

- (d) wilfully obstructs or interrupts the proceedings conducted by the Director of Investigation.

commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars or in default of payment thereof to imprisonment for a term not exceeding six months.

PART VI. *Enforcement*

Production and Inspection Orders

64.— (1) References in this Part to any information, document or other matter being subject to legal professional privilege mean that the information, document or other matter would in legal proceedings be protected from disclosure by virtue of any rule of law relating to the confidentiality of communication between an attorney-at-law and his client or made in connection with or in contemplation of those proceedings.

Meaning of “legal professional privilege” and “excluded material”.

(2) References in this Part to “excluded materials” means—

- (a) medical records; and
- (b) human tissue or fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence.

65.— (1) Where the Director of Investigation has reasonable grounds for suspecting that a person has possession or control of any information, book, record or document which is relevant to an investigation relating to corrupt conduct, an authorized officer may apply to a Judge in Chambers or a Resident Magistrate in accordance with subsection (2) for an order under subsection (3) in relation to the person suspected of having possession or control of the information, book, record or document.

Production and inspection orders.

(2) An application under subsection (1) shall be made without notice in writing and shall be accompanied by an affidavit stating the grounds on which the application is made.

(3) Where an application is made under subsection (1), the Judge or Magistrate, as the case may be, if satisfied that in all the

circumstances of the case there are reasonable grounds for making the order, may make an order requiring the person to—

- (a) produce to the authorized officer named in the order, any information, book, record or document of the kind referred to in subsection (1) that is in the person's possession or control; or
- (b) make any such information, book, record or document that is in the person's possession or control available to the authorized officer, as the case may be, for inspection; or
- (c) answer questions, either at a time specified in the order or at once, at a place so specified,

at such time and place as may be specified in the order.

(4) An order under subsection (3)(a)—

- (a) shall not be made in respect of accounting records used in the ordinary business of a financial institution, including ledgers, day-books, cash books and account books;
- (b) does not require a person to produce, or give access to any information, book, record or document which a person would be entitled to refuse to produce on the grounds of legal professional privilege in proceedings in the Supreme Court; and
- (c) shall not include excluded material.

(5) Where an application in accordance with subsection (2) for an order under subsection (3) is made, the Judge or Magistrate before whom the application is made, may treat any information, book, record or document relevant to identifying, locating or accessing the information, book, record or information specified in the order as matters in respect of which an order under subsection (3) may be made.

(6) Where any book, record or document is taken into the custody of the authorized officer pursuant to this section—

- (a) the person concerned shall, during any period in which they are in the custody of the authorized officer, be permitted upon request, to make copies thereof or to take extracts therefrom at such times as may be agreed between that person and the authorized officer; and

- (b) the authorized officer shall—
 - (i) give to the person to whom the order is addressed a receipt for the book, record or document and a copy of the document certified by a Justice of the Peace as a true copy of that book, record or document;
 - (ii) take such steps as may be necessary to ensure the safe keeping of such book, record or document; and
 - (iii) return such book, record or document to the person concerned within thirty days after the date on which such book, record or document is taken into custody.

(7) An obligation to maintain secrecy or any restriction on the disclosure of information or the production of any book, record or document imposed on any person shall not—

- (a) be relied upon as a bar to a production or inspection order; or
- (b) excuse any person from producing or making available any book, record or document when required to do so by an order under this section on the grounds that the production or the making available of the book, record or document would be in breach of an obligation, whether imposed by law or otherwise, on the person not to disclose the existence or contents of the book, record or document.

(8) A person who is required by an order to produce a book, record or document to an authorized officer may apply to—

- (a) a Judge in Chambers (in any case); or
- (b) a Resident Magistrate,

for a variation of the order and if the Judge or Magistrate is satisfied that the document is essential to the business activities of that person, the Judge or Magistrate may vary the order to require the person to make the book, record or document available to the authorized officer for inspection.

(9) An application under subsection (8) shall be made without notice and shall be in writing and be accompanied by an affidavit stating the grounds on which the application is made.

(10) A person commits an offence if he—

- (a) refuses to comply with an order made under this section; or
- (b) knowingly provides false or misleading information in purported compliance with such order.

(11) A person who contravenes subsection 10 and shall be liable on summary conviction in a Resident Magistrates' Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Scope of
production
order.

66. Where a book, record or document is produced or made powers available to an authorized officer pursuant to an order under section 65, the authorized officer may—

- (a) in the case of a book, record or document produced—
 - (i) inspect it;
 - (ii) take extracts from it; or
 - (iii) make copies of it; or
- (b) in the case of a book, record or document made available—
 - (i) inspect it;
 - (ii) take extracts from it; or
 - (iii) make copies of it.

Evidential
value of
information.

67.—(1) Where a book, record or document is produced or made available by a person pursuant to an order under section 65, the production or making available of—

- (a) the book, record or document; or
- (b) any information, document or thing obtained as a direct or indirect consequence of the production or making available of the book, record or document,

is not admissible against the person in any criminal proceedings, except in proceeding for an offence under section 65.

(2) For the purposes of subsection (1), proceedings on an application for a restraint order or monitoring order are not criminal proceedings.

Restraint Orders

68.— (1) Where during the investigation of corrupt conduct the Director of Investigation has reasonable grounds for suspecting that a person—

Application for restraint order.

- (a) has engaged in, or is about to, or is likely to engage in corrupt conduct;
- (b) was involved in the commission, or is about to be involved in the commission, of such an offence; or
- (c) has benefited directly or indirectly, or is about to benefit directly or indirectly, from the commission of that offence,

the Director of Investigation may apply to the court for an order to restrain that person from completing any transaction or dealing relating to property, or to restrain a financial institution from carrying out a financial transaction or other financial dealings of any kind with the person referred to in this section.

