally available to the body;

(c) an opportunity to copy the record, using his or her own equipment;

(d) a written transcript of the words contained in a sound or visual form;

(e) a transcript of the content of a record, in print, sound or visual form, where such transcript is capable of being produced using equipment normally available to the body; or

(f) a transcript of the record from shorthand or other codified form.

(3) A public or private body shall not be required to communicate information in the form indicated by the person making the request where to do so would: –

(a) unreasonably interfere with the effective operation of the body; or

(b) be detrimental to the preservation of the record.

(4) Where a record exists in more than one language, communication of the record shall, from among those languages, be given in accordance with the language preference of the person making the request.

If a Record is Not Held

13. (1) Where an official who receives a request pursuant to section 4(1) believes that that request relates to information that is not contained in any record held by the public body, the official may transfer the request to the Information Officer for purposes of compliance with this section.

(2) Where an Information Officer receives a request pursuant to sub-section (1), he or she shall confirm whether or not the public body does hold a record containing the information and, if it does not, shall, if he or she knows of another public body which does hold the relevant record, as soon as practicable, either: –

(a) transfer the request to that public body and inform the person making the request of such transfer;
or

(b) indicate to the person making the request which public body holds the relevant record,
whichever would be likely to ensure more rapid access to the information.

(3) Where a request is transferred pursuant to sub-section (2)(a), the time limit for responding to requests under section 9 shall begin to run from the date of transfer.

(4) A private body which receives a request pursuant to section 4(2) relating to information that is not contained in any record held by the private body shall notify the requester that it does not hold the information.

Vexatious, Repetitive or Unreasonable Requests

14. (1) A public or private body is not required to comply with a request for information which is vexatious or where it has recently complied with a substantially similar request from the same person.

(2) A public or private body is not required to comply with a request for information where to do so would unreasonably divert its resources.

PART III: MEASURES TO PROMOTE OPENNESS

Guide to Using the Act

15. (1) The Commissioner shall, as soon as practicable, compile in each official language a clear and simple guide containing practical information to facilitate the effective exercise of rights under this Act, and shall disseminate the guide widely in an accessible form.

(2) The guide in sub-section (1) shall be updated on a regular basis, as necessary.

Information Officer

16. (1) Every public body shall appoint an Information Officer and ensure that members of the public have easy access to relevant information concerning the Information Officer, including his or her name, function and contact details.

(2) The Information Officer shall, in addition to any obligations specifically provided for in other sections of this Act, have the following responsibilities: –

(a) to promote within the public body the best possible practices in relation to record maintenance, archiving and disposal; and

(b) to serve as a central contact within the public body for receiving requests for information, for assisting individuals seeking to obtain information and for receiving individual complaints regarding the performance of the public body relating to information disclosure.

Duty to Publish

17. Every public body shall, in the public interest, publish and disseminate in an accessible form, at least annually, key information including but not limited to: –

(a) a description of its structure, functions, duties and finances;

(b) relevant details concerning any services it provides directly to members of the public;

(c) any direct request or complaints mechanisms available to members of the public regarding acts or a failure to act by that body, along with a summary of any requests, complaints or other direct actions by members of the public and that body's response;

(d) a simple guide containing adequate information about its record-keeping systems, the types and forms of information it holds, the categories of information it publishes and the procedure to be followed in making a request for information;

(e) a description of the powers and duties of its senior officers, and the procedure it follows in making decisions;

(f) any regulations, policies, rules, guides or manuals regarding the discharge by that body of its functions;

(g) the content of all decisions and/or policies it has adopted which affect the public, along with the reasons for them, any authoritative interpretations of them, and any important background material; and

(h) any mechanisms or procedures by which members of the public may make representations or otherwise influence the formulation of policy or the exercise of powers by that body.

Guidance on Duty to Publish

18. The Commissioner shall: –

(a) publish a guide on minimum standards and best practices regarding the duty of public bodies to publish pursuant to section 17; and

(b) upon request, provide advice to a public body regarding the duty to publish.

Maintenance of Records

19. (1) Every public body is under an obligation to maintain its records in a manner which facilitates the right to information, as provided for in this Act, and in accordance with the Code of Practice stipulated in sub-section (3).

