



ACT No. 20 OF 1997

INTEGRITY COMMISSION ACT 1997

I assent.

SAMUEL A. HINDS,
President.
24th September, 1997

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

A D 1997

Enacted by the Parliament of Guyana:–

PART 1

PRELIMINARY

Short title 1. This Act may be cited as the Integrity Commission Act 1997.

Interpretation 2. In this Act –

(a) “assets” of a person means all property including any right or interest in property and money held by the person in Guyana or elsewhere;

(b) “chairman” means the chairman of the Commission appointed under section 3;

(c) “child” in relation to a person, means the person’s child who has not attained the age of eighteen years and is not married and includes a step-child or an adopted child;

and, in respect of a man, includes a child born out of wedlock of whom the man had been adjudged the father by a court of competent jurisdiction or whom the man had acknowledged to be his own child;

Schedule 11 (d) “Code of Conduct” means the body of rules contained in Schedule 11;

(e) “Commission” means the Integrity Commission established by section 3;

Schedule 111 (f) “Form” means a form in Schedule 111;

(g) “liabilities” of a person means all the obligations of the person to pay money or to provide goods or services in Guyana or elsewhere;

- (h) “member” means a member of the Commission appointed under section 3 and includes the chairman;
- (i) “person in public life” means a person who holds any specified office and includes a person in section 45 whether or not mentioned in Schedule I;
- (j) “specified office” means an office listed in Schedule I;
- (k) “spouse” includes reputed wife and reputed husband;
- (l) “tribunal” means any person appointed a tribunal under section 21;

Schedule I

PART 11

INTEGRITY COMMISSION

3. (1) There is hereby established a commission to be known as the Integrity Commission which shall consist of a chairman and not less than two nor more than four other members.

Establishment
of Integrity
Commission

(2) The Chairman shall be a person who is or who was, or who is qualified to be, appointed as, a Puisne Judge of the High Court or any other fit and proper person.

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

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

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

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

(7) The Commission shall be a body corporate.

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

Terms and
conditions of
chairman and
other members

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

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

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

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

Provided further that where an appointment is terminated a concise report thereof shall with all convenient speed be laid before the National Assembly.

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

6. The chairman or other member shall not enter upon the duties of his office unless he has taken and subscribed the oath of office set out in the Constitution before a magistrate or a justice of the peace and such oath shall be deposited by the chairman or other member with the Head of the Presidential Secretariat.

7. (1) Where the Chairman or any other member is interested in any matter before the Commission or any person who is a party to any proceedings before the Commission the Chairman or other member so interested shall disclose the nature of his interest to the Commission and shall not participate in its sittings in relation to the said matter or person.

Interest in matter or proceedings before Commission by member.

(2) Where in the opinion of the President or of the Commission the chairman or any other member is interested in any matter before the Commission or any person who is a party to any proceedings before the Commission, the President or the Commission, as the case maybe, shall direct the chairman or other member not to participate in the sittings of the Commission in relation to the said matter or person.

(3) Where the chairman or any other member acts in contravention of this section he shall be guilty of misconduct under section 5(1)(c).

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

Functions of Commission.

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

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

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

Sittings of Commission.

(2) Where the chairman cannot for any reason attend any sitting of the Commission, the members present and forming a quorum may elect one of their number to act as chairman for that meeting.

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

(a) there was a vacancy in the membership of the

Commission or that any member did not participate in any particular sitting of the Commission;

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

(4) Three members of the Commission shall constitute a quorum.

Procedure of
Commission

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

Cap. 19:03

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

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

Form 1

Funds of
Commission

11. The Funds of the Commission shall consist of such funds as shall be provided to the Commission by or under any appropriation law.

Officers and
employees of
Commission

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

- (a) employ a secretary and such other officers and employees as are required for the proper performance of the functions of the Commission;
- (b) retain the services of professional persons.

(2) The remuneration and other terms and conditions of employment of the secretary and other officers and employees of the Commission employed under subsection (1) and of professional persons retained under that subsection shall be such as may be determined or varied by the Commission from time to time.

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

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

No 21 of 1988

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

(6) In subsection (3) “appropriate authority”, in relation to any public officer or other employee of the Government, means the person or authority vested by law with power to appoint such public officer or employee of the Government to the position he held in the Government at the time when his service is sought to be utilised by the Commission.