(2) An application for a restraint order may be made without notice and shall be in writing.

69.— (1) Subject to this section, a court may make a restraint order on an application, without notice by the Director of Investigation if the court is satisfied that—

Restraint order.

- (a) the defendant has engaged in, or is about to, or is likely to engage in corrupt conduct;
- (b) was involved in the commission, or is about to be involved in the commission, of such an offence; or
- (c) has benefited directly or indirectly, or is about to benefit directly or indirectly, from the commission of that offence.

(2) The maximum period for which a restraint order shall remain in effect is fourteen days after the date when the order is served unless, before the expiration of that period, the Director of Investigation applies to the Court pursuant to section 75 for an extension of the period of operation of the order.

(3) A restraint order may be made subject to such conditions as the Court thinks fit and, without limiting the generality of the foregoing,

may make provision for meeting out of any property affected thereby or a specified part of the property, all or any of the following—

- (a) the person's reasonable living expenses (including the reasonable living expenses of the person's dependants (if any));
- (b) the person's reasonable legal expenses other than legal expenses relating to an offence which falls within section 68(1); and
- (c) enabling the person to carry on any trade, business, profession or occupation.

Undertakings
by crown.

70.— (1) Before making an order under section 69 (1), the Court may require the Crown to give such undertakings as the Court considers appropriate with respect to the payment of damages or costs, or both, in relation to the making and execution of the order.

(2) For the purposes of this section, the Director of Investigation may, after consultation with the Attorney-General, on behalf of the Crown, give to the Court such undertakings with respect to the payment of damages or costs, or both, as are required by the Court.

Notice of
application
for restraint
order.

71. Before making a restraint order, the Court may require notice to be given to, and may hear, any person who, in the opinion of the Court, appears to have an interest in any property to which the order relates, unless the Court is of the opinion that giving such notice before making the order would result in the transfer, disposal, dissipation or reduction in the value of the property.

Service of
restraint
order.

72. A copy of a restraint order shall be served on a person affected by the order in such manner as the Court directs or as may be prescribed by rules of court.

Contravention
of restraint
order.

73.— (1) A person who knowingly contravenes an order by disposing of or otherwise dealing with property that is subject to the restraint order commits an offence and is liable on summary conviction in a Resident Magistrates' Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Where a restraint order is made against property and—

- (a) a transaction or dealing in contravention of the restraint order takes place; and

- (b) the transaction or dealing was not for sufficient consideration or in favour of a person who acted in good faith and without notice,

the Director of Investigation may apply to the Court for an order that the transaction or dealing be set aside.

(3) The Court may, on the application of the Director of Investigation under subsection (2)—

- (a) order the immediate repayment of any funds released; or
- (b) set aside the transaction or dealing as from the day of the order under this subsection, and declare the respective rights of any persons who acquired interests on or after the day on which the transaction or dealing took place, and before the day of the order under this subsection.

74.—(1) A person who is aggrieved by the making of a restraint order may apply to a Judge in Chambers to vary or discharge the order and shall within 24 hours after making the application, serve notice on the Director of Investigation to join in the proceedings.

Notice and duration of restraint order.

(2) A restraint order remains in force until—

- (a) it ceases to be in force under section 69; or
- (b) it is varied or discharged by a Judge pursuant to an application made under subsection (1).

75. The court may, on an *inter partes* application by the Director of Investigation—

Extension of restraint order.

- (a) extend, for such further period as the Court may specify, the period of operation of a restraint order; and
- (b) make such other order as the Court considers appropriate in relation to the operation of the order.

Account Monitoring Orders

76.—(1) A Judge in Chambers may, on an application made to him by an authorized officer, make an account monitoring order (hereinafter referred to as a “monitoring order”) if the Judge is satisfied that each of the requirements specified in subsection (2) for making the order is fulfilled.

Monitoring order.

(2) The requirements for making a monitoring order are that—

- (a) there are reasonable grounds for suspecting that the person specified in the application for the order—
 - (i) has engaged in or is about to engage in corrupt conduct;
 - (ii) was involved in the commission, or is about to be involved in the commission of, such an offence; or
 - (iii) has benefited directly or indirectly, or is about to benefit directly or in-directly, from the commission of that offence;
- (b) the account information which may be provided in compliance with the order is likely to be of substantial value, whether or not by itself, to the investigation for the purposes of which the order is sought; or
- (c) it is in the public interest for the account information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

(3) An application for a monitoring order shall state that the order is sought—

- (a) for the purposes of an investigation into corrupt conduct, being carried on in relation to a person specified in the application; and
- (b) against a financial institution specified in the application in relation to the account information of the description so specified.

(4) For the purposes of this section, account information includes information relating to an account held at, or a financial transaction or other financial dealing conducted with, the financial institution specified in the application, by the person specified in the order, whether solely or jointly with another.

(5) A monitoring order—

- (a) is an order that the financial institution specified in the application for the order shall, for the period stated in the

order, provide account information of the description specified in the order to an authorized officer in the manner and at or by the time or times stated in the order; and

- (b) shall specify accounts held, or financial transactions or other financial dealings conducted within a specified period, by the person specified in the order at the financial institution so specified.

(6) The period referred to in subsection (5)(a) shall not exceed the period of ninety days beginning with the day on which the order is made:

Provided that the Judge may extend the period for a further ninety days, upon the application of an authorized officer, if satisfied that the circumstances so warrant.

(7) A financial institution that is notified of a monitoring order and knowingly—

- (a) contravenes the order; or
- (b) provides false or misleading information or documents in purported compliance with the order,

commits an offence and is liable on summary conviction in a Resident Magistrates' Court to a fine not exceeding one million dollars or to imprisonment for a period not exceeding one year or to both such time and imprisonment.