(2) Every public body shall ensure that adequate procedures are in place for the correction of personal information.

(3) The Commissioner shall, after appropriate consultation with interested parties, issue and from time to time update a Code of Practice relating to the keeping, management and disposal of records, as well as the transfer of records to the [insert relevant archiving body, such as the Public Archives].

Training of Officials

20. Every public body shall ensure the provision of appropriate training for its officials on the right to information and the effective implementation of this Act.

Reports to the Information Commissioner

21. The Information Officer of every public body shall annually submit to the Commissioner a report on the activities of the public body pursuant to, or to promote compliance with, this Act, which shall include information about: –

- (a) the number of requests for information received, granted in full or in part, and refused;
- (b) how often and which sections of the Act were relied upon to refuse, in part or in full, requests for information;
- (c) appeals from refusals to communicate information;
- (d) fees charged for requests for information;
- (e) its activities pursuant to section 17 (duty to publish);
- (f) its activities pursuant to section 19 (maintenance of records); and
- (g) its activities pursuant to section 20 (training of officials).

PART IV: EXCEPTIONS

Public Interest Override

22. Notwithstanding any provision in this Part, a body may not refuse to indicate whether or not it holds a record, or refuse to communicate information, unless the harm to the protected interest outweighs the public interest in disclosure.

Information Already Publicly Available

23. Notwithstanding any provision in this Part, a body may not refuse to communicate information where the information is already publicly available.

Severability

24. If a request for information relates to a record containing information which, subject to this Part, falls within the scope of an exception, any information in the record which is not subject to an exception shall, to the extent it may reasonably be severed from the rest of the information, be communicated to the requester.

Personal Information

25. (1) A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would involve the unreasonable disclosure of personal information about a natural third party.

(2) Sub-section (1) does not apply if: –

(a) the third party has effectively consented to the disclosure of the information;

(b) the person making the request is the guardian of the third party, or the next of kin or the executor of the will of a deceased third party;

(c) the third party has been deceased for more than 20 years; or

(d) the individual is or was an official of a public body and the information relates to his or her function as a public official.

Legal Privilege

26. A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where the information is privileged from production in legal proceedings, unless the person entitled to the privilege has waived it.

Commercial and Confidential Information

27. A body may refuse to communicate information if: –

(a) the information was obtained from a third party and to communicate it would constitute an actionable breach of confidence;

(b) the information was obtained in confidence from a third party and: –

i. it contains a trade secret; or

ii. to communicate it would, or would be likely to, seriously prejudice the commercial or financial interests of that third party; or

(c) the information was obtained in confidence from another State or international organisation, and to communicate it would, or would be likely to, seriously prejudice relations with that State or international organisation.

Health and Safety

28. A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, endanger the life, health or safety of any individual.

Law Enforcement

29. A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to: –

(a) the prevention or detection of crime;

(b) the apprehension or prosecution of offenders;

(c) the administration of justice;

(d) the assessment or collection of any tax or duty;

(e) the operation of immigration controls; or

(f) the assessment by a public body of whether civil or criminal proceedings, or regulatory action pursuant to any enactment, would be justified.

Defence and Security

30. A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to the defence or national security of [insert name of State].

Public Economic Interests

31. (1) A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to the ability of the government to manage the economy of [insert name of State].

(2) A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to, cause serious prejudice to the legitimate commercial or financial interests of a public body.

(3) Sub-sections (1) or (2) do not apply insofar as the request relates to the results of any product or environmental testing, and the information concerned reveals a serious public safety or environmental risk.

Policy Making and Operations of Public Bodies

32. (1) A body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to: –

(a) cause serious prejudice to the effective formulation or development of government policy;

(b) seriously frustrate the success of a policy, by premature disclosure of that policy;

(c) significantly undermine the deliberative process in a public body by inhibiting the free and frank provision of advice or exchange of views; or

(d) significantly undermine the effectiveness of a testing or auditing procedure used by a public body.

(2) Sub-section (1) does not apply to facts, analyses of facts, technical data or statistical information.

