

COMMONWEALTH OF DOMINICA

ARRANGEMENTS OF SECTIONS

PART 1

PRELIMINARY

SECTION

1. Short title and commencement.
2. Interpretation.
3. Application of Act.

PART II

INTEGRITY COMMISSION

4. Establishment of Integrity Commission.
5. Disqualification from membership.
6. Resignation of members.
7. Vacancy in membership.
8. Publication in the *Gazette*.
9. Functions of the Commission.
10. Proceedings and meetings.
11. Powers of the Commission to summon and examine witnesses
12. Secretary to the Commission.
13. Commission not subject to control or direction.
14. Declaration of financial affairs.
15. Commission may require further particulars of financial affairs.

PART III

FINANCIAL DISCLOSURE

16. Filing of declarations.
17. Trust property.

18. Income, assets and liabilities of agent.
19. Blind Trust.
20. Secrecy and confidentiality
21. Information not to be communicated to unauthorised persons.
22. Failure to file declaration.
23. Commission may hold formal inquiry.
24. Powers of Tribunal.
25. Findings of Tribunal.
26. Indemnity.
27. Offences.
28. Prosecutions.
29. Deductible income tax expenses.

PART IV

CODE OF CONDUCT

30. Code of Conduct.
31. Complaint to Commission.
32. Rejection of complaint by Commission.
33. Investigation of breach of Code of Conduct.
34. Report to Director of Public Prosecutions.

PART V

GIFTS

35. Report to the Commission of gifts.
36. Penalty for contravening section 34.

PART VI

BRIBERY AND OTHER ACTS OF CORRUPTION

37. Interpretation.
38. Offence of bribery.
39. Bribery for giving assistance, etc., in regard to contracts.
40. Bribery of public servants by persons having dealing with public bodies.

-
41. Aiding and abetting.
 42. Giver and acceptor of advantage guilty notwithstanding that purpose not carried out, etc.
 43. Penalty for offences.
 44. Alternative convictions and amending particulars.
 45. Presumption of corruption.
 46. Forfeiture of property.

PART VII

POSSESSION OF UNACCOUNTED PROPERTY

47. Possession of unaccounted property or pecuniary resource.

PART VIII

MISCELLANEOUS PROVISIONS

48. Annual report of Commission to Parliament.
49. Staff of Commission.
50. Oaths.
51. Immunities.
52. Charge on Consolidated Fund.
53. Assistance by Commissioner of Police.
54. Offence of obstruction.
55. Making of false allegations.
56. Consent of the Director of Public Prosecutions.
57. General penalty.
58. Amendment of Schedules.
59. Power of Commission to make Rules
60. Power of Minister to make Regulations.

FIRST SCHEDULE.
SECOND SCHEDULE.
THIRD SCHEDULE.

COMMONWEALTH OF DOMINICA

ACT No. 6 OF 2003

I assent



Vernon L. Shaw
President

29th May, 2003.

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT
OF AN INTEGRITY COMMISSION FOR THE
PURPOSE OF RECEIVING DECLARATIONS ON
THE FINANCIAL AFFAIRS OF PERSONS HOLD-
ING SPECIFIC POSITIONS IN PUBLIC LIFE,
FOR THE PURPOSE OF ESTABLISHING PRO-
BITY, INTEGRITY AND ACCOUNTABILITY IN
PUBLIC LIFE AND FOR RELATED MATTERS.**

(Gazetted 5th June, 2003.)

BE IT ENACTED by the Parliament of the Commonwealth of
Dominica as follows:

PART 1

PRELIMINARY

1. (1) This Act may be cited as the -

INTEGRITY IN PUBLIC OFFICE ACT 2003.

Short title and
commencement.

(2) This Act shall come into operation on such day as the President may, by Order published in the *Gazette*, appoint.

Interpretation.

2. (1) In this Act, unless the context otherwise requires-

“attorney-at-law” means a barrister or a solicitor;

“Chief Technical Officer” includes the Chief Physical Planner and any Director or head of department or deputy head of department however described in a Government Ministry or Department;

“Commission” means the Integrity Commission established under section 4;

“Gazetted Police Officer” means Commissioner of Police, Deputy Commissioner of Police, Superintendent and Assistant Superintendent of Police;

“member” means member of the Commission;

“Minister” means the Minister for Legal Affairs;

“Permanent Secretary” includes Secretary to the Cabinet, Financial Secretary, Chief Personnel Officer, Director General of Finance and Manager of International Business Unit (Finance);

“person in public life” means-

(a) a person holding any office or position set out in Part I of the First Schedule to this Act; or

(b) a person acting continuously for a period of not less than six months in any office set out in Part II of the First Schedule to this Act.

First Schedule.

First Schedule.

“property” includes money;

“public institution” means -

(a) a bank, corporation or company which the State owns or in which it has a controlling interest;

-
- (b) a corporation established by an Act for public purposes or any subsidiary thereof;
 - (c) a board, commission, committee or such other body appointed by the President or a Minister of the Government.