PART III

FINANCIAL DISCLOSURE

13. (1) Every person who is a person in public life, not being a member of the Commission, shall -

Declaration of financial affairs

- (a) each year, on or before 30th June; and
- (b) where such person ceases to be a person in public life, within thirty days from the date on which the person ceases to be a person in public life,

file with the Commission a declaration containing the particulars referred to in subsection (4) with reference to the relevant date; and each of the members of the Commission shall file with the President similar declarations on or before the dates on which such declarations are required by other persons in public life.

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

- (a) every person who is a person in public life on the commencement of this Act shall, within thirty days from such commencement, file with the Commission a declaration containing the particulars referred to in subsection (4) with reference to the date of such commencement;
- (b) every person who becomes a person in public life after the commencement of this Act shall, within thirty days from the date on which he becomes a person in public life -
 - (i) if he is not a member of the Commission, file with the Commission; or

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

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

and any person required to file a declaration under this subsection in any year is not required to file another declaration under subsection (1) in the same year.

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

Provided that as regards assets referred to in paragraph 2 in Form 2 it shall be sufficient to comply with the requirements regarding the description and value thereof as stated in paragraph 2.

Form 2

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

(5) In this section "relevant date" –

- (i) for the purposes of subsection (1), means the 30th June for the purposes of subsection (1) (a) or the date on which a person ceases to be a person in public life, as the case may be;
- (ii) for the purposes of subsection (2), means the date referred to in paragraph (a) or (b) thereof.

Trust property

14. Where a person in public life holds any money or other property in trust for another person, not being his spouse or child or another person in public life, he shall so state in his declaration but shall not be required to disclose the terms of the trust.

Full disclosure

15. (1) A person in public life is required to disclose in his declaration, under section 13, such details in respect of the income, assets and liabilities of himself and those of his spouse and his children, as by the exercise of reasonable care should be known to him.

(2) For the purposes of a declaration under section 13, the income, assets and liabilities of a person in public life, his spouse and his child shall include the income, assets and liabilities acquired, held or incurred by any other person as agent or on behalf of all or any of them.

(3) Any direct or indirect benefit accruing to the income or assets of a declarant or his spouse or child must be disclosed in a declaration under section 13.

Blind trusts

16. (1) A person in public life may place his assets or part thereof in a blind trust for the purposes of this Act and file a copy of the trust deed with the Commission.

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

(3) Notwithstanding any other law relating to the duties of trustees, a trust company, managing the assets of a person in public life by way of a blind trust, shall reply fully to any inquiries of the Commission relating to the nature and management of the assets in the blind trust.

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

- (a) all or any part of his assets or those of his spouse or children are conveyed to the trust company for the management, administration and control thereof, in its absolute discretion without recourse or report to the person or persons beneficially entitled to those assets;
- (b) income derived from the management of the assets is to be distributed, in accordance with the agreement, to him, his spouse or his children until he ceases to be a person in public life; and
- (c) after he ceases to be a person in public life, proper and full accounting is to be made to him, his spouse or children as the circumstances of the management of the trust require.

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

- (a) it is incorporated in Guyana and is carrying on business in Guyana;
- (b) no more than five per cent of the nominal value of the issued shares in the trust company or its affiliate is held by the person in public life entering into an agreement with it, or by any other person associated with him; and
- (c) the person in public life or his spouse or any of his children does not hold any directorship or office in the trust company or its affiliate.

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

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

- (a) the spouse or child of the person; or

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

Receipt and examination of declarations

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

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

Commissioner or the President may require further particulars

18. The Commission or the President, as the case may be, may in writing request a declarant to furnish such further particulars relating to his financial affairs as may be considered necessary for the purposes of section 17 (b) and the declarant shall comply with the request within the time specified therefor by the Commission or the President, as the case may be.

Failure to file declaration or furnish particulars

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

Commission may hold formal inquiry

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

Further information from members of Commission in respect of their declarations

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

(2) For the purpose of any inquiry under this section a tribunal may request in writing, that the declarant or any other person who the tribunal reasonably believes has knowledge of the matters to be inquired into -

- (a) attend before the tribunal at such place, on such date and at such time as may be specified by the tribunal, to give it such information as it may require to satisfy itself that it is in possession of all the material facts; or
- (b) furnish such information or documents as may be specified by the tribunal, within the time specified therefor by the tribunal, so as to assist it in verifying the declaration.