Time Limits

33. (1) The provisions of sections 26–31 apply only inasmuch as the harm they envisage would, or would be likely to, occur at or after the time at which the request is considered.

(2) Sections 27(c), 29, 30 and 31 do not apply to a record which is more than 30 years old.

PART V: THE INFORMATION COMMISSIONER

Appointment of the Information Commissioner

34. (1) The Commissioner shall be appointed by the [insert head of State] after nomination by a two-thirds majority vote of [insert name of legislative body or bodies], and after a process in accordance with the following principles: –

(a) participation by the public in the nomination process;

(b) transparency and openness; and

(c) the publication of a shortlist of candidates.

(2) No-one may be appointed Commissioner if he or she: –

(a) holds an official office in, or is an employee of a political party, or holds an elected or appointed position in central or local government; or

(b) has been convicted, after due process in accordance with internationally accepted legal principles, of a violent crime and/or a crime of dishonesty or theft, for which he or she has not been pardoned.

(3) The Commissioner shall hold office for a term of seven years, and may be re-appointed to serve a maximum of two terms, but may be removed by the [insert head of State] upon a recommendation passed by a two-thirds majority vote of [insert name of legislative body or bodies].

Independence and Powers

35. (1) The Commissioner shall enjoy operational and administrative autonomy from any other person or entity, including the government and any of its agencies, except as specifically provided for by law.

(2) The Commissioner shall have all powers, direct or incidental, as are necessary to undertake his or her functions as provided for in this Act, including full legal personality, and the power to acquire, hold and dispose of property.

Salary and Expenses

36. The Commissioner shall be paid a salary equal to the salary of a judge of the Supreme Court [or insert name of appropriate court] and is entitled to be paid reasonable travel and living expenses incurred in the performance of his or her duties.

Staff

37. The Commissioner may appoint such officers and employees as are necessary to enable him or her to perform his or her duties and functions.

General Activities

38. In addition to any other powers and responsibilities provided for in this Act, the Commissioner may: –

(a) monitor and report on the compliance by public bodies with their obligations under this Act;

(b) make recommendations for reform both of a general nature and directed at specific public bodies;

(c) co-operate with or undertake training activities for public officials on the right to information and the effective implementation of this Act;

(d) refer to the appropriate authorities cases which reasonably disclose evidence of criminal offences under this Act; and

(e) publicise the requirements of this Act and the rights of individuals under it.

Reports

39. (1) The Commissioner shall, within three months after the termination of each financial year, lay before [insert name of legislative body or bodies] an annual report on compliance by public bodies with this Act, the activities of his or her office and audited accounts of the office during that financial year.

(2) The Commissioner may from time to time lay before [insert name of legislative body or bodies] such other reports as he or she deems appropriate.

Protection of the Commissioner

40. (1) No criminal or civil proceedings lie against the Commissioner, or against any person acting on behalf of or under the direction of the Commissioner, for anything done, reported or said in good faith in the course of the exercise of any power or duty under this Act.

(2) For the purposes of the law of libel or slander, anything said or any information supplied pursuant to an investigation under this Act is privileged, unless that information is shown to have been said or supplied with malice.

PART VI: ENFORCEMENT BY THE COMMISSIONER

Complaint to the Commissioner

41. A person who has made a request for information may apply to the Commissioner for a decision that a public or private body has failed to comply with an obligation under Part II, including by: –

(a) refusing to indicate whether or not it holds a record, or to communicate information, contrary to section 4;

(b) failing to respond to a request for information within the time limits established in section 9;

(c) failing to provide a notice in writing of its response to a request for information, in accordance with section 10;

(d) failing to communicate information forthwith, contrary to section 10(3);

(e) charging an excessive fee, contrary to section 11; or

(f) failing to communicate information in the form requested, contrary to section 12.

Complaint Decision

42. (1) The Commissioner shall, subject to sub-section (2), decide an application under section 41 as soon as is reasonably possible, and in any case within 30 days, after giving both the complainant and the relevant public or private body an opportunity to provide their views in writing.

(2) The Commissioner may summarily reject applications: –

(a) which are frivolous, vexatious or clearly unwarranted; or

(b) where the applicant has failed to use any effective and timely internal appeals mechanisms provided by the relevant public or private body.