(2) For the purposes of this Act -

- (a) the income of a person in public life is that income which he acquires in or out of Dominica and includes all perquisites or benefits direct or indirect and all income within the meaning of income under the Income Tax Act;
- (b) the assets of a person in public life are all property beneficially held in Dominica or elsewhere by him and all rights and benefits to which he is entitled;
- (c) the liabilities of a person in public life are all the obligations of such a person to pay money or to transfer moneys to others whether in Dominica or elsewhere.

Ch. 67:01.

(3) For the avoidance of doubt a reference to “public institution” shall not be construed as a reference to the Roseau City Council, the Portsmouth Town Council, the Canefield Urban Council, the Carib Reserve Council or any Village Council.

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

Application of Act.

PART II

INTEGRITY COMMISSION

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

Establishment of
Integrity Commission.

-
- (a) a Chairman, who shall be a former Judge of the High Court, an attorney-at-law of fifteen years standing at the Bar or a former Chief Magistrate, appointed by the President on the advice of the Prime Minister;
 - (b) two members appointed by the President on the advice of the Prime Minister;
 - (c) two members appointed by the President on the advice of the Leader of the Opposition;
 - (d) a chartered or certified accountant appointed by the President on the recommendation of the Institute of Chartered Accountants of Dominica or like body however described;
 - (e) an attorney-at-law appointed by the President on the recommendation of the Dominica Bar Association.

(2) The Prime Minister shall consult with the Leader of the Opposition before tendering any advice under subsection (1) (a).

(3) Members appointed pursuant to subsection (1) (b) and (c) shall be persons of high public standing and reputation for personal integrity.

Disqualification from membership.

5. A person shall not be qualified to be appointed as a member of the Commission if that person -

- (a) is a person in public life or is otherwise exercising a public function;
- (b) would otherwise be disqualified to be a member of the House of Assembly;
- (c) has, at any time during three years immediately preceding the date of appointment, been a public officer; or

(d) has, at any time during five years immediately preceding the date of appointment, held office in a political party.

6. (1) A member other than the Chairman may at any time resign his office by instrument in writing addressed to the President and transmitted through the Chairman and, from the date of receipt of the instrument by the President, that person ceases to be a member.

Resignation of members.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the President and, from the date of receipt of the instrument by the President that person ceases to be Chairman and a member of the Commission.

7. (1) A vacancy in the membership of the Commission occurs-

Vacancy in membership.

- (a) on the absence of a member from three consecutive meetings of the Commission, unless the absence is approved by the President;
- (b) at the expiration of three years from the date of the appointment of a member;
- (c) if a member with his consent is nominated for election as a representative in the House of Assembly or is appointed a Senator;
- (d) if a member is appointed to any office of emolument in the service of the Government of Dominica; or
- (e) on the death, resignation or revocation of the appointment, of a member.

(2) The Chairman and other members of the Commission shall receive such remuneration as shall be determined by the Cabinet.

(3) A member may be removed from office by the President for inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause,

or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(4) A member shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (5) and the tribunal has recommended to the President that he ought to be removed for inability to discharge the function of this office or for misbehaviour.

(5) Where the President, acting after consultation with the Prime Minister and the Leader of the Opposition, considers that the question of removing a member ought to be investigated the President shall appoint a tribunal which shall consist of one person being a Judge of the High Court, the Chief Magistrate or an attorney-at-law of fifteen years standing at the bar to enquire into the matter and report on the facts thereof to the President and recommend to him whether the member ought to be removed under this section.

(6) The tribunal, appointed under subsection (5), shall give the member an opportunity to show cause why he should not be removed from office.

(7) Where the question of removing a member has been referred to a tribunal under this section, the President, acting after consultation with the Prime Minister and the Leader of the Opposition, may suspend the member from the exercise of the functions of his office and any such suspension may at any time be revoked by the President, acting in accordance with this section and shall in any case cease to have effect if the tribunal recommends to the President that the member should not be removed.

Publication in the
Gazette.

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

Functions of the
Commission.

9. The Commission shall -

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

-
- (b) make such enquiries as it considers necessary in order to verify or determine the accuracy of any declarations filed under this Act;
 - (c) without prejudice to the provisions of any other enactment, inquire into any allegation of bribery or act of corruption under this Act;
 - (d) receive and investigate complaints regarding non-compliance with any provision of this Act; and
 - (e) perform such other functions as is required under this Act.

Form 2.
Third Schedule.

10. (1) The Commission shall meet at such times as may be expedient for the Commission to carry out its functions.

Proceedings and meetings.

(2) A quorum of the Commission shall be four.

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

11. (1) The Commission shall have the powers, rights and privileges of the Supreme Court at a trial, in respect of -

Powers of the Commission to summon and examine witnesses.

- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
- (b) compelling the production of documents; and
- (c) the issue of a commission or request to witnesses abroad.

(2) Section 17 of the Commissions of Inquiry Act shall apply *mutatis mutandis* for the purposes of subsection (1).

(3) The forms of summons for the attendance of witnesses or other persons or the production of documents shall be in Form 1 as set out in the Third Schedule.

Form 1.
Third Schedule.

12. (1) There shall be a Secretary to the Commission who shall be a public officer.

Secretary to the Commission

(2) The duties of the Secretary shall be -

- (a) to attend meetings of the Commission;
- (b) to record the minutes of each meeting in proper form; and
- (c) generally to perform duties connected with the work of the Commission

Commission not subject to control or direction.

13. The Commission shall in the exercise of its functions under this Act not be subject to the control or direction of any person or authority.

PART III

FINANCIAL DISCLOSURE

Declaration of financial affairs.

14. (1) Every person in public life shall file a declaration with the Commission setting out -

- (a) his office or offices;
- (b) his income, assets and liabilities;
- (c) the assets of his wife, children or relative acquired through or traceable to his income; and
- (d) gifts made by him in value exceeding one thousand dollars.

Form 2.
Third Schedule.

(2) The declaration shall be in Form 2 of the Third Schedule.

(3) The Commission shall examine every declaration furnished to it and may request from the declarant any information or explanation relevant to a declaration made, which in its opinion, would assist it in its examination.

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

Form 3
Third Schedule.

15. The Commission may require a declarant to furnish such further particulars relating to his financial affairs as it considers necessary for the purposes of section 9 (b) or section 16.

Commission may require further particulars of financial affairs.

16. (1) A person in public life shall, in respect of each income year, file a declaration required under this Act within three months after the end of that income year.

Filing of declarations.

(2) The declaration shall be filed irrespective of the fact that, during the income year in respect of which the declaration is required or in the following two income years, the declarant ceased to be a person in public life, otherwise than by reason of death.

(3) Notwithstanding subsection (1), where on the day this Act comes into operation a person is in public life, that person shall complete and file with the Commission a declaration in Form 2 of the Third Schedule within three months of that day.

Form 2
Third Schedule.

(4) Notwithstanding subsection (1), a person who becomes a person in public life after the commencement of this Act shall, not later than three months of his becoming a person in public life, file a declaration in Form 2 of the Third Schedule with the Commission.

Form 2.
Third Schedule.

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

(6) For the purpose of this section “income year” means a calendar year.

17. Where a person in public life holds money or other property in trust for another person, he shall so state in his declaration.

Trust property.

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

Income, assets and liabilities of agent.

Blind Trusts.

19. (1) A person in public life may place his assets or part thereof in a blind trust for the purpose 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 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) A blind trust is created if a person in public life enters into an agreement with a qualified trust company whereby -

- (a) all or part of his assets are conveyed to the trust company for its management, administration and control, in its absolute discretion without recourse or report to the persons beneficially entitled to those assets;
- (b) income derived from the management of the assets is to be distributed to him as agreed;
- (c) conversion of assets into other assets are not to be communicated to him, until he ceases to be a person in public life; and
- (d) after he ceases to be a person in public life proper and full accounting is to be made to him, as the circumstances of the management of the trust require.

(4) A trust company is a qualified trust company if -

- (a) it is incorporated in Dominica and is carrying on business in Dominica;
- (b) no more than ten per cent 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 holds no directorship or office in the trust company or its affiliate.

(5) For the purpose of this section, a person is associated with another person where the second mentioned person is-

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

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

(7) In subsection (5)-

- (a) “child” means the offspring of a person, a step-child, a child born out of wedlock, a child of the family, or a child adopted under the Adoption of Infants Act; Ch. 37:03.
- (b) “control” shall be construed within the meaning of “controlled company” under section 41(3) of the Income Tax Act. Ch. 67:01.
- (c) “spouse” includes common law husband, common law wife, reputed wife and reputed husband.

20. The declarations filed with the Commission and the records of the Commission in respect of those declarations are secret and confidential and shall not be made public, except where a particular declaration or record is required to be produced for the purpose of, or in connection with any court proceedings against, or enquiry in respect of a declarant under this Act, the Commissions of Inquiry Act or perjury under the Perjury Act.

Secrecy and confidentiality.

Ch. 19:01. Ch. 10:30.

Information not to be communicated to unauthorised persons.

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

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

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

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

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

(4) An unauthorised person who publishes information which comes to his knowledge under subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or one year imprisonment or to both such fine and imprisonment.

Form 1.
Third Schedule.

Failure to file declaration.

22. Where a person who is required to file a declaration under section 16 fails to file the declaration in accordance with this Act or fails to furnish particulars under section 15 or section 17, the Commission shall publish the fact in the *Gazette* and send a report to the Director of Public Prosecutions for further action.

Commission may hold formal inquiry.

