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INDEPENDENT COMMISSION OF INVESTIGATIONS ACT, 2025

Arrangement of Sections

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No. 1 of 2025

INDEPENDENT COMMISSION OF INVESTIGATIONS ACT, 2025

AN ACT TO CONSTITUTE AN INDEPENDENT COMMISSION TO CONDUCT INVESTIGATIONS INTO ALLEGATIONS OF PARTICIPATION IN SERIOUS BREACHES OF THE LAW BY MEMBERS OF THE SECURITY FORCES AND SPECIFIED PUBLIC OFFICIALS; TO PROVIDE FOR THE FUNCTIONS, POWERS, ORGANIZATION AND MANAGEMENT OF THE COMMISSION, AND FOR CONNECTED MATTERS.

[Date of Assent - 19th March, 2025]

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title and commencement.

(1) This Act shall be cited as the Independent Commission of Investigations Act, 2025.

(2) This Act shall come into operation on the date appointed by the Minister by notice published in the *Gazette.*

2. Interpretation.

In this Act, unless the context otherwise requires —

"**Commission**" means the Independent Commission of Investigations established under section 4;

"**Commissioner**" means a person appointed as a member of the Commission under section 4;

"**complaint**" means an allegation of participation in an incident;

"**concerned officer**" means a member of any rank of a Security Force who is the subject of a complaint;

"**concerned specified official**" means a specified official who is the subject of a complaint;

"**Court**" means the Supreme Court;

"**Director of Complaints**" means a person appointed under section 7 as the Director of Investigations of the Commission;

"**document**" means –

(a) written information or an oral complaint of an incident;

(b) a record generated in any manner, including any record generated by an automated recording device or programme for the retrieval of information in usable form;

"**incident**" means an occurrence involving an allegation of participation by a member of the Security Forces or by a specified official, resulting in the breaches of law specified in section 3;

"**investigation**" means an inquiry into an incident by the Commission under this Act;

"**investigator**" means an employee of the Commission or other person assigned duties to investigate an incident on behalf of the Commission;

"**Minister**" means the Attorney-General;

"**premises**" includes any office, land, place, vehicle or aircraft or any other asset belonging to a Security Force or a public body;

"**public body**" includes—

(a) Parliament;

(b) a Ministry, department or agency of Government;

(c) a town committee or District Council established under the Local Government Act (*No.59 of 2024*);

(d) a statutory body or authority;

(e) a company registered under the Companies Act, being a company in which the Government or agency of Government, whether by the holding of shares, or by financial obligation to the company, is in a position to influence the policy of the company;

"**public office**", "**public officer"**, and **"public service"** have the meanings assigned by Article 137 of the Constitution;

"**relevant Security Force**" means the Security Force of which the concerned officer is a member;

"**relevant public body**" means the public body of which a concerned specified official is a member, officer, or appointee;

"**responsible head**" means the head of a relevant Security Force;

"**responsible officer**" means the officer in charge of a relevant public body;

"**Security Force**" includes any of the following —

(a) The Royal Bahamas Police Force;

(b) The Royal Bahamas Defence Force;

(c) The Bahamas Department of Corrections;

(d) The Bahamas Customs and Excise Department;

(e) The Bahamas Immigration Department;

(f) any other Force or Service specified by an Act of Parliament to be a Security Force;

"**specified official**" means —

(a) a member of Parliament;

(b) the Secretary to the Cabinet;

(c) the Financial Secretary;

(d) the Chairman of the Public Service Commission;

(e) the Chairman of the Police Service Commission;

(f) a Permanent Secretary of a Ministry;

(g) the Director of Legal Affairs;

(h) the Auditor General;

(i) the Director of Public Personnel;

(j) the Secretary of Revenue;

(k) an Under Secretary of a Ministry;

(l) a Deputy Permanent of a Ministry;

(m) the Deputy Financial Secretary;

(n) the Deputy Auditor General;

(o) the Deputy Director of Public Personnel;

(p) a Head of Department of a Ministry;

(q) the General Manager (by whatever name called) of any Corporation established by Act of Parliament for public purposes;

(r) the Deputy General Manager (by whatever name called) of any Corporation established by Act of Parliament for public purposes;

(s) the Governor of the Central Bank;

(t) the Deputy Governor of the Central Bank;

(u) the Registrars of the Supreme Court and Court of Appeal;

(v) the Chief Magistrate, and Deputy Chief Magistrates;

(w) Senior Family Island Administrators, and other elected local government officials;

(x) the executives and board members of government entities; and

(y) the class of public officer, class of public appointees as the Governor-General, on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may by order specify, being a person upon whom is conferred by law, power, authority and privilege.

3. Application of Act.

(1) This Act shall apply to an incident in which an officer of a Security Force, or a specified official is alleged to have participated.

(2) For the purposes of subsection (1), an incident which results in any of the following breaches of law, shall be investigated by the Commission under this Act —

(a) murder or manslaughter under the Penal Code *(Ch.84)* not including the death of a person in custody over which the coroner has jurisdiction under the Coroners Act *(Ch.56)*;

(b) armed robbery, robbery, and other crimes of violence under the Penal Code *(Ch.84)*;

(c) obstruction and perversion of justice under the Penal Code *(Ch.84)*;

(d) treason and crimes against the safety of the state under the Penal Code *(Ch.84);*

(e) bribery under the Prevention of Bribery Act *(Ch.88)*;

(f) drug trafficking under the Dangerous Drugs Act *(Ch.228)*;

(g) money laundering under the Proceeds of Crime Act, 2018 (*No.4 of 2018*);

(h) acts of terrorism under the Anti-Terrorism Act, 2018 (*No.27 of 2018*);

(i) trafficking under the Trafficking in Persons (Prevention and Suppression) Act (*Ch. 106*);