(3) In any application under section 41, the burden of proof shall be on the public or private body to show that it acted in accordance with its obligations under Part II.

(4) In his or her decision pursuant to sub-section (1), the Commissioner may: –

(a) reject the application;

(b) require the public or private body to take such steps as may be necessary to bring it into compliance with its obligations under Part II;

(c) require the public body to compensate the complainant for any loss or other detriment suffered; and/or

(d) in cases of egregious or wilful failures to comply with an obligation under Part II, impose a fine on the public body.

(5) The Commissioner shall serve notice of his or her decision, including any rights of appeal, on both the complainant and the public or private body.

Direct Implementation of Decision

43. (1) The Commissioner may, after giving a public body an opportunity to provide their views in writing, decide that a public body has failed to comply with an obligation under Part III.

(2) In his or her decision pursuant to sub-section (1), the Commissioner may require the public body to take such steps as may be necessary to bring it into compliance with its obligations under Part III, including by: –

(a) appointing an information officer;

(b) publishing certain information and/or categories of information;

(c) making certain changes to its practices in relation to the keeping, management and destruction of records, and/or the transfer of records to the [insert relevant archiving body, such as the Public Archives];

(d) enhancing the provision of training on the right to information for its officials;

- (e) providing him or her with an annual report, in compliance with section 21; and/or
 - (f) in cases of egregious or wilful failures to comply with an obligation under Part III, paying a fine.
- (3) The Commissioner shall serve notice of his or her decision, including any rights of appeal, on the public body.

Commissioner's Powers to Investigate

44. (1) In coming to a decision pursuant to section 42 or 43, the Commissioner shall have the power to conduct a full investigation, including by issuing orders requiring the production of evidence and compelling witnesses to testify.

(2) The Commissioner may, during an investigation pursuant to sub-section (1), examine any record to which this Act applies, and no such record may be withheld from the Commissioner on any grounds.

Appeal from Commissioner's Decisions and Orders

45. (1) The complainant, or the relevant public or private body, may, within 45 days, appeal to the court for a full review of a decision of the Commissioner pursuant to section 42 or 43, or an order pursuant to section 44(1).

(2) In any appeal from a decision pursuant to section 42, the burden of proof shall be on the public or private body to show that it acted in accordance with its obligations under Part II.

Binding Nature of Commissioner's Decisions and Orders

46. Upon expiry of the 45-day period for appeals pursuant to section 45, the Commissioner may certify in writing to the court any failure to comply with a decision pursuant to section 42 or 43, or an order pursuant to section 44(1), and the court shall consider such failure under the rules relating to contempt of court.

PART VII: WHISTLEBLOWERS

Whistleblowers

47. (1) No one may be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment, as long as they acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.

(2) For purposes of sub-section (1), wrongdoing includes the commission of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration regarding a public body.

PART VIII: CRIMINAL AND CIVIL RESPONSIBILITY

Good Faith Disclosures

48. No one shall be subjected to civil or criminal action, or any employment detriment, for anything done in good faith in the exercise, performance or purported performance of any power or duty in terms of this Act, as long as they acted reasonably and in good faith.

Criminal Offences

49. (1) It is a criminal offence to wilfully: –

- (a) obstruct access to any record contrary to Part II of this Act;
- (b) obstruct the performance by a public body of a duty under Part III of this Act;
- (c) interfere with the work of the Commissioner; or
- (d) destroy records without lawful authority.

(2) Anyone who commits an offence under sub-section (1) shall be liable on summary conviction to a fine not exceeding [insert appropriate amount] and/or to imprisonment for a period not exceeding two years.

PART IX: MISCELLANEOUS PROVISIONS

Regulations

50. (1) The Minister may, by notice in the Gazette [or insert name of appropriate publication] and after consultation with the Commissioner make regulations regarding: –

- (a) additional forms of communication of information under section 12(2);
- (b) training of officials under section 20;
- (c) reports to the Commissioner under section 21;
- (d) any notice required by this Act; or
- (e) any administrative or procedural matter necessary to give effect to this Act.

(2) Any regulation under sub-section (1) must, before publication in the Gazette, be laid before [insert name of legislative body or bodies].