23. (1) The Commission may, in accordance with the provisions of this section and section 24, enquire into the accuracy or fullness of a declaration filed with it if the Commission considers it necessary or expedient to so enquire.

(2) Where the Commission considers it necessary or expedient to enquire into the accuracy or fullness of a declaration filed with it, the Commission may, under subsection (3), advise the President to appoint a Tribunal for that purpose.

(3) The President shall, on the advice of the Commission, appoint a Tribunal comprising three members of the Commission to conduct an inquiry to verify the contents of a declaration or other statement filed with the Commission.

(4) For the purposes of any inquiry under this section a Tribunal may, subject to subsection (5), 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) attends before the Tribunal to give such information as it may require to satisfy itself that it is in possession of all material facts; or
- (b) furnish such information or documents as would assist the Tribunal in verifying the declaration.

(5) An inquiry may not be commenced after five years from the date when the person in respect of whose declaration the inquiry is being conducted ceased to be a person in public life.

(6) Where the Commission has reasonable cause to believe that a breach of any of the provisions of this Act may have been committed, the Commission shall refer the matter to the Director of Public Prosecutions for further action.

24. In conducting an inquiry under section 23, a Tribunal shall have and exercise the powers of a Commission of Inquiry, under the Commissions of Inquiry Act except that -

Powers of Tribunal.

Ch. 19:01

- (a) the proceedings shall be held in private; and
- (b) the form of summons for the attendance of witnesses or other persons or production of documents shall be as in Form 1 of the Third Schedule.

Form 1.
Third Schedule.

25. Where, from an inquiry under section 23, a Tribunal finds that a declarant had in fact made full disclosure in his declaration, it shall, if so requested in writing by the declarant, publish a statement to that effect in the *Gazette* and in a newspaper.

Findings of Tribunal

Indemnity.

26. Where upon an inquiry a Tribunal finds that the declaration which gave rise to the inquiry was in fact full and proper, the declarant is entitled to full indemnity and shall be reimbursed from the Consolidated Fund, for all expenses reasonably incurred as may be determined by the Tribunal.

Offences.

27. (1) A person who -

- (a) fails, without reasonable cause, to furnish to the Commission a declaration or further particulars thereof which he is required to furnish in accordance with this Act;
- (b) knowingly makes a declaration which is false in some material particular;
- (c) fails, without reasonable cause, to give such information as a Tribunal may require under section 23; or
- (d) fails, without reasonable cause, to attend an inquiry being conducted under section 23 or gives any false information in such inquiry,

commits an offence, and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years or to both such fine and imprisonment.

(2) a person who aids, abets or facilitates another person in the commission of an offence under sub-section (1) commits an offence and the first mentioned person is liable on summary conviction to a fine of fifteen thousand dollars or to imprisonment for a term of two years or to both such fine and imprisonment.

(3) Where the offence under subsection (1) involves the non-disclosure of property acquired while in public life, the Court may, if satisfied that such property was acquired but not declared as required under this Act, in addition to the penalty specified under subsection (1) -

- (a) where the property involved is situated in Dominica, declare that it be forfeited to the State; or

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

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

(5) Payment of all sums due to the State pursuant to subsection (3)(b) or subsection (4) may be enforced as a debt due and owing to the State and any proceedings thereon on behalf of the State may be taken.

28. No prosecution for an offence under this Part, other than an offence under section 15 may be instituted after five years from the date when the person, in respect of whose declaration or financial affairs the alleged offence was committed, ceased to be a person in public life.

Prosecutions.

29. For the purposes of the Income Tax Act, all outgoings and expenses reasonably incurred in a year of income by a person in public life in connection with the preparation of a statutory declaration required to be furnished by him for the purposes of this Act are deemed to be incurred by him wholly, exclusively and necessarily in the production of his income for that year of income.

Deductible income tax expenses.
Ch. 67:01.

PART IV CODE OF CONDUCT

30. (1) Every person in public life shall observe the body of rules known as the Code of Conduct, specified in the Second Schedule.

Code of Conduct.
Second Schedule.

(2) A person in public life who is in breach of the Code of Conduct commits an offence, and is liable, on summary

conviction, to a fine of ten thousand dollars or to imprisonment for a term of one year or to both such fine and imprisonment.

Complaint to
Commission.

31. A person who has reasonable grounds to believe that any person in public life has breached any provision of the Code of Conduct may make a complaint in writing to the Commission stating -

- (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 in Regulations made 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 of the Integrity Commission.

Rejection of complaint
by Commission.

32. (1) Where a complaint has been sent to the Commission under section 31, the Commission, after examining the complaint, may reject the complaint if the Commission is of the opinion that-

- (a) the complaint is frivolous; or
- (b) it does not pertain to a matter the Commission is empowered to deal with under this Act.

(2) Where the Commission rejects a complaint, the person against whom the complaint was lodged shall have the right to institute legal proceedings against the complainant; but it shall be a defence that the complaint was not made maliciously, frivolously or in bad faith.

