

PART SIX:

INTEGRITY IN PUBLIC LIFE ACT - SHARING WITH THE PUBLIC SERIES

CAN A MEMBER OF THE INTEGRITY COMMISSION HOLD OFFICE IN ANOTHER COMMISSION, STATUTORY BODY OR PUBLIC ENTITY?

OPINION by Dr Francis Alexis QC

OBLIGATIONS OF A 'PERSON IN PUBLIC LIFE'

4.5 The Act places various obligations on a 'person in public life'.

File 'Declaration', Furnish 'Particulars'

4.6 There has to be filed with the Commission a declaration of income, assets and liabilities,¹⁴ ('declaration'), whether without more,¹⁵ or within a time specified by the Commission.¹⁶ A declaration has to be accurate and full;¹⁷ proper;¹⁸ not false.¹⁹ Property acquired by a person while he or she is in public life has to be disclosed, there must not be non-disclosure.²⁰

4.7 A person in public life may be required by the Commission to furnish the Commission with such particulars of his or her financial affairs as may be considered necessary.²¹

4.8 The obligation to file a declaration and furnish particulars is given effect by several means. One is an order of the High Court directing a person in public life to comply.²² There may be an inquiry by an Investigatory Tribunal of the Commission into whether there should be an investigation into such a person's assets and income.²³

14 S 32; Third Schedule Form 1.

16 S 28(2).

18 S 37(2)(a).

20 S 46(2).

22 S 28(5).

15 S 28(1).

17 S 35(1).

19 S 46(1)(b).

21 Ss 28(4), 34(3)(a).

23 Ss 35-37.

4.9 If a High Court Judge issues an investigation direction, the Commission may summon any person to appear before the Commission to be questioned on oath, the giving of false evidence on oath being the criminal offence of perjury. A person may be summoned to produce things. The Commission may apply to a Judge in Chambers for a warrant to enter premises, search premises, and seize things on premises.²⁴ Findings on an investigation direction which strike the Commission as being evidence of a crime may be sent by the Commission to the Director of Public Prosecutions ('DPP');²⁵ thus exposing a person in public life to criminal prosecution.

Observe Code of Conduct

4.10 A person in public life has to observe the Code of Conduct specified in the Sixth Schedule to the Act.²⁶ Apparent breaches thereof may be investigated, inquired into, by the Commission.²⁷ If the Commission believes that evidence coming out of such investigation may constitute a criminal offence, it shall send a report of its findings to specified functionaries, for appropriate action, and to the DPP.²⁸

Beware of Gifts and Rewards

4.11 A person in public life is not to accept any gift or reward from any person, given or received in circumstances compromising the performance of any official act or function. If a gift or reward is so accepted, the Commission may direct such person in public life to deliver same to the Accountant General for the state. Failure to comply with such a direction is a criminal offence.²⁹

24 Ss 37(2)(b), 38(9). 25 S 38(14).
26 S 40. 27 Ss 41-43.
28 S 44. 29 S 45.