Interpretation

51. When interpreting a provision of this Act, every court must adopt any reasonable interpretation of the provision that best gives effect to the right to information.

Short Title and Commencement

52. (1) This Act may be cited as the Right to Information Act [insert relevant year].

(2) This Act shall come into effect on a date proclaimed by [insert relevant individual, such as president, prime minister or minister] provided that it shall automatically come into effect six months after its passage into law if no proclamation is forthcoming.

3/ “Principles Underlying The Legal Framework For Integrity In Public Life In Barbados”

PRINCIPLES UNDERLYING THE LEGAL FRAMEWORK

FOR INTEGRITY IN PUBLIC LIFE IN BARBADOS

Background

1. There has been a growing recognition in the Commonwealth Caribbean of the important contribution of good governance to the promotion of social and economic development. Strangely, however, little attention has been paid in the past to the role that political corruption, defined as the misuse of public power for private benefit, plays in retarding that development. This neglect may have been partly the result of the absence of a robust theoretical framework for analyzing the effects of corruption, and the difficulty of assembling a body of empirical evidence confirming its existence in specific jurisdictions. In Barbados, sporadic attention has focused on issues of perceived corruption and lack of public integrity, but no sustained effort has been made to analyse their scope, extent, and consequences.

2. In 1975, the then, Leader of the Opposition, Hon. J.M.G.M. Adams, tabled a resolution in Parliament calling upon the Government to introduce legislation to compel members of Parliament to disclose their assets. Adams subsequently made charges that members of the Government were corrupt, and when he became Prime Minister in a Barbados Labour Party administration towards the end of 1976 he instituted a commission of enquiry into the financial activities of the previous Democratic Labour Party

government during the period 1961 to 1976. The report of that commission which was undertaken by the Hon. Justice Duffus, a former Chief Justice of Jamaica, concluded that there was no evidence of loopholes in the constitution, and procedures for the proper administration and control of the public finances in Barbados.

3. It is important to note that Adams introduced an Integrity in Public Life Bill in Parliament in 1979, but permitted it to die in the Senate. Further, the Hon. Henry Forde when he served as Leader of the Opposition in 1992 tabled a Resolution calling for a Committee of Parliament to formulate proposals for an Integrity Commission and to update the existing laws regulating integrity in public life. However, these initiatives have not been pursued by the BLP administration that came to power in September 1994, and is still in office today. Indeed, while the authorities signed the Inter-American Convention Against Corruption in April 2001, Barbados stands alone among the thirty-four contracting parties in its failure to ratify the Convention. Further, while Barbados served as the CARICOM regional negotiator in the negotiation of an international legal instrument against corruption under the aegis of the United Nations General Assembly, and signed the resulting convention in December 2003, to date, that too, has not been ratified.

4. In sum the historical record reveals a lack of conviction by BLP administrations, both past and present, about the desirability and necessity of legislation to combat corruption and promote an enabling framework for integrity in public life. It is not surprising, therefore, that there is a large degree of skepticism by the public of Barbados that politicians can be relied upon to implement an actionable programme, to inhibit the use of public office for personal gain. Indeed, a report on integrity systems in the Caribbean, prepared for Transparency International by a group of UWI academics in 2004 on the basis of consultations with major stakeholders, noted that the absence of integrity legislation in Barbados is sustained by unfounded popular perceptions about the degree of probity, integrity and accountability in public life in our country. Indeed, the report commented that this perception has led to a lack of vigilance by the public, and the unwillingness of the political directorate to establish mechanisms such as the passage of integrity legislation, to safeguard against nepotism, conflict of interest and corruption.

The way forward

5. The Democratic Labour Party is convinced that integrity in public life is an essential component of good governance. A recent statement by the President of the Party, the Hon. David Thompson confirms the commitment that an administration under his watch will be eager to send correct signals to the public that it will not tolerate incidents of graft, corruption, nepotism and non-transparency. In essence, what is being proposed is to enact a body of laws that restrain behaviour which is damaging to relationships in the community, and are shaped by the basic values which the community, by and large, accepts. Such laws will be reinforced by a process of community education which sustains our common set of basic values.