(3) No complaint shall be rejected by the Commission without giving the complainant a reasonable opportunity of being heard.

33. (1) Where upon examination of a complaint made under section 31, or otherwise, the Commission is of the view that investigation is necessary to ascertain whether any person in public life commits a 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 hear arguments in the course of any inquiry under subsection (1) shall be held in private.

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

34. (1) On the conclusion of any inquiry under section 33, the Commission shall submit a report to the Director of Public Prosecutions and the President.

Report to Director of Public Prosecutions.

(2) Where the Director of Public Prosecutions is satisfied, on the examination of the report referred to in subsection (1) and other relevant evidence, that any person in public life ought to be prosecuted for an offence under section 30, he shall institute and undertake criminal proceedings against the person in public life.

(3) Where the Commission has forwarded to the Director of Public Prosecutions a report under subsection (1), the Director of Public Prosecutions shall inform the Commission and the President, in writing, about the action taken in pursuance of the report.

Form 4.
Third Schedule.

PART V

GIFTS

35. (1) It is unlawful for a person in public life to accept a gift from any person as a reward for any official act done by the person in public life or as an inducement for any official act to be done by the person in public life.

Report to the Commission of gifts.

(2) Notwithstanding subsection (1) it shall not be unlawful for a person in public life to accept a gift or reward from -

- (a) a foreign dignitary on the occasion of an official visit if the person in public life has reasonable grounds to believe that refusal of the gift or reward may offend the dignitary;
- (b) a community organization on a social occasion where the gift or reward represents the work or achievement of the community organization;
- (c) another person on the occasion of the marriage, retirement or transfer of the person in public life or such other social or celebratory occasion.

(3) Where a person in public life accepts a gift in circumstances specified in subsection (2), the person in public life shall make a report of such acceptance in Form 4 of the Third Schedule to the Commission within thirty days of receipt of the gift.

Form 4
Third Schedule.

(4) Where the Commission finds through an inquiry that the gift was given to the person in public life personally and -

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

the Commission shall allow the person in public life to retain the gift.

(5) Where the Commission finds through an inquiry that the gift was given to the person in public life as a State gift or was given to the person in public life personally but that gift -

- (a) was not trivial; or

- (b) was intended to be a motive reward for doing or abstaining from doing anything in the course of the performance of his official functions or causing any other person from doing or forbearing to do anything,

the Commission shall direct the person in public life in writing to deliver the gift to the Financial Secretary 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.

(6) A person in public life is entitled to notice of the proceedings of any inquiry under subsection (4) or (5) and is entitled to be represented at the inquiry, either in person or by an attorney-at-law.

(7) Where a gift is delivered to the Financial Secretary pursuant to subsection (5) it shall be dealt with as a gift to the State.

36. Any person in public life who -

- (a) makes a report to the Commission under section 35(3) which is incomplete or false in any material particular;
- (b) fails to comply with a direction given by the Commission under section 35(5),

Penalty for contravening section 31.

commits an offence, and is liable on summary conviction, to a fine, equal to the value of the gift involved in the commission of the offence or seven thousand five hundred dollars, whichever is greater and to imprisonment for three months.

PART VI

BRIBERY AND OTHER ACTS OF CORRUPTION

37. (1) In this Part, unless the context otherwise requires -
“advantage” means -

Interpretation.

-
- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or other property or interest in property of any description;
 - (b) any office, employment or contract;
 - (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
 - (d) any other service, or favour including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
 - (e) the exercise of forbearance from the exercise of any right, power or duty; and
 - (f) any offer, undertaking or promise, whether conditional or unconditional, or any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) or (e);

“public body” means -

- (a) the Government;
- (b) a Ministry or Department of the Government;
- (c) the House of Assembly;
- (d) a corporation established by an Act for public purposes or any subsidiary company thereof registered under the Companies Act;
- (e) any board, commission, authority, committee or such other body, whether paid or unpaid, appointed by the President or a Minister of the Government.

“prescribed officer” means a police or public officer or any employee or member of a public body, whether temporary or permanent and whether paid or unpaid.

(2) For the purposes of this Part -

- (a) a person offers an advantage if he, or any other person acting on his behalf, directly or indirectly

gives, affords or holds out, or agrees, undertakes or promises to give, afford or hold out, any advantage to or in trust for any other person;

- (b) a person solicits an advantage if he, or any other person acting on his behalf, directly or indirectly demands, invites, asks for or indicates willingness to receive, any advantage, whether for himself or for any other person; and
- (c) a person accepts an advantage if he, or any other person acting on his behalf, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any advantage, whether for himself or for any other person.

38. (1) Any person who, without lawful authority or reasonable excuse, offers any advantage to a prescribed officer as an inducement to or reward for or otherwise on account of the prescribed officer -

Offence of bribery.

