

**PART EIGHT:**

**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

**7.0 THE COMMISSION AND A 'PUBLIC BODY'**

7.1 The Act does not say that it precludes a person from being a member of the Commission on account of him or her being a member of a 'public body', an expression defined by section 2(1).

7.2 Also, a 'public body' is not required to file a declaration with the Commission. What the Commission may do is that it may examine the practices and procedures of public bodies, and require changes thereto, to reduce the occurrence of corrupt practices.<sup>38</sup>

7.3 So, a 'public body' as defined by the Act, falls under the purview of the Commission to the extent of the Commission examining its practices and procedures as shown in paragraph 7.2 above; not for the purpose of requiring it to file a declaration and furnish particulars.

<sup>38</sup> S 12(1)(f)(g).

## 8.0 NO READING IN OF FURTHER DISQUALIFICATIONS

- 8.1 Not every person in public life is a 'person in public life' for the purposes of the Act so as to fall under the purview of the Commission, paragraphs 6.4-6.5 above refer. Not all entities which fall under the purview of the Commission are required to file with the Commission declarations and particulars; paragraphs 7.2- 7.3 above refer.
- 8.2 Consistently, the Act limits the Commissions, statutory bodies and other public entities whose offices and membership a member of the Commission may not hold; paragraph 5.3 above refers. There is no ambiguity or omission in the Act about these matters.
- 8.3 There is no room for implying into the Act additional Commissions, statutory bodies and other public entities whose offices and membership a member of the Commission may not hold.
- 8.4 The Act puts in place a comprehensive structure, managed by an entity created by it, the Commission; spells out obligations, duties and penalties; and sets out qualifications and disqualifications as to that entity. In such a situation, the courts do not read in or imply words into statute, to include qualifications, disqualifications and limitations additional to those articulated in the statute, in the absence of ambiguity or an omission.<sup>39</sup> There being no such

<sup>39</sup> *de Freitas v Permanent Secretary* (1998) 53 WIR 131 (UKPC) [Antigua & Barbuda].

ambiguity or omission here, the only Commissions, statutory bodies and other public entities whose offices and membership a member of the Commission may not hold are those spelt out by the Act, seen above.<sup>40</sup>

## **RECUSAL**

8.5 This, however, does not mean that, in a proper case, a member of the Commission may not recuse himself or herself from performing his or her duties in relation to a particular individual, or group or other

class of a body. This might, on occasion, be appropriate to avoid the appearance of a real possibility of partiality or bias.

<sup>40</sup> Paragraphs 5.3-6.6.