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

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

Cap. 19 03

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

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

22. Any person who –

Offences and penalties

- (a) (i) fails, without reasonable cause, to file with the Commission or the President, as the case may be, a declaration which he is required to file in accordance with the provisions of this Act; or
- (ii) knowingly files with the Commission or the President a declaration that is not complete or is false in any material particular; or
- (b) fails, without reasonable cause, to comply with a request made under section 18 or 21 (2) by the Commission, the President or a tribunal, within the time specified therefor by the Commission, the President or the tribunal, as the case may be, or gives incomplete or false information pursuant to the request; or
- (c) fails, without reasonable cause, to attend an inquiry being conducted under section 21, pursuant to a request under section 21 (2), or to furnish any information the tribunal may request the declarant to furnish under that section or knowingly gives any false or incomplete information in such inquiry,

shall be liable, on summary conviction, to a fine of twenty-five thousand dollars and to imprisonment for a term of not less than six months nor more than one year, and where the offence involves the non-disclosure, by the declarant, of property, which should have been disclosed in the declaration, the magistrate convicting the person shall order the person to make full disclosure of the property within a given time and on failure to comply with the order of the magistrate within the given time, the said offence shall be deemed to be a continuing offence and the person shall be liable to a further fine of ten thousand dollars for each day on which the offence continues.

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

Prosecutions

- (a) without the written consent of the Director of Public Prosecutions; or
- (b) after five years from the date when the person in respect of whose declaration the alleged offence was committed, ceased to be a person in public life.

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

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

PART IV

CODE OF CONDUCT

Provisions of this
Part in addition to
and not in
derogation of
certain Acts
Cap 8:01
Cap 8:02
Powers of
appropriate
disciplinary
authority preserved

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

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

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

Code of Conduct
Schedule 11

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

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

Complaint to
Commission

- (a) the particulars of the breach;
- (b) the particulars, as far as they are known, of the person against whom the complaint is made;

- (c) the nature of the evidence that the complainant proposes to produce in respect of the complaint; and
- (d) such other particulars as may be prescribed by regulations by the Minister.

(2) A complaint to the Commission under this section may be presented in person, or may be sent by registered post to the chairman.

(3) A person who makes a complaint which is frivolous, mischievous or spiteful shall be guilty of an offence and shall be liable on summary conviction to a fine of twenty-five thousand dollars and two months imprisonment and the nature of the complaint for which the person is convicted shall be published in a daily newspaper at the expense of such person.

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

Commission may reject complaint

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

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

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

Investigation of breach of Code of Conduct

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

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

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

Report to Director of Public Prosecutions

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

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

(4) Where on the conclusion of an inquiry under section 30 the Commission finds it necessary to submit a report to the Director of Public Prosecutions, it may transmit where the circumstances so warrant, a report to the relevant authority charged with the exercise of disciplinary control over the person in respect of whom the complaint was made for whatever action that body may think necessary.

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

PART V

GIFTS

Report to
Commission of
gifts

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

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

(3) The decision of the Commission made in pursuance of subsection (2) shall be final.

(4) The provisions of this section shall not apply to any personal gift received by a person in public life from a relative or friend:

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

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

(6) Where the Commission finds after inquiry that the gift was given

to the person in public life personally and,

- (i) was trivial; or
- (ii) was not trivial, but was not intended to be a motive or reward for doing or forbearing to do anything in the course of the performance of his official functions or causing any other person from doing or forbearing to do anything,

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

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

33. Any person in public life who -

- (a) makes a report to the Commission under section 32 (1) which is incomplete or false in any material particular;
- (b) fails to comply with the proviso to section 32 (4); or
- (c) fails to comply with a direction given by the Commission under section 32 (6),

Penalty for
contravening
section 32

shall be liable, on summary conviction, to a fine, which shall not be less than the value of the gift involved in the commission of the offence, and to imprisonment for three months.

PART VI

MISCELLANEOUS

Assistance by
Commissioner of
Police

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

Confidentiality of
information.

35. (1) Any information received by any member, or by any officer or other employee of the Commission, in the course of the performance of the functions of such person under this Act (including information contained in any document received by that person by virtue of the provisions of this Act) shall not be divulged by any such member, or by any such officer or employee, to any person, except to the extent necessary to exercise or discharge his functions as such member or officer or employee or to comply with the provision of any written law or the order of any court or for the purpose of prosecution for an offence.

(2) Any member, or any officer or other employee of the Commission who contravenes the provisions of subsection (1) shall, on summary conviction, be liable to a fine of twenty-five thousand dollars and to imprisonment for two months.