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a prescribed officer commits an offence;
- (b) expediting, delaying, hindering or preventing, the performance of an act, whether by that prescribed officer or by any other prescribed officer in his or that other prescribed officer's capacity as a prescribed officer commits an offence; or
- (c) assisting, favouring, hindering, or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body commits an offence.

(2) Any prescribed officer who, without lawful authority or reasonable excuse, solicits, or accepts any advantage as an inducement to or reward for or otherwise on account of his -

-
- (a) communicating to another person any classified or confidential information obtained in the performance of his functions as a prescribed officer commits an offence;
 - (b) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a prescribed officer commits an offence;
 - (c) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered, or prevented, the performance of an act, whether by himself or by any other prescribed officer in his or that other prescribed officer's capacity as a prescribed officer commits an offence; or
 - (d) assisting, favouring, hindering, or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body commits an offence.

Bribery for giving assistance, etc. in regard to contracts.

39. (1) Any person who, without lawful authority or reasonable excuse, offers an advantage to a person in public life as an inducement to or reward for or otherwise on account of such person in public life giving assistance or using influence in, or having given assistance or used influence in-

- (a) the promotion, execution, or procuring of any contract with a public body for the performance of any work, the providing of any service, the doing of any thing or the supplying of any article, material or substance commits an offence;
- (b) the promotion, execution or procuring of any subcontract to perform any work, provide any service, do any thing or supply any article, material or substance required to be performed, provided, done or supplied under any contract with a public body commits an offence;

(c) the payment of the price, consideration or other money stipulated or otherwise provided for in any such contract or subcontract referred to in subparagraphs (a) or (b) commits an offence.

(2) Any person in public life who, without lawful authority or reasonable excuse, solicits or accepts any advantages as an inducement to or reward for or otherwise on account of his giving assistance or using influence in, or having given assistance or used influence in -

(a) the promotion, execution or procuring of; or

(b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in,

any such contract or subcontract as is referred to in subsection (1) commits an offence.

40. Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any public body, offers an advantage to any prescribed officer employed in or by that public body commits an offence.

Bribery of prescribed officers by person having dealing with public bodies.

41. A person who aids, abets or facilitates another person in the commission of any offence under this Part commits an offence.

Aiding and abetting.

42. (1) If, in any proceedings for an offence under any section in this Part, it is proved that the accused accepted any advantage, believing or suspecting or having grounds to believe or suspect that the advantage was given as an inducement to or reward for or otherwise on account of his doing or forbearing to do or having done or forborne to do any act referred to in that section, it shall be no defence that -

Giver and acceptor of advantage guilty notwithstanding.

(a) he did not actually have the power, right or opportunity so to do or forbear;

(b) he accepted the advantage without intending so to do or forbear; or

(c) he did not in fact so do or forbear.

(2) If, in any proceedings for an offence under any section in this Part, it is proved that the accused offered any advantage to any other person as an inducement to or reward for or otherwise on account of that other person's doing, or forbearing to do, or having done, or forborne to do, any act referred to in that section, believing or suspecting or having reason to believe or suspect that such other person had the power, right or opportunity so to do or forbear, it shall be no defence that such other person had no such power, right or opportunity.

Penalty for offences.

43. A person who commits an offence under this Part is liable -

- (a) on conviction on indictment to a fine of twenty-five thousand dollars or to imprisonment for a term of ten years or to both such fine and imprisonment; and
- (b) on summary conviction, to a fine five thousand dollars or to imprisonment for a term of two years or to both such fine and imprisonment,

and shall be ordered to pay to such public body and in such manner as the Court directs, the amount or value of any advantage received by him, or such part thereof as the Court may specify.

Alternative convictions, and amending particulars.

44. (1) If, on the trial of any person for any offence under this Part, it is not proved that the accused is guilty of the offence charged but it is proved that the accused is guilty of some other offence under this Part, the accused may be convicted of such other offence, and be liable to be dealt with accordingly.

(2) If on the trial of any person for any offence under this Part there is any material variance between the particulars of the offence charged and the evidence adduced in support thereof, such variance shall not, of itself, entitle the accused to an acquittal of the offence charged if, in the opinion of the Court, there is *prima facie* evidence of the commission of that offence, and in such a case the Court may, make the necessary amendment to the particulars, and shall thereupon read and explain the same to the

accused and the parties shall be allowed to recall and examine on matters relevant to such amendments any witness who may have been examined and, subject to the provisions of subsection (3), to call any further witness.

(3) If an amendment is made under subsection (2) after the case for the prosecution is closed no further witness may be called by the prosecution other than such and on such matters only as it would, apart from the provisions of this subsection, be permissible to call and put in evidence in rebuttal.

(4) Nothing in this section shall exclude the application of any other law whereby a person may be found guilty of an offence other than that with which he is charged.

45. Where in any proceedings for an offence under this Part it is proved that in seeking to obtain a contract whether from the Government, a government department, a public body or otherwise a person has received an advantage, that advantage shall be deemed to have been made, given or received corruptly as an inducement or reward unless on a balance of probabilities the contrary is proved.

