

THE INTEGRITY IN PUBLIC LIFE (AMENDMENT)
BILL, 2009

Arrangement of Clauses

Clause

1. Short title
2. Interpretation
3. Section 5 amended
4. Section 8 amended
5. Section 9 amended
6. Section 11 amended
7. Section 12 amended
8. Section 13 amended
9. Section 18 amended
10. Section 21 amended
11. Section 27 amended
12. Part V repealed and substituted
13. Section 35 repealed and substituted
14. Section 39 amended
15. Section 42A inserted
16. Section 45 inserted
17. Schedule renumbered and inserted

No. 9 of 2009

Second Session Ninth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Integrity in Public Life Act,
Chap. 22:01

THE INTEGRITY IN PUBLIC LIFE (AMENDMENT)
BILL, 2009

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to amend the Integrity in Public Life Act, 2000.

Clause 1 of the Bill contains the short title.

Clause 2 of the Bill contains the interpretation provision.

Clause 3 of the Bill seeks to amend section 5 of the Act, which deals with the functions of the Commission. The proposed amendment seeks to allow the Commission to receive and investigate complaints under the Integrity in Public Life Act, as well as the Prevention of Corruption Act.

Clause 4 of the Bill would amend section 8 of the Act, by empowering the President, in stipulated circumstances, to terminate the appointment of a member of the Commission.

Clause 5 of the Bill seeks to amend section 9(6) of the Act, to substitute the words “public officer” for the words “officer in the public service”.

Clause 6 of the Bill seeks to amend section 11 of the Act, to authorize a person not to include in his declaration of income, assets or liabilities which do not exceed in value the sum of ten thousand dollars. This clause would also increase from six months to twelve months the extended period that the Commission may grant for the furnishing of a declaration.

Clause 7 of the Bill would amend section 12 of the Act, to limit the additional particulars that can be requested by the Commission to only those the quantum of which are ten thousand dollars or more.

Clause 8 of the Bill would amend section 13 of the Act, to preclude the Commission from requesting from a declarant information or explanations where the sum involved is less than ten thousand dollars. A new subsection (5) would be inserted to enable a declarant to receive a certificate of compliance where the Commission has not requested any further information or explanation for a period of eighteen months after the day on which the declaration was filed.

Clause 9 of the Bill seeks to amend section 18 of the Act, to widen the circulation of the required statement by prescribing that it be published also in “at least one daily newspaper in circulation in Trinidad and Tobago”.

Clause 10 of the Bill seeks to bar all criminal proceedings allegedly committed in breach of the Act, other than under section 20(5), against a person in public life after five years from the date on which he ceases to be a person in public life.

Clause 11 of the Bill would repeal section 27 of the Act and substitute a new section that would, *inter alia*, increase from two thousand dollars to five thousand dollars the upper limit of the value of a gift or personal benefit, that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office, which is not subject to the requirement for a statement indicating the nature of the gift or benefit, its source and the circumstances under which it was given or accepted, in the filing of a declaration.

Clause 12 would repeal Part V and substitute a new Part V which would put in place an enhanced complaints and investigation procedure.

Clause 13, seeks to amend section 35 of the Act, by repealing subsection (1) which prohibits disclosure of information by the Commission in certain circumstances and substituting a new subsection that includes permission for disclosure under sections 33(2) and 34A(7).

Clause 14 would amend section 39 of the Act, so that members of the Commission would no longer be exempt from liability for anything done under the Act but will be so exempt for anything done in good faith under the Act.

Clause 15 seeks to amend the Act by inserting a new section 42A that would protect employees of the State, public or private bodies from unjust repercussions owing to their action in good faith under the Act.

Clause 16 would amend the Act, by inserting a new section 45 which would make transitional arrangements.

Clause 17 would renumber the Schedule as Schedule 1 and insert a new Schedule 2 which would contain the new complaints form.

BILL

AN ACT to amend the Integrity in Public Life Act,
Chap. 22:01

[, 2009]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:—

1. This Act may be cited as the Integrity in Public Short title
Life (Amendment) Act, 2009.

Intepretation
Chap. 22:01

2. In this Act, “the Act” means the Integrity in Public Life Act.

Section 5 amended

3. Section 5(1) of the Act is amended by deleting paragraph (e) and substituting the following paragraph:

“(e) receive and investigate complaints regarding any alleged breaches of this Act or the alleged commission of any offence under the Prevention of Corruption Act;”.