6. It will be seen, therefore, that the enactment of integrity legislation is not intended as an imposition of standards and values on public officials, but rather as serving to flesh out those ethical values that we already hold. Thus, it can be accepted that the basic components of a system of public integrity must include:

- a. Legislation which identifies the duties and responsibilities of public officials;
- b. Agencies which establish policies and procedures to implement this legislation; and
- c. Agencies which can investigate complaints about administrative decisions and maladministration.

7. The basic components of the legal framework has been identified in international conventions against corruption, such as the Inter-American Convention, and the United Nations Convention, to both of which Barbados is a signatory. Article III of the Inter-American convention calls on signatories to enact in their domestic law, inter alia:

- a. Standards of conduct for the correct, honorable, and proper fulfillment of public functions. These standards shall be intended to prevent conflicts of interest and mandate the proper conservation and use of resources entrusted to government officials in the performance of their functions. These standards shall also establish measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions. Such measures should help preserve the public's confidence in the integrity of public servants and government processes;
- b. Mechanisms to enforce these standards of conduct;

c. Instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities; and

d. Systems for registering the income, assets and liabilities of persons who perform public functions in certain posts as specified by law and, where appropriate, for making such registrations public.

8. Similarly, the United Nations Convention Against Corruption in Article 8 stipulates that

a. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to the appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials., and

b. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

9. The process of drafting an appropriate legal regime for Barbados is facilitated by the existence of legislation governing integrity in public life in Antigua, St. Lucia, and Trinidad and Tobago, which can serve as models for this exercise. In addition, it can draw upon legislation enacted, but not yet promulgated, in Dominica. The Trinidad and Tobago integrity legislation is the oldest in existence in the Commonwealth Caribbean, having been enacted in 2000 to update the legislation of 1987.

Basic components of the proposed integrity legislation

10. The proposed legislation will provide for the establishment of an Integrity Commission to receive 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. Central to the operation of the legislation, will be the Integrity Commission, a statutory body established with the following functions:

- a. Receiving, examining and retaining declarations filed pursuant to the relevant section of the Act;
- b. Making enquiries to verify and determine the accuracy of declarations filed under the Act;
- c. Inquiring into allegations of bribery or corruption under the Act;
- d. Receiving and investigating complaints of non-compliance with the provisions of the act; and
- e. performing such other functions as required by the Act.

11. The Act will impose an obligation on a 'person in public life' to make financial disclosure to the Commission in the prescribed form. The person making disclosure will be required to declare information regarding his office or offices, his income, assets and liabilities, the assets of his spouse or relative acquired or traceable to his income and all gifts made by him which exceed a specified value.

12. For purposes of the Act, the expression 'person in public life' will be defined in to mean a person holding an office or position listed in the First Schedule and a person who has acted continuously for a period of not less than six (6) months in any office listed in that Schedule. A person holding the office of Minister of Government is expressly listed in the First Schedule.

13. The Act will require every person who is a 'person in public life' when the Act comes into force to make an initial disclosure to the Commission within three (3) months of the date of commencement of the Act. In the case of a person who becomes a 'person in public life' after the commencement of the Act, it will provide for the initial disclosure to be made within three (3) months of the date of his becoming a 'person in public life'.

14. Following the making of the initial disclosure to the Commission upon the commencement of the Act, every 'person in public life' is required by the relevant section of the Act within three (3) months after the end of each income year to file a declaration in respect of that income year.

Structure and functions of the Integrity Commission

15. The Commission will comprise not more than six persons, appointed by the Governor General, from among persons not in public life (as defined by the Act) to include persons with qualifications in law and accountancy and giving due recognition to civil society interests. The persons appointed shall be citizens of Barbados who are persons of integrity and high standing, The Governor General will designate the persons to be Chairman and Deputy Chairman. The Commission will be serviced by appropriate staff, who will be public officers, headed by a Registrar. The expenses of the Commission will be a charge on the public purse. The Commission will receive the declarations required under the act, and where necessary carry out investigations and examinations to determine the accuracy of any declaration that it deems to require special scrutiny. Where, after an examination the Commission is satisfied that a declaration is fully made, it shall provide the person who submits it with a certificate of compliance.