Presumption of corruption.

46. Where a person is convicted of an offence related to bribery, corruption or possession of unaccounted property under this Act, the Court may on an application made by the Director of Public Prosecutions make an order of forfeiture of any property in possession or control of that person that has been, or which the Court has reasonable grounds to believe was, illicitly obtained in, or as a result of, the commission of the offence.

Forfeiture of property.

PART VII

POSSESSION OF UNACCOUNTED PROPERTY

47.(1) A person in public life who is found to be in possession of property or pecuniary resource disproportionate to his legitimate sources of income commits an offence and is liable on summary conviction, to a fine of two thousand dollars and

Possession of unaccounted property or pecuniary resource.

imprisonment for a term of two years, and to forfeiture of the assets so found.

(2) Where a person, who is or was a person in public life, or any other person on his behalf, is suspected to be in possession of property or pecuniary resource disproportionate to his legitimate sources of income, the Commission shall conduct an inquiry into the source of income of the person.

(3) On the conclusion of any inquiry under subsection (2), the Commission shall submit a report to the Director of Public Prosecutions and the President.

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

(5) Where the Commission has forwarded to the Director of Public Prosecutions a report under subsection (3), the Director of Public Prosecutions shall inform the Commission and the President, in writing, about the action taken in pursuance of the report.

(6) 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 legitimate sources of income.

PART VIII

MISCELLANEOUS PROVISIONS

48. (1) Subject to subsection (3), the Commission shall as soon as possible but not later than two months after the end of each financial year, make a report to the Minister of its activities in the preceding year and the report shall be tabled in the House of Assembly not later than three months after receiving the report.

(2) The report under subsection (1) shall not disclose the particulars of any declaration filed with the Commission. (Section 29).

(3) The Commission shall make its first report to the Minister not later than one month after the end of its first year of operation and the report shall be tabled within three months of its submission to Parliament.

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

(2) The staff of the Commission shall be public officers appointed in accordance with section 85 of the Constitution. S.I. 1978 No. 1027 (U.K.)

50. (1) A member of the Commission or the Secretary to the Commission shall not enter upon the duties of his office until he has taken the oath of allegiance, oath of office and oath of secrecy as specified in the Fourth Schedule. Oaths. Fourth Schedule.

(2) A staff member of the Commission shall not enter upon the duties of his office until that member has taken the oath of office and the oath of secrecy as specified in the Fourth Schedule. Fourth Schedule.

51. (1) No member or employee of the Commission shall be liable to any action or suit in respect of anything done in good faith in the performance of his functions as a member or employee as the case may be of the Commission. Immunities.

(2) A witness before the Commission is entitled to the same immunities and privileges as if he were a witness before a Commission of Inquiry set up under the Commissions of Inquiry Act. Ch. 19:01

52. (1) All expenses incurred by the Commission for the purposes of this Act are a charge on the Consolidated Fund. Charge on Consolidated Fund.

(2) The Commission shall on or before the thirty-first day of January in each year submit to the Minister responsible for

Finance for approval, its estimates of expenditure in respect of the next financial year.

(3) The Commission shall keep proper accounts of receipts, payments, assets and liabilities and those accounts shall be audited by the Director of Audit or an auditor appointed by the President.

Assistance by
Commissioner of Police.

53. Where the Commission requests the Commissioner of Police for any assistance, in connection with the performance of its functions, the Commissioner of Police shall provide or ensure the provision of such assistance to the Commission.

Offence of obstruction of
duty.

54. (1) A person who obstructs or attempts to obstruct a member or employee of the Commission in the proper discharge of any of his duties or functions under this Act commits the offence of obstruction of duty;

(2) A person commits an offence if that person -

- (a) participates as an accomplice in, or contributes to, the Commission of the offence of obstruction of duty;
- (b) organizes or directs others to commit the offence of obstruction of duty.

Burden of proof and
penalty for false
allegation.

55. (1) In any proceedings commenced on the allegations made by a person against a person in public life the burden of proof shall be on the person making such allegations.

(2) A person who makes false allegations whether in writing or not against any person in public life, otherwise than under the procedure prescribed under this Act, commits an offence and on conviction be liable to the penalty set out in paragraph (a) or (b) of subsection (3);

(3) A person who maliciously makes a false allegation or maliciously provides false information related to bribery, corruption

or to possession of unaccounted property commits an offence and is liable-

- (a) on indictment on conviction to a fine of \$30,000.00 or to imprisonment for a term of five years or to both such fine and imprisonment;
- (b) on summary conviction to a fine of \$15,000.00 or to a term of imprisonment for three years.

56. No prosecution for an offence under this Act, other than the offence under section 11, may be instituted without the consent of the Director of Public Prosecutions.

Consent of the Director of Public Prosecutions.