Section 8 amended

4. Section 8 of the Act is amended by repealing subsection (2) and substituting the following subsection:

“(2) The President shall terminate the appointment of a member of the Commission where the member—

- (a) is found to be of unsound mind and is incapable of carrying out his duties;
- (b) becomes bankrupt or compounds with his creditors;
- (c) is convicted of any offence which brings his office into disrepute;
- (d) is guilty of misconduct in relation to his duties;
- (e) misbehaves in office;
- (f) is absent from three or more consecutive meetings without approval under subsection (1)(b);
- (g) fails to carry out any of the duties or functions conferred on him under this Act; or
- (h) is incapable for whatever reason, of performing his duties and functions under this Act.”.

Section 9 amended

5. Section 9(6) of the Act is amended by inserting before the word “officer”, the word “public” and by deleting the words “in the Public Service”.

6. Section 11 of the Act is amended—

Section 11 amended

(a) by inserting after subsection (1), the following subsection:

“ (1A) A person shall not be required to include in the declaration, income, assets or liabilities, the value of which, respectively, do not exceed ten thousand dollars.”; and

(b) in subsection (2), by inserting before the word “period”, the word “further” and deleting the word “six” and substituting the word “twelve”.

7. Section 12(2) of the Act is amended by inserting Section 12 amended after the words “additional particulars”, the words “where such additional particulars are in the sum of ten thousand dollars or more”.

8. Section 13 of the Act is amended by inserting after Section 13 amended subsection (3), the following subsections:

“ (4) The Commission may not make a request under subsection (1) or a requirement under subsection (2) where the sum involved is less than ten thousand dollars.

(5) Where a declarant has filed a declaration required by this Act and—

(a) the Commission has not requested from the declarant any information or explanation in accordance with subsection (1); or

(b) the Commission has not made a request under subsection (2) and,

a certificate of compliance has not been forwarded to him within eighteen months after the day on which the declaration was filed, the declaration shall be deemed to have been fully made.”.

Section 18 amended **9.** Section 18 of the Act is amended by inserting after the word “*Gazette*” the words “and at least one daily newspaper in circulation in Trinidad and Tobago”.

Section 21 amended **10.** Section 21 of the Act is amended by repealing subsection (5) and substituting the following subsection:

“ (5) No prosecution for an offence under this Act, other than an officer under section 20(5) shall be instituted—

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

(b) 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.”.

Section 27 repealed and substituted **11.** Section 27 of the Act is repealed and the following section is substituted:

“ 27. (1) A person to whom this Part applies shall not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of the duties of his office.

(2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

(3) Where a gift or personal benefit referred to in subsection (2) exceeds five thousand dollars in value or where the total value received directly or indirectly from one source in any twelve-month period exceeds five thousand dollars, a person in public life shall file with his declaration, a statement indicating the nature of the gift or benefit, its source and the circumstances under which it was given or accepted.

(4) For the purposes of this section, the amount of a gift comprising property, other than money, shall be deemed to be an amount equal to the value of the property.”

12. Part V of the Act is repealed and the following Part substituted: Part V repealed and substituted

“PART V

POWER OF INVESTIGATION

Complaint to Commission 32. (1) A member of the public who wishes to make a complaint that a person in public life or any person exercising a public function—

- (a) is in contravention of this Act;
- (b) in relation to the Register of Interests, has a conflict of interest;
or
- (c) is committing or has committed an offence under the Prevention of Corruption Act,

shall submit the complaint in writing to the Commission, duly sworn as a statutory declaration in the form specified in Schedule 2.

(2) The complaint referred to in subsection (1) shall state—

- (a) the particulars of the alleged breach or alleged act of corruption supported by documentary evidence and sworn statements;
- (b) the particulars, as far as they are known, of the person against whom the complaint is made; and
- (c) such other particulars as may be prescribed by Regulations made by the Commission.

(3) A complaint to the Commission under this section may be submitted in person or by registered post to the Registrar or to such other person as the Commission may designate.

Power of
Commission
to consider
and investi-
gate

33. (1) The Commission—

- (a) may, where it is necessary, on its own initiative, upon examination of a declaration furnished pursuant to section 11; or
- (b) shall, upon the complaint of any member of the public made in accordance with section 32,

consider and examine any alleged breach of the Act or any allegations of an offence under the Prevention of Corruption Act.