(3) Any person who receives any information or anything contained in such documents as aforesaid, knowing or having reasonable ground to believe at the time when he receives it, that it is communicated to him in contravention of this section shall, unless he proves that the communication to him of the information or anything contained in any document was contrary to his desire, be guilty of an offence and shall be liable on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for two months.

Amendment of Schedules

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

Annual report by Commission

37. (1) The Commission shall, before the expiry of three months after the expiry of each calendar year, submit to the President a report containing an account of the activities of the Commission throughout the preceding calendar year and the difficulties, if any, experienced by the Commission in the performance of its functions.

(2) The report, with any explanation in regard to any matter stated in the report, shall be laid before the National Assembly within a period of sixty days.

Power of Commission to make rules

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

Power of the Minister to make regulations

39. (1) The Minister may, after consultation with the Commission, make regulations to carry out the purposes of this Act.

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

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

Constitutional privileges and immunities not affected

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

Repeal of Integrity Commission Act 1991
No 21 of 1991

41. The Integrity Commission Act 1991 is hereby repealed.

PART VII

CREATION OF A NEW OFFENCE

AMENDMENT OF CERTAIN ENACTMENTS

WIDER APPLICATION OF ACT

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

Possession of unaccounted property or pecuniary resource

(2) In imposing a fine under subsection (1) on a person found guilty of an offence under that subsection, the court shall have regard to the value of the property or pecuniary resource in the possession of that person, which cannot be accounted for by his known sources of income or other lawful means of acquisition of the property or pecuniary resource and such fine shall be equivalent to one and one half times the value of the aforesaid property or pecuniary resource found to be in the possession of the said person.

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

Amendment of Evidence Act Cap 5 03

- (a) in the definition of “bankers book” in section 2, by the insertion, after the words “business of a bank”, of the words “and any electronic equipment or object on which particulars of any transaction made by the bank are stored”;
- (b) in section 11, by the insertion, after the words “special cause” of the words “or pursuant to a summons issued by the Integrity Commission established by the Integrity Commission Act 1997” .

No of 1997

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

Amendment of Criminal Law (Offences) Act Cap 8 01

- (a) by the substitution, for the words “(1) In this Title”, of the words “In this Title”;
- (b) by the substitution, for the words “public servant.”, of the words “(1) “public servant” ”;
- (c) in the definition of “public servant” -
 - (i) by the substitution, for the full stop at the end of paragraph (m), of a semicolon;

(ii) by the insertion, after paragraph (m), of the following paragraph as paragraph (n) -

“(n) every person, other than a person falling under any of the descriptions in the preceding subparagraphs, who holds an office listed in Schedule I of the Integrity Commission Act 1997 ;”.

No. of 1997

Wider application
of Act

45. (1) Notwithstanding anything in this Act, a person in public life whether or not mentioned in Schedule I shall include –

public officers;

officers of Regional Democratic Councils;

officers of the Bank of Guyana;

officers of State owned and controlled Banks;

officers of public corporations and other bodies corporate and agencies (including companies and bodies established by or under any statute) owned by the State or in which the controlling interest is vested in the State or any agency on behalf of the State;

members of Tender Boards,

and the aforesaid persons, if not mentioned in Schedule I, shall, subject to subsection (2) not be required to file a declaration under Part III.

(2) Where a complaint is made under section 28 in respect of any of the aforesaid persons not mentioned in Schedule I, PART III shall *mutatis mutandis* apply to such person and he shall supply to the Commission such information if required to do so by the Commission or make such declaration, in respect of such year or years, in such form within such time as the Commission shall specify including -

- (a) under section 13, a declaration regarding his assets and liabilities in accordance with section 15;
- (b) under sections 14 and 16, declaration regarding trusts and blind trusts respectively;
- (c) under section 18, such further information as may be required by the Commission,

in addition to any information such person is bound to supply or in addition to any declaration he is bound to make under the other provisions of this Act.

SCHEDULE I**SPECIFIED OFFICES**

S. 2(j)

The President of Guyana

The Speaker of the National Assembly

Ministers including Ministers of State

Secretary to the Cabinet

Parliamentary Secretaries

Members of the National Assembly

Members of the National Congress of Local Democratic Organ

Members of the Regional Democratic Councils

Clerk of the National Assembly

Attorney-General (if not a Member of the Cabinet)

Head of the Presidential Secretariat

Director of Protocol, Office of the President

Chief of Protocol, Ministry of Foreign Affairs

Permanent Secretaries and Deputy Permanent Secretaries

Ombudsman

Director of the Public Prosecutions

Deputy Director of Public Prosecutions

Solicitor-General

Deputy Solicitor-General

Chief Parliamentary Counsel

Deputy Chief Parliamentary Counsel.