77.—(1) The fact of the existence of a monitoring order shall not to be disclosed to any person except—

- (a) an officer or agent of the institution, for the purpose of ensuring that the order is complied with; or
- (b) an attorney-at-law, for the purpose of obtaining legal advice or representation in relation to the order.

(2) Subject to subsection (3), any person referred to in subsection (1) (a) or (b) to whom disclosure of the existence or operation of a monitoring order has been made shall not—

- (a) disclose the existence or operation of the order except to another person referred to in that subsection for the purpose of—
 - (i) ensuring that the order is complied with or obtaining legal advice or representation in relation to the

Monitoring orders not to be disclosed.

order, if the disclosure is made by an officer or agent of the institution; or

(ii) giving legal advice or making representations in relation to the order, if the disclosure is made by an attorney-at-law; or

(b) make a record of, or disclose the existence or the operation of, the order in any circumstance even when he ceases to be a person referred to in subsection (1).

(3) Nothing in subsection (2) prevents the disclosure by a person referred to in subsection (1)(b) of the existence or operation of a monitoring order—

(a) for the purposes of, or in connection with, legal proceedings; or

(b) in the course of proceedings before a court.

(4) A person referred to in subsection (1)(b) shall not be required to disclose to any court the existence or operation of a monitoring order.

(5) An authorized officer shall not—

(a) disclose the existence or operation of a monitoring order to any person, except—

(i) an officer or agent of the institution on which the order is served, for the purpose of ensuring compliance with the order; or

(ii) an attorney-at-law, for the purposes of obtaining legal advice or representation in relation to the order;

(b) make a record of, or disclose the existence or the operation of the order in any circumstance when he ceases to be a person referred to in this section.

(6) A person who contravenes subsection (1), (2) or (5) commits an offence.

(7) A reference in this section to disclosing the existence or operation of a monitoring order to a person includes a reference to

disclosing information to the person from which that person could reasonably be expected to infer the existence or operation of the monitoring order.

Certification of Copies of Documents

78. Where, pursuant to any provision of this Part, an authorized officer makes copies of any book, record or other document, such copies shall, if certified by a Justice of the Peace as true copies, be admissible in evidence as proof of the matter therein recorded.

Certification
of copies of
documents.

Search Warrants

79.—(1) Where an authorized officer has reasonable grounds for suspecting that a person has engaged in corrupt conduct and that a book, record or other document to which section 65 relates is in any premises, the authorized officer may apply under subsection (2) to a Justice of the Peace, Resident Magistrate or Judge in Chambers for a warrant to search the premises.

Search
warrant to
facilitate
investigations.

(2) Subject to subsections (3) and (4), a Justice of the Peace, Resident Magistrate or Judge in Chambers may, on an application made under subsection (1), issue a warrant authorizing the authorized officer named in the warrant with such assistance as may be necessary and reasonable to—

- (a) enter the premises;
- (b) search the premises for such book, record or other document; and
- (c) seize and detain any book, record or other document found in the course of the search that, in the opinion of the authorized officer, is likely to be of substantial value (whether by itself or together with other documents) to the investigation in respect of which the application is made.

(3) A Justice of the Peace, Resident Magistrate or Judge in Chambers shall not issue a warrant under subsection (2) unless he is satisfied that—

- (a) a production order has been made in respect of the book, record or other document and has not been complied with;

- (b) a production order in respect of the book, record or other document would be unlikely to be effective because there are reasonable grounds for suspecting that such a production order would not be complied with;
- (c) it is not practicable to communicate with any person having the power to grant entry to the premises;
- (d) entry to the premises will not be granted unless a warrant is produced; or
- (e) the relevant investigation might be seriously prejudiced unless the authorized officer is granted immediate access to the book, record or other document without notice to any person.

(4) A search warrant shall not be issued under subsection (2) unless—

- (a) the applicant or some other person has given the Justice of the Peace, Resident Magistrate or Judge in Chambers, either orally or by affidavit, any further information that the Justice of the Peace, Resident Magistrate or Judge in Chambers requires concerning the grounds on which the warrant is sought; and
- (b) the Justice of the Peace, Resident Magistrate or Judge in Chambers is satisfied that there are reasonable grounds for issuing the warrant.

(5) A search warrant issued under subsection (2) shall state—

- (a) the purpose for which it is issued, including a reference to the financial crime that has been, or is believed to have been, committed;
- (b) whether entry is authorized to be made at any time of the day or night or during specified hours of the day or night;
- (c) a description of the kind of book, record or other document authorized to be seized; and
- (d) the date, not being later than twenty-eight days after the day of issue of the warrant upon which the warrant ceases to have effect.

(6) A warrant issued pursuant to subsection (2) shall be deemed to authorize an authorized officer to seize and retain—

- (a) any book, record or other document although not of the kind specified in the warrant referred to in subsection (1), which is likely to be of substantial value (whether by itself or together with other books, records or documents) to the investigation for the purpose of which the warrant was issued; and
- (b) any book, record or other document that the authorized officer believes, on reasonable grounds, will afford evidence as to the commission relating to corrupt conduct.

(7) An authorized officer shall not seize—

- (a) any accounting records used in the ordinary business of a financial institution, including ledgers, day-books, cash books and accounts books;
- (b) any document which is subject to legal professional privilege; or
- (c) any excluded material.

(8) An authorized officer may, upon request, make copies of any information, book, record or document referred to in subsection (1) or take extracts therefrom.

(9) Subject to subsection (10), any book, record, document or information seized under a warrant may be retained for as long as it is necessary to retain it, in its original form, in connection with the investigation for the purposes of which the warrant was issued.