(2) The Commission shall—

- (a) notify a person against whom allegations of breach of this Act or allegations of an offence under the Prevention of Corruption Act have been made, of the fact of such allegations;
- (b) notify a person against whom a complaint has been made that he is the subject of a complaint; and
- (c) submit to the person referred to in paragraphs (a) and (b), details of the complaint or allegations together with copies of any supporting documents specified in section 32(2).

Rejection
of complaint
by
Commission

34. (1) The Commission may, on receipt of a complaint and after examining same, reject the complaint if the Commission is of the opinion that the complaint—

- (a) is frivolous or vexatious;
- (b) was not made in good faith;
- (c) is devoid of sufficient grounds for an investigation;
- (d) is not supported by evidence of probative value; or
- (e) does not pertain to a matter the Commission is empowered to deal with under this Act.

(2) Where the Commission has rejected a complaint it shall—

- (a) inform the complainant in writing of the decision within fourteen days of the date the decision was made; and
- (b) provide the complainant with the reasons for its decision.

Special
powers of
investigation

34A. (1) Where, in the exercise of its functions under section 33, the Commission is satisfied that the complaint merits investigation, the Commission—

- (a) shall within fourteen days authorize an investigating officer to conduct an inquiry into any alleged breach or any alleged offence;
- (b) may require any person, in writing, to produce, within a specified time, all books, records, accounts, reports, data, stored electronically or otherwise, or any other documents relating to the functions of any public or private body;

- (c) may require any person, within a specified time, to provide any information or to answer any question which the Commission considers necessary in connection with any inquiry or investigation which the Commission is empowered to conduct under this Act;
- (d) may require that any further facts, matters or documents relating to the allegations or breach, be verified or otherwise ascertained by oral examination of the person making the complaint; or
- (e) may cause any witness to be summoned and examined upon oath.

(2) In furtherance of an investigation the Commission may—

- (a) require any person to furnish a written statement—
 - (i) enumerating all personal or real property belonging to or possessed by him in Trinidad and Tobago or elsewhere, or held in trust for him, and specifying the date on which each such property was acquired and the consideration paid therefor, and explaining whether it was acquired by way of purchase, gift, inheritance or otherwise;

- (ii) specifying any monies or other property acquired in Trinidad and Tobago or elsewhere or sent out of Trinidad and Tobago by him or on his behalf during a specified period;
- (b) notwithstanding any other written law to the contrary, require any person to furnish all information in his possession relating to the affairs of any person being investigated and to produce or furnish any document or true copy of any document relating to the person under investigation and which is in the possession or under the control of the person required to furnish the information; and
- (c) require the manager of any bank or financial institution, in addition to furnishing information specified in paragraph (b), to furnish any information or certified copies of the accounts or the statement of accounts at the bank or financial institution of any person being investigated.

(3) Where a person fails or refuses to disclose any information or to produce any documents required under subsection (2), the Commission may apply to the High Court for an order to require the person to comply with the request.

(4) A person who refuses to comply with an order of the Court commits an offence and is liable to a fine of one hundred and fifty thousand dollars and to imprisonment for three years.

(5) A person who—

(a) makes or causes to be made a false complaint to the Commission; or

(b) misleads the Commission or an investigating officer by giving false information or making false statements or accusations,

commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for five years.

(6) Where during the course of an investigation, the Commission is satisfied that there are insufficient grounds for continuing the investigation or that the complaint is frivolous, vexatious or not made in good faith, it may terminate the investigation.

(7) Where after the conduct of an investigation, the Commission is satisfied that there are reasonable grounds for suspecting that an offence has been committed, it shall make a written report to the Director of Public Prosecutions who may take such action as he thinks appropriate.

Defence 34B It is a defence for a person who made a complaint in circumstances referred to in section 32 or who misled the Commission or an investigating officer in circumstances referred to in section 34A (5)(b) to prove that the complaint was made in good faith.

Existing
Complaints 34C (1) All complaints submitted to the Commission prior to the coming into force of the Integrity in Public Life (Amendment) Act, 2009, in respect of which an investigation has not commenced, shall be resubmitted by the complainants in accordance with section 32.

(2) Complaints referred to in subsection (1) shall be subject to the provisions of Part V.

(3) Complaints referred to in subsection (1) that are not resubmitted within six months of the day of the coming into force of this Act and in accordance with this section, shall be rejected by the Commission.”.

13. Section 35 of the Act is amended by repealing Section 35 repealed and substituted subsection (1) and substituting the following subsection:

“ (1) The records of the Commission and any information revealed by a witness or by the production of documents, shall not be disclosed other than to such extent as may be necessary for the purpose of—

(a) section 33 (2);

(b) section 34A(7); or

(c) proceedings in any Court relating to a charge under this Act, the Prevention of Corruption Act or any other written law.”.

14. Section 39 of the Act is amended by inserting after Section 39 amended the word “done”, the words “in good faith,”.

Section 42A
inserted

15. The Act is amended by inserting after section 42 the following section:

^{“Protection of employees} 42A. An employee of the State, a public authority or any other body shall not be dismissed, suspended, demoted, disciplined, harassed, denied a benefit or otherwise negatively affected because—

(a) he, acting in good faith and on the basis of a reasonable belief, has—

(i) notified the Commission that his employer or any other person has contravened or is about to contravene this Act;

(ii) done or stated the intention of doing anything that is required to be done in order to avoid having any person contravene this Act; or

(iii) refused to do or stated the intention of refusing to do anything that is in contravention of this Act; or

(b) his employer or any other person believes that he will do something described in paragraph (a).”.

16. The Act is amended by inserting after section 44, ^{Section 45 inserted} the following section:

^{“Transitional} 45. Subject to section 34C of the Act, where anything has been commenced by or under the authority of the Commission under the Integrity in Public Life Act, ^{Chap. 22:01} 2000, such thing may be carried out and completed by or under the authority of the Commission.”.

17. The Act is amended by renumbering the Schedule ^{Schedule renum-} as Schedule 1 and inserting the following ^{bered and inserted} Schedule:

SCHEDULE 2

[Section 32(1)]

THE REPUBLIC OF TRINIDAD AND TOBAGO

THE INTEGRITY COMMISSION

Statutory Declaration

Read carefully the following statements before completing this form:

One of the principal duties of the Integrity Commission is to investigate any alleged breaches of the Integrity in Public Life Act, Chap. 22:01 or any allegations of the commission of an offence under the Prevention of Corruption Act, Chap. 11:11 committed by persons in public life. The person making a complaint should be aware of his or her responsibilities when filing a complaint with the Integrity Commission.

The Integrity Commission cannot initiate an investigation without the receipt of a sworn complaint.

A complaint is not valid unless it is sworn.

This complaint becomes part of the Commission's proceedings and records and, save for its disclosure to the person complained against, it is confidential.

It is an offence, punishable by law, for any person to file a false complaint.

By law the Integrity Commission must send a copy of this complaint to the person against whom the complaint is made (The Respondent).

Person making complaint (*Complainant*):

Name _____
(Last) (First) (Middle)

Address _____

Telephone No. _____
(Area Code, Number)

Person against whom complaint is made (*Respondent*):

Name _____
(Last) (First) (Middle)

Address _____

Title or Position _____

I, _____ do solemnly and sincerely declare as follows:

ALLEGATIONS AND STATEMENT OF FACTS:

(In your own words, please provide a description of any alleged breaches of the Integrity in Public Life Act or the commission of any offence under the Prevention of Corruption Act, which you believe have occurred. The description should include the alleged breach of the Act or any allegations of an offence under the Prevention of Corruption Act and any details relating to it, such as names, dates, places and amounts of money, where possible, and where applicable.)

I make this declaration conscientiously believing the same to be true and according to the Statutory Declarations Act, and I am aware that if there is any statement in this declaration which is false in fact, which I know or believe to be false or do not believe to be true, I am liable to fine and imprisonment.

Date

Complainant's Signature

Declared and sworn to before me by the said complainant, this day of _____, 20____, to certify which witness, my hand and seal of office.

Signature.”

Passed in the House of Representatives this day of _____, 2009.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of _____, 2009.

Clerk of the Senate

I confirm the above.

President

No. 9 of 2009

SECOND SESSION
NINTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Integrity in Public
Life Act, Chap. 22:01

Received and read the
First time
Second time
Third time