Code of Conduct

16. A key component of the legislation is the establishment of a Code of Conduct, which will apply to a person in public life, and to all persons exercising public functions. The Code of Conduct will require the person in public life to act in the following manner:

- a. Be fair and impartial in exercising his/her public duty;
- b. Afford no undue preferential treatment to any group or individual;
- c. Arrange his private interests whether pecuniary or otherwise in such a manner as to maintain public confidence and trust in his/her integrity;
- d. Not use his/her office for the improper advancement of his own or his family's personal or financial interests or the interest of any person;
- e. Not engage in any transaction, acquire any position or have any commercial or other interest that is incompatible with his office, function and duty or the discharge thereof;
- f. Not use public property or services for activities not related to his/her official work;

g. Not directly or indirectly use his/her office for private gain;

h. Not be a party to or shall undertake any project or activity involving the use of public funds in disregard of the Financial Orders or other Regulations applicable to such funds;

i. Not use information that is gained in the execution of his office and which is not available to the general public to further or seek to further his private interests;

j. Not use his office to seek to influence a decision made by another person or public body to further his own private interests;

k. Not accept a fee, gift or personal benefit, except compensation authorised by law that is connected directly or indirectly with the performance of his or her duties of office; and

l. Where however a gift or personal benefit referred to above exceeds two thousand, dollars in value or where the total value received directly or indirectly from one source in any twelve month period exceeds two thousand dollars, a person in public life shall file with his declaration, a statement indicating the nature of the fee, gift or benefit, its source and the circumstances under which it was given or accepted.

Investigations

17. The Commission will have the power to undertake investigations in response to representations by the public, or on its own initiative. In order to undertake its investigations the Commission may:

a. Authorise an investigating officer to conduct an enquiry into any alleged or suspected offence;

b. Require any person, in writing, to produce, within a specified time, all books, records, accounts, reports, data, stored electronically or otherwise, or any other documents relating to the functions of any public or private body;

c. Require any person, within a specified time, to provide any information or to answer any question which the Commission considers necessary in connection with any enquiry or investigation which the Commission is empowered to conduct under this Act;

d. Require that any facts, matters or documents relating to the allegations or breach, be verified or otherwise ascertained by oral examination of the person making the complaint; and

e. Cause any witness to be summoned and examined upon oath.

18. Where, in the course of any enquiry the Commission is satisfied that there is a need to further expedite its investigations; it may exercise the following powers:

a. Require any person to furnish a statement in writing:

(1) Enumerating all movable or immovable property belonging to or possessed by him in Barbados or elsewhere, or held in trust for him, and specifying the date on which each such property was acquired and the consideration paid therefore, and explaining whether it was acquired by way of purchase, gift, inheritance or otherwise;

(2) Specifying any monies or other property acquired in Barbados or elsewhere or sent out of Barbados by him or on his behalf during a specified period;

b. Require any person to furnish all information in his/her possession relating to the affairs of any suspected person being investigated and to produce or furnish any document or true copy of any document relating to the person under investigation and which is in the possession or under the control of the person required to furnish the information; and

c. Require the manager of any bank, or financial institution, in addition to furnishing information specified above to furnish any information or certified copies, of the accounts or the statement of accounts at the bank or financial institution of any person being investigated.

Penalties

19. The Commission may impose penalties for non-compliance with the requirement by persons in public life to make timely and correct declarations, and for making false declarations.

Regulations

20. The Commission may make regulations prescribing

a. The manner in which enquiries may be carried out and any matters incidental to or consequential upon such enquiries;

b. The standard or criteria for the initiation of such enquires;

c. The manner in which information received from the public would be assessed and verified;

d. The form of declaration to be submitted and any additional forms which have been prescribed or which may become necessary;

e. The period within which any information or document required by the should be furnished or produced;

f. The fees that are payable by members of the public in respect of a certified copy of a public declaration statement and the manner in which such statements may be made available;

g. Any other matter or thing in respect of which it may be necessary to make Regulations for carrying this Act into effect.

21. The Regulations will be subject to the affirmative resolution of Parliament.

15/Dec/2007