(10) If the Office has reasonable grounds for believing that the book, record, document or information may—

- (a) need to be produced for the purposes of any legal proceeding; and
- (b) otherwise be unavailable for those purposes,

the book, record, document or information may be retained until the proceedings are concluded.

(11) In this section “premises” includes any place and in particular any building, receptacle or vehicle.

Other Orders

Sections 109 to 114 of Proceeds of Crime Act apply.

80. The provisions of sections 109 to 114 of the *Proceeds of Crime Act* shall apply *mutatis mutandis* in respect of any failure to comply with a provision of this Act.

PART VII. *General*

Provisions applicable where no Leader of Opposition.

81. Where pursuant to any provision of this Act, the Governor-General is required to act after consultation with the Leader of the Opposition and—

- (a) there is no person holding the office of Leader of the Opposition; or
- (b) the holder of that office is unwilling, or by reason of his illness or absence from Jamaica, unable to perform his functions in that regard,

the Governor-General shall act as if the reference in such provision to the Leader of the Opposition were a reference to such person as the Governor-General, in his discretion, considers appropriate.

Review of Act.

82.—(1) This Act may be reviewed, from time to time, by a committee of both Houses of Parliament appointed for that purpose.

(2) The first such review shall be conducted not later than three years after the appointed day.

Regulations.

83.—(1) The Minister, after consultation with the Office, may make regulations—

- (a) prescribing the manner in which enquiries may be carried out and any matters incidental to or consequential on such enquiries;
- (b) amending the forms specified in the Fifth Schedule;
- (c) prescribing the period within which any information required by the Office should be furnished;
- (d) regulating the imposition of fees by the Office;

Fifth Schedule.

- (e) prescribing rules governing the communication of information to the press;
- (f) prescribing the manner in which enquiries may be instituted and the procedure to be followed in the conduct of such proceedings;
- (g) prescribing any matter or thing, in respect of which it may be expedient to make regulations for the purpose of carrying this Act into effect.

(2) Regulations made under subsection (1) shall be subject to affirmative resolution.

84. The Corruption (Prevention) Act and the Parliament (Integrity of Members) Act are repealed.

Repeal of
Corruption
(Prevention)
Act and
Parliament
(Integrity of
Members)
Act.

PART VIII. *Transitional Provisions*

85. Notwithstanding the repeal of the Corruption (Prevention) Act and the Parliament (Integrity of Members) Act, hereinafter referred to as the repealed Acts, any property purchased by, belonging to or vested in the Commission for the Prevention of Corruption or the Integrity Commission respectively under the relevant repealed Act and all interests, rights and easements into or out of the said property shall, without any conveyance, assignment or transfer, belong to and be vested in the Office, subject to all and any trusts and to all debts, liabilities and obligations affecting the same and to any enactment, regulating the management, maintenance, control, supervision and dealing with such property.

Vesting of
property.

86. Every person, other than a member of the Commission for the Prevention of Corruption or the Integrity Commission, as the case may be, who immediately before the appointed day, was employed by that Commission pursuant to the relevant repealed Act shall, with effect from that day, be deemed to be transferred to the Office on the same terms and conditions as those on which that person was employed immediately before that day.

Transfer of
employees of
Office.

Saving of
actions and
investi-
gations.

87.— (1) Notwithstanding the repealed Acts, any judicial proceedings to which the Commission for the Prevention of Corruption or the Integrity Commission was a party shall continue as if the Office or the Special Prosecutor, as the case may be, were the party to the proceedings.

(2) The Office may—

- (a) commence any investigation, swear any information or conduct any prosecution in respect of an offence committed or alleged to be committed against any of the repealed Acts as if this Act had not come into operation; or
- (b) continue or do any act, thing or investigation which was pending before the coming into operation of this Act.

(3) The Court shall, in respect of any proceedings instituted following any investigation under subsection (2), have all the powers that it could exercise pursuant to the repealed Acts.

FIRST SCHEDULE

(Sections 2 and 3)

General Nature of Corrupt Conduct

1. A corrupt practice, that is to say, the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another person.
2. A fraudulent practice, that is to say, any action or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a person to obtain an undue advantage or to avoid an obligation.
3. A coercive practice, that is to say, impairing or harming, or threatening to impair or harm, directly or indirectly, any person or the property of the person to influence improperly the actions of a person.
4. A collusive practice, that is to say, any arrangement between two or more persons designed to achieve an improper purpose, including to influence improperly the actions of another person.
5. An obstructive practice, that is to say—
 - (a) deliberately destroying, falsifying, altering or concealing any evidence material to an investigation under this Act or making of false statements to investigators, in order to materially impede an investigation under this Act, or threatening, harassing or intimidating any person to prevent him from disclosing his knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (b) an act intended to materially impede the exercise of the Office's access to information required in connection with an investigation under this Act.

SECOND SCHEDULE

(Section 40)

Pensions and Gratuities

- Interpre-
tation.
1. In this Schedule “pensionable emoluments” has the same meaning as in the Pensions Act.
- Entitlement
to pensions
and gratuities
in respect of
service as
Special
Prosecutor.
- 2.—(1) Where a person holding office of Special Prosecutor retires in pensionable circumstances he shall, subject to the provisions of this Schedule, be paid pension and gratuity in accordance with this Act in lieu of any pension, allowance or gratuity for which he may have been eligible or which he may have been granted pursuant to the Pensions Act or the Judiciary Act.
- (2) A person entitled to pension or gratuity pursuant to sub-paragraph (1) or who is eligible for a grant of pension or gratuity pursuant to sub-paragraph (5) may, by memorandum in writing to the Governor-General, elect to forego his entitlement under this Act and be granted—
- (a) if he is, otherwise than under this Schedule, eligible for pension pursuant to section 5 of the Judiciary Act, such award as would be payable under that Act if the office of Special Prosecutor were an office to which that Act applied; or
 - (b) in any other case, such award under the Pensions Act as would be payable under that Act if the office of Special Prosecutor were a pensionable office under that Act.
- (3) For the purposes of this paragraph and paragraph (4), a person retires in pensionable circumstances if—
- (a) he retires—
 - (i) on or after attaining the age of sixty years; or
 - (ii) by reason of ill health prior to such attainment; or
 - (b) he has a minimum of ten years service.
- (4) For the purposes of this Act, a person retires from the office of Special Prosecutor on the ground of ill health if—
- (a) he retires on medical evidence, to the satisfaction of the Governor-General, that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;

- (b) he is removed from office, in accordance with section 41, for inability arising from infirmity of mind or body to perform the functions of his office.

(5) A person who, pursuant to section 41 is removed from the office of Special Prosecutor for misbehaviour or for any cause other than inability arising from infirmity of mind or body or who retired otherwise than in pensionable circumstances may, subject to sub-paragraph (2), be granted by the Governor-General, in lieu of any pension, allowance or gratuity for which he may have been eligible pursuant to the Pensions Act or the Judiciary Act, such pension and gratuity to which he would have been entitled had he retired in pensionable circumstances from such office and, for the purposes of sub-paragraph (6), the date of such removal from office or retirement shall be deemed to be the date of retirement in pensionable circumstances.

(6) Pension payable in accordance with this paragraph shall—

- (a) be charged and payable out of the Consolidated Fund; and
- (b) be paid monthly in arrears with effect, subject to paragraph 4, from the date of retirement in pensionable circumstances and shall, subject to the provisions of this Act, continue to be paid during the lifetime of the person entitled thereto.

3. The rate of pension payable pursuant to paragraph 2 to any person shall be the annual rate equivalent to the sum of one-half of his pensionable emoluments at the date of retirement and one month of service as the Special Prosecutor. Rate of pension.

4. Where in accordance with paragraph 2(3) a person retires in pensionable circumstances before he attains the age of sixty years— Special provisions where Special Prosecutor retires before attaining age sixty.

- (a) the date with effect from which any pension due to him under this Act shall be payable shall be the date on which he attains that age, but, if he elects pursuant to paragraph 5 to take a reduced pension and commuted pension gratuity, nothing in this paragraph shall prevent payment of the commuted pension gratuity at any time prior to the attainment of that age; and
- (b) if he dies before attaining that age, and he has not made an election to receive a reduced pension and commuted pension gratuity as aforesaid, he shall for the purposes of paragraph 6 be deemed to have died while holding office of Special Prosecutor.

Reduced
pension and
gratuity.

5.—(1) Any person to whom a pension (in this paragraph referred to as “the original pension”) is payable pursuant to paragraph 2 may, at his option exercisable at his retirement in pensionable circumstances or within such period prior or subsequent to his retirement as the Governor-General may allow, be paid, in lieu of the original pension, a reduced pension at the rate of three-fourths of the annual rate of the original pension together with a gratuity (in this Act referred to as a “commuted pension gratuity”) equal to twelve and one-half times one-quarter of the annual rate of the original pension.

(2) The option referred to in sub-paragraph (1) shall be irrevocable unless the Governor-General, on such terms as he considers reasonable, otherwise permits.

Gratuity on
death.

6.—(1) Where a person dies while holding the office of Special Prosecutor there shall be paid his legal personal representative, a gratuity of an amount equivalent to—

- (a) one year’s pensionable emoluments; or
- (b) the commuted pension gratuity for which the person aforesaid had a right to opt pursuant to paragraph 5 of this Schedule on the assumption that he retired in pensionable circumstances at the date of his death,

whichever is the greater.

(2) Where a person dies while in receipt of a pension pursuant to paragraph (2), there shall be paid to his legal personal representative a gratuity of an amount equivalent to one year’s pensionable emoluments of that person at the date of retirement or removal from office, from which gratuity shall be deducted any pension or gratuity already paid to that person under this Act or under the Pensions Act or the Judiciary Act.

Pensions to
dependants
where injuries
received or
disease con-
tracted in
discharge
of duties.

7. Where a person holding the Office of Special Prosecutor dies as a result of injuries received—

- (a) in the actual discharge of his duties;
- (b) in circumstances in which the injury is not wholly or mainly due to or seriously aggravated by his own serious and culpable negligence or misconduct; and
- (c) on account of circumstances specifically attributable to the nature of his duty, while in office, it shall be lawful for the Governor-General to grant to the deceased officer’s widow, children, parents or other dependants, such award as would have been made under the Pensions Act if the office of Special Prosecutor were a pensionable office for the purposes of that Act.

8. A pension or gratuity payable under this Act shall not be assignable or transferable except for the purpose of satisfying— Pensions, *etc.*
not to be
assigned.

- (a) a debt due to the Government; or
- (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor children, of the person to whom the pension or gratuity is payable,

and shall not be liable to be attached, sequestered or levied upon, for or in respect of any debt due or claim whatever except a debt due to the Government.

9.—(1) For the purposes of the Pensions (Civil Service Family Benefits) Act, the office of Special Prosecutor shall be deemed to be a pensionable office in the service of Jamaica. Family
benefits
pensions.

(2) Where a person dies while holding the office of Special Prosecutor or while entitled to a pension under paragraph 2, there shall be paid to his widow a pension at an annual rate equivalent to one-fifth of the pensionable emoluments of the person aforesaid at the date of his death or, if at that date he was entitled to receive a pension under paragraph 2, at the date of his retirement or, as the case may be, removal from office in accordance with this Act.

(3) Pension payable to a widow pursuant to sub-paragraph (2) shall—

- (a) be charged on and payable out of the Consolidated Fund;
- (b) be paid monthly in arrears with effect from the date of her husband's death and shall, subject to the provisions of this Act, continue to be paid during her lifetime.

(4) Pension payable to a widow pursuant to sub-paragraph (2) shall be without prejudice to any pension to which she may be entitled under the Pensions (Civil Service Family Benefits) Act but shall be in lieu of any pension to which she may be entitled pursuant to section 9 of the Judiciary Act.

(5) In paragraph 7 and sub-paragraphs (2) and (3) of this paragraph, references to a widow shall, in the case of a female appointed Special Prosecutor, be deemed to include references to a widower and cognate expressions shall be construed accordingly and similarly, references to a husband shall be deemed to include references to a wife.

Gratuities where length of service does not qualify for pension.

10. Where a person retires without a minimum of ten years service, he shall be granted in respect of his service, the commuted pension gratuity for which the person had a right to opt pursuant to paragraph 5 if he had retired in pensionable circumstances.

THIRD SCHEDULE (Section 41)

Oath to be taken by the Special Prosecutor, Employees of the Office and persons appointed to assist the Special Prosecutor

I....., do swear that I will faithfully perform any functions assigned to me under the Corruption Prevention (Special Prosecutor) Act, and I will not, on any account, at any time whatsoever, except in so far as provisions of the Act authorize, directly or indirectly reveal any information or the nature or contents of any documents communicated to me in the performance of any functions assigned to me by virtue of the Act.

So help me God.

FOURTH SCHEDULE (Section 53)

Contents of Annual Report

1. A general description of the matters that were referred to the Office.
2. A general description of the matters investigated by the Office.
3. The following details with respect to matters investigated by the Office—
 - (a) the time interval between the lodging of each complaint and the Office deciding to investigate the complaint;
 - (b) the number of investigations commenced but not finally dealt with during the year;
 - (c) the average time taken to deal with complaints and the actual time taken to investigate any matter in respect of which a report is made.
4. Any recommendations for changes in the laws of Jamaica, or for administrative action, that the Office considers should be made as a result of the exercise of its functions.
5. The general nature and extent of any information furnished under this Act by the Office during the year to the Security Forces.
6. The extent to which its investigations have resulted in prosecutions or disciplinary action in that year.
7. The number of search warrants issued under this Act in that year.
8. A description of its activities during that year in relation to its educating and advising functions.
9. The composition of the Office.
10. Such other information as the Minister thinks relevant.

FIFTH SCHEDULE

(Section 54(1))

FORM A

*Statutory Declaration of Assets, Liabilities and
Income of Parliamentarians*

THE CORRUPTION PREVENTION (SPECIAL PROSECUTOR) ACT

Declaration of assets and liabilities as at
(Declaration Date)

and of income for the period of twelve months (or other period where appropriate)
ending on that date.

NOTE:

- (a) Where any property is held by the declarant, the declarant's spouse or the declarant's child or children in trust for any other person, this should be indicated by a note to that effect.
- (b) The declaration date should be the date as at which pursuant to section 59 the declaration is to be made.
- (c) Where the space in this Form is inadequate a separate sheet of paper may be used and signed by the declarant.

Name of Declarant	Address of Declarant
Name of Declarant's Spouse	Address of Declarant's Spouse
Maiden Name (of Spouse)	

PARTICULARS OF DECLARANT'S CHILDREN

Names	Date of Birth	Addresses

.....
Signature of Declarant

PARTICULARS OF ASSETS HELD BY DECLARANT, SPOUSE AND CHILDREN

BANK ACCOUNTS

1. To be supported by Bank Statement or Letter from Bank confirming balances.

Names and Address of Banks	In whose Name	Account Number	Balance in Account

2. CASH IN EXCESS OF \$1,000 HELD OTHER THAN IN BANK BY DECLARANT, SPOUSE AND CHILDREN

Where held	In whose Name held	Amount

3. **BONDS, STOCKS, SHARES AND SIMILAR INVESTMENTS**
Including any such property over which a right of disposition resides in the Declarants, Spouse and Children.

No. and Description	Organization in which held	In whose name held	Face value	Cost of acquisition where known or market value

.....
Signature of Declarant

5. MONIES INVESTED IN MORTGAGES OR BUSINESS VENTURES (INCLUDING CROPS AND LIVESTOCK) BY DECLARANT, SPOUSE AND CHILDREN

Type of Investment	In whose name held	Amount invested in project	Term	Interest Rate	Annual Income

6. PARTICULARS OF MOTOR VEHICLES OWNED BY, OR ON HIRE FOR ANY PERIOD TO, OR ON LOAN FOR A PERIOD IN EXCESS OF TWO MONTHS TO THE DECLARANT, SPOUSE OR CHILDREN

Description	Owner's Name	Age of Vehicle	Terms of Hireage (if hired)	Purchase Price

7. VALUES HELD IN SAFETY DEPOSIT BOXES BY DECLARANT, SPOUSE AND CHILDREN

Where held	Owner's Name	Contents	\$ Value

.....
Signature of Declarant

8. LIFE INSURANCE POLICIES HELD BY DECLARANT, SPOUSE AND CHILDREN

Insurance Company	Type of Policy	Date Issued	Date of Maturity	Name of Insured	Annual Premium	Face Value	Surrender Value

9. ANY OTHER PROPERTY OWNED BY DECLARANT, SPOUSE AND CHILDREN

Description	Owner's Name	By whom being held	In what capacity being held	Estimated Market Value

10. OTHER PROPERTY OWNED BY DECLARANT, SPOUSE AND CHILDREN, BEING HELD BY A PERSON OTHER THAN OWNER, WHETHER IN TRUST OR OTHERWISE

Description	Owner's Name	By whom being held	In what capacity being held	Estimated Market Value

.....
Signature of Declarant

11. PARTICULARS OF INCOME, FROM ALL SOURCES, OF DECLARANT, SPOUSE AND CHILDREN (INCLUDING PERQUISITES SUCH AS HOUSE, ENTERTAINMENT ALLOWANCES, RENTALS, ETC.)

Type of Income	Recipient's Name	Source	Gross Amount for period under review

12. PARTICULARS OF LIABILITIES (INCLUDING GUARANTEES) OF DECLARANT, SPOUSE AND CHILDREN

Certificate from creditor or party to which guarantee given, should be provided

Nature of Liability	Person Liable	To whom Liable	Amount

.....
Signature of Declarant

**13. PARTICULARS OF ANY PROPERTY ACQUIRED OR DISPOSED OF BY DECLARANT,
SPOUSE AND CHILDREN (DURING PERIOD OF 12 MONTHS OR OTHER PERIOD
WHERE APPROPRIATE) ENDING ON.....**

Description of Property	Acquisition or Disposal	Cost of Acquisition	Price of Disposal

I do solemnly and sincerely declare that the particulars given by me herein are, to the best of my knowledge, true, accurate and complete.

.....
Signature of Declarant

Signed at
This.....day of.....before.....
Justice of the Peace for the parish
of

FORM B

(Sections 54 and 82(1))

*Statutory Declaration of Assets, Liabilities and
Income of Persons other than Parliamentarians*

CORRUPTION PREVENTION (SPECIAL PROSECUTOR) ACT

Declaration of assets and liabilities as at
(Declaration Date)

and of income for the period of twelve months (or other period where appropriate)
ending on that date.

NOTE:

- (a) Where any property is held by the declarant, the declarant's spouse or the declarant's child or children in trust for any other person, this should be indicated by a note to that effect.
- (b) The declaration date should be the date as at which pursuant to section 59 the declaration is to be made.
- (c) Where the space in this Form is inadequate a separate sheet of paper may be used and signed by the declarant.

Name of Declarant	Name of Declarant's Spouse
Address of Declarant	Address of Declarant's Spouse
Number of Full Years employment of Declarant	Names of Full Years employment of Spouse
Taxpayer Registration Number (TRN) of Declarant	Taxpayer Registration Number (TRN) of Spouse
Declarant's Employer	Maiden Name (of Spouse)

PARTICULARS OF DECLARANT'S CHILDREN

Names	Date of Birth	Addresses

PARTICULARS OF ASSETS HELD BY DECLARANT, SPOUSE AND CHILDREN

BANK ACCOUNTS

1. TO BE SUPPORTED BY BANK STATEMENT OR LETTER FROM BANK CONFIRMING BALANCES

Name and Address of Banks	In Whose Name Held	Balance in Account

2. CASH IN EXCESS OF FIVE HUNDRED THOUSAND DOLLARS HELD OTHER THAN IN BANK BY DECLARANT, SPOUSE AND CHILDREN

Where Held	In Whose Name Held	Amount

3. BONDS, STOCKS, SHARES AND SIMILAR INVESTMENT INCLUDING ANY SUCH PROPERTY OVER WHICH A RIGHT OF DISPOSITION RESIDES IN THE DECLARANT, SPOUSE AND CHILDREN

No. and Description	Organization in Which Held	In Whose Name Held	Face Value	Cost of Acquisition Where Known or Market Value

IMMOVABLE PROPERTY (e.g. HOUSE, LAND AND FARM BUILDINGS) HELD BY DECLARANT, SPOUSE AND CHILDREN

Description	Where Situated		Date of Acquisition	In Whose Name Held	Purchase Price	Estimated Current Market Value
	Vol.	Fol.				
General						

Signature of Declarant

5. MONIES INVESTED IN MORTGAGES OR BUSINESS VENTURES (INCLUDING CROPS AND LIVESTOCK) BY DECLARANT, SPOUSE AND CHILDREN.

Type of Investment	In Whose Name Held	Amount Invested in Project	Term	Interest Rate	Annual Income

6. PARTICULARS OF MOTOR VEHICLES OWNED BY, OR ON HIRE FOR ANY PERIOD TO, OR ON LOAN FOR A PERIOD IN EXCESS OF TWO MONTHS TO THE DECLARANT, SPOUSE OR CHILDREN

Description	Owner's Name	Age of Vehicle	Terms of Hireage (if Hired)	Purchase Price

7. VALUES HELD IN SAFETY DEPOSIT BOXES BY DECLARANT, SPOUSE AND CHILDREN

Where Held	Owner's Name	Contents	Purchase Price	Market Value

8. INSURANCE POLICIES HELD BY DECLARANT, SPOUSE AND CHILDREN.

Insurance Company	Type of Policy	Date Issued	Date of Maturity	Name of Insured	Annual Premium	Face Value	Surrender Value

9. ANY OTHER PROPERTY OWNED BY DECLARANT, SPOUSE AND CHILDREN

Description	Owner's Name	By Whom Being Held	In What Capacity Being Held	Purchase Price	Estimated Market Value

10. OTHER PROPERTY OWNED BY DECLARANT, SPOUSE AND CHILDREN, BEING HELD BY A PERSON OTHER THAN OWNER, WHETHER IN TRUST OR OTHERWISE

Description	Owner's Name	By Whom Being Held	In What Capacity Being Held	Purchase Price	Estimated Market Value

Signature of Declarant

11. PARTICULARS OF INCOME FROM ALL SOURCES OF DECLARANT, SPOUSE AND CHILDREN (INCLUDING PERQUISITES SUCH AS HOUSE, ENTERTAINMENT, ALLOWANCES, RENTALS, ETC.)

Type of Income	Recipient's Name	Source	Gross Amount for Period under Review

12. PARTICULARS OF LIABILITIES (INCLUDING GUARANTEES) OF DECLARANT, SPOUSE AND CHILDREN

Certificate from creditor or party to which guarantee given, should be provided.

Nature of Liability	Person Liable	To Whom Liable	Amount

Signature of Declarant

13. PARTICULARS OF ANY PROPERTY ACQUIRED OR DISPOSED OF BY DECLARANT, SPOUSE AND CHILDREN (DURING PERIOD OF 12 MONTHS OR OTHER PERIOD WHERE APPROPRIATE) ENDING ON.....

Description of Property	Acquisition or Disposal	Cost of Acquisition	Price of Disposal

I do solemnly and sincerely declare that the particulars given by me herein are, to the best of my knowledge, true, accurate and complete.

Signature of Declarant

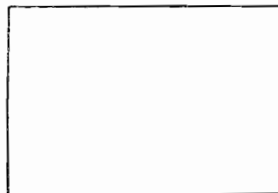
Signed at

This day of before _____
Justice of the Peace
for the Parish of
.....

Official Receipt

Received from Statutory Declaration for the period
Declarant's Name

ending.....



.....
Signature

Date.....

THE CORRUPTION PREVENTION (SPECIAL PROSECUTOR) ACT

SUMMONS TO WITNESS

To.....
*(Name of person summoned, and
his address and calling, if known)*

You are hereby summoned to appear before the Corruption Tribunal

.....on the.....day of.....
(place)

19....., at..... o'clock and to give evidence respecting
(State matter being enquired into)

And you are required to bring with you.....
(Specify papers, books, records and documents required)

Therefore fail not at your peril.

Given under the hand of

Corruption Tribunal this day of..... 19

THE CORRUPTION PREVENTION (SPECIAL PROSECUTOR) ACT

SUMMONS TO WITNESS

To

(Name of person summoned, and

.....

his address and calling, if known)

You are hereby summoned to appear before the Corruption Tribunal

..... on the day of

.....

(place)

20 at o'clock and to give evidence respecting

.....

(State matter being enquired into)

And you are required to bring with you

.....

Specify papers, books, records and documents required)

Therefore fail not at your peril.

Given under the hand of

Corruption Tribunal this day of 20

Passed in the Senate this 14th day of January, 2011 with forty-nine (49) amendments.

OSWALD G. HARDING, OJ, CD, QC

President.

MEMORANDUM OF OBJECTS AND REASONS

Recognizing the corrosive effect of corrupt conduct on the maintenance of public confidence in the transparent and fair operation of services, both in the private and public sectors, the Government has identified the eradication of corrupt conduct as one of its most urgent priorities.

It is established that corrupt conduct generally has serious consequences on the country's development goals. The illicit acquisition of personal wealth can be particularly damaging to democratic institutions, national economies and the rule of law. There is reluctance on the part of international investors to invest in any country that is perceived as having a high level of corrupt conduct and this contributes to reduced economic growth. Also, corrupt conduct may result in monetary volatility and related economic instability. The informal economy generally increases reducing Government revenue and thereby the redistributive powers of the State. Other effects of corrupt conduct are less law and order and more economic and social vulnerability of citizens.

The existing regime provided by the Corrupt Conduct Prevention Act and the Parliament (Integrity of Members) Act has been found to be inadequate in the fight against corrupt conduct. It is also recognized that a coordinated national anti-corruption strategy is needed to effectively tackle the pervasive problem of corruption. This strategy indicates a comprehensive multi-disciplinary approach, which combines the resources needed to—

- (a) investigate allegations or complaints relating to corrupt conduct involving parliamentarians, public officials and private persons; and
- (b) prosecute those persons where there is supporting evidence.

This Bill, therefore, seeks to repeal the Corruption Prevention Act and the Parliament (Integrity of Members) Act and to provide for the establishment of a department of Government to be known as the the Office of the Special Prosecutor for Corruption and made up of three divisions, Administrative, Investigation and Legal and Prosecution. The Office will have a specific mandate to promote the reporting of corrupt conduct and to conduct the necessary investigations and prosecutions as well as receive the statutory declaration of parliamentarians, public officials and other persons of their assets and liabilities and income.

The Bill also provides, *inter alia*, for—

- (a) the qualifications required for the appointment of a person as the Special Prosecutor;

- (b) the obligation of members of the Security Forces and other public officials to notify the Special Prosecutor of any evidence of corrupt conduct uncovered by them in the execution of their official duties;
- (c) other duties of the Special Prosecutor, including—
 - (i) advising and assisting the Security Forces, public authorities, and other persons on methods to combat or eliminate corrupt conduct;
 - (ii) co-operating with public authorities and public officials in reviewing laws, practices and procedures in order to reduce corrupt conduct;
 - (iii) informing and advising public authorities, public officials and other persons on strategies to combat corrupt conduct and enlisting public support in combating such conduct;
 - (iv) making recommendations to Parliament on legislative measures designed to strengthen an anti-corruption regime;
 - (v) requiring parliamentarians, public officials and other persons to assist in the investigation of corrupt conduct.

The Bill also provides for the review, from time to time, of the operation and effectiveness of the Act.

DOROTHY C. LIGHTBOURNE, C.D., Q.C.
Minister of Justice.

A BILL

ENTITLED

AN ACT to Promote and Strengthen Measures for the Detection, Prevention, Investigation and Prosecution of Corrupt Conduct; to provide for the offence of corrupt conduct and offences relating to corrupt conduct; to provide for the establishment of a department of Government to be known as the Office of the Special Prosecutor for Corruption with special responsibility for the detection, prevention, investigation and prosecution of corrupt conduct; to repeal the Corruption (Prevention) Act and the Parliament (Integrity of Members) Act; and for connected matters.

As passed in the Honourable Senate.

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