Auditor General

Deputy Auditor General

Secretary to the Treasury

Deputy Secretary to the Treasury

Commissioner of Police

Deputy Commissioner of Police

Chief of Staff, Guyana Defence Force

Director General, Guyana National Service

Commandant, Guyana People's Militia

Members, Elections Commission

Members, Judicial Service Commission

Members, Public Service Commission

Members, Police Service Commission

Members, Teaching Service Commission

Members, Public Service Appellate Tribunal

Police Complaints Authority

Heads of Diplomatic Missions of Guyana accredited to any other country
or any international organisation

Governor, Deputy Governor and Heads of Division of the Bank of Guyana

Managing Directors and Managers of State owned or controlled banks

Heads of all Government Departments

Commissioner of Lands and Surveys

Deputy Commissioner of Lands and Surveys

Commissioner of Geology and Mines

Deputy Commissioner of Geology and Mines

Commissioner of Forests

Deputy Commissioner of Forests

Commissioner of Inland Revenue

Deputy Commissioner of Inland Revenue

Comptroller of Customs and Excise

Deputy Comptroller of Customs and Excise

Judges of the Supreme Court

Presidential Advisors

A.D. 1997]

INTEGRITY COMMISSION

1997

[No.20

Magistrates

Commissioner of Title

Registrar of the Supreme Court

Registrar of Deeds

State Solicitor, Official Receiver and Public Trustee

Chief Planning Officer

Chief Executive Officer, Deputy Chief Executive Officer and Heads of
Departments, Public Corporations SecretariatChairmen, Managing Directors, Chief Executive Officers, General
Managers and Heads of Departments of all public corporations, and
other bodies corporate and agencies (including companies and
bodies established by or under any statute) owned by the State or in
which the controlling interest is vested in the State or in any agency
on behalf of the StateVice Chancellor, Registrar, and Deans of Faculties of the University of
Guyana

Registrar General

• Chief Elections Officer and Commissioner of Registration

Mayors and Deputy Mayors and Town Clerks of the City of Georgetown,
Town of New Amsterdam and other towns

Members of the Integrity Commission

Regional Executive Officer and Heads of Departments of Regional
Democratic CouncilsNOTE: Where not less than twenty per cent of the nominal value of the
issued shares of a company is held by the Government or any
agency on behalf of the Government, for the purposes of this Act
it shall be deemed that the company is controlled by, or the
controlling interest in the company is vested in the Government
or any agency on behalf of the Government.

SCHEDULE II

s. 2(d)

CODE OF CONDUCT

No person in public life shall -

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

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

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

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

- (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 mater acquired in the course of his official duties which are not available to the public;
- (h) use or allow the use of public property (including money), equipment, supplies or services for any purpose other than for officially approved purposes;

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

SCHEDULE III

FORMS

FORM I

SUMMONS TO WITNESS

BEFORE THE INTEGRITY COMMISSION

A. B., Complainant

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

To E. F., of

Whereas complaint has been made before the Integrity Commission for that

C. D.

(State concisely the substance of the complaint) and it has been made to appear to that Commission that you are likely to give material evidence on behalf of the complainant/person in public life in this behalf:-

This is to require you to be and appear at. o'clock. on day, the day of 19 at before the Commission in the said place, to testify what you know concerning the matter of the said complaint.

Dated this day 19 ...

(Signed) Chairman of the Integrity Commission.

FORM 2

DECLARATION OF INCOME, ASSETS AND LIABILITIES

Name of Declarant

Address

Name and address of spouse and children of Declarant

.....

1. Income:

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

2. Assets:

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

(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 if any of policy and date of maturity).

(d) Shareholdings in companies and holdings in partnership and joint ventures: (List each enterprise separately, the nature of its business and the number of shares held and their current value in the opinion of the declarant).

(e) Directorship and partnerships:

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

(f) Other Assets:

Motor Vehicles

Boat

Government Bonds

Gifts

Trusts

Other.

3. Liabilities:

(a) Mortgages

(b) Judgment Debts

(c) Other Debts

Dated this _____ day of _____ 19__.

Declarant

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

.....
Declarant

Passed by the National Assembly on 21st July, 1997.

F.A. Naram
Clerk of the National Assembly

(BILL No. 17 1995)