57. A person found guilty of an offence under this Act for which no penalty is prescribed is liable, on summary conviction, to a fine of five thousand dollars or to imprisonment for a term of six months or to both such fine and imprisonment.

General penalty clause.

58. Subject to this Act and the Regulations made thereunder, the Commission may make Rules to regulate its procedures.

Power of Commission to make Rules.

59. The Minister may make Regulations -

Power of Minister to make Regulations.

- (a) with respect to -
 - (i) the procedure of the Commission;
 - (ii) the particulars that a complaint under section 30 should contain;
 - (iii) any other matter that is required to be prescribed by Regulations under this Act;
- (b) subject to negative resolution of the House of Assembly to amend any Schedule; and
- (c) generally, for the effective implementation of the provisions of this Act.

Third Schedule.

(section 2.)

FIRST SCHEDULE

OFFICES RESPECTING PERSONS IN PUBLIC LIFE

PART I

1. Adviser or Assistant to the Prime Minister and other Ministers;
2. Assistant Superintendent of Prisons;
3. Chairman of a public institution;
4. Chief Technical Officer;
5. Chief Fire Officer;
6. Deputy Chief Fire Officer;
7. General Manager of a public institution;
8. Gazetted Police Officer;
9. Managing Director of a public institution;
10. Member of the House of Assembly;
11. Minister of Government;
12. Parliamentary Commissioner;
13. Parliamentary Secretary;
14. Permanent Secretary;
15. Speaker of the House of Assembly
16. Superintendent of Prisons;

PART II

1. Assistant Superintendent of Prisons;
2. Chief Technical Officer;
3. Chief Fire Officer;
4. Deputy Chief Fire Officer;
5. Gazetted Police Officer;
6. Permanent Secretary;
7. Superintendent of Prisons;

SECONDSCHEDULE

(Sections 30, 34.)

CODE OF CONDUCT

1. A person in public life shall not -
 - (a) in return for anything done, or to be done, or omitted to be done in the execution of his duties, ask for or accept for himself or any person, any money, property, benefits or favours of any kind over and above that which he is lawfully entitled to receive for the performance of his duties;
 - (b) in the course of the performance of his official functions discriminate against any person with respect to terms, conditions and privileges of employment or other official matters because of that person's race, place of origin, political opinion, colour, creed or gender;
 - (c) for himself or for anyone else accept any gifts, benefit or advantage from any one, except personal gift 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;
 - (d) allow private interests to conflict with his public duties or improperly influence his conduct in the performance of his public duties; allow the pursuit of his private interest to interfere with the proper discharge of his public duties; and any conflict between his private interests and his public duties shall be reserved in favour of his public duties;
 - (e) 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;
 - (f) 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 docu-

ment, or any information, or matter required in the course of his official duties which are not available to the public;

- (g) use or allow the use of public property (including money), equipment, supplies or services for any purpose other than for officially approved purposes;
- (h) acquire or become a partner or shareholder in, or director or manager of, a firm or company which has or had a contract with the government or with the public body of which that person is or was a member or employee, during the tenure of his office; and
- (i) in the course of the performance of his official duties, aid, abet, counsel, procure or command any other person to commit a breach of this Code of Conduct.

2. Paragraph 1(c) does not apply to gifts received on behalf of the State by a person in public life in the course of the performance of his official functions.

3. Paragraph 1(h) does not apply where the person to whom this Code applies makes a public disclosure of such partnership, shareholding or other interest and the value of the contract, or where there is more than one contract the sum total of the values of such contracts, is not more than fifty thousand dollars in any one year.

FORM2

DECLARATION OF INCOME, ASSETS AND LIABILITIES

NAME OF DECLARANT

OFFICE

.....

ADDRESS

NAME OF SPOUSE

ADDRESS

.....

NAMES OF CHILDREN

.....

ADDRESS

.....

1. INCOME:

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

2. ASSETS:

(a) Real Property

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

**FORM 3
CERTIFICATE**

NAME OF DECLARANT

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

.....
Chairman of the Integrity Commission

**FORM 4
REPORT OF GIFT RECEIVED**

TO: THE CHAIRMAN
INTEGRITY COMMISSION

NAME OF DECLARANT:

POSITION OF DECLARANT.....

DESCRIPTION OF GIFT:

PERSON WHO MADE THE GIFT:

DATE OF GIFT:

VALUE OF GIFT:

.....
SIGNATURE

“FOURTH SCHEDULE

(Section 50)

OATHS

Oath of Allegiance

I,, do swear that I will be faithful and bear true allegiance to the Constitution, Government and People of the Commonwealth of Dominica.

So help me God!

.....

Oath of office

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

So help me God!

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

.....

PRESIDENT
COMMONWEALTH OF DOMINICA

Oath of Secrecy

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

.....”

Passed in the House of Assembly this 30th day of April, 2003.

ALEX F. PHILLIP (MRS.)
Clerk of the House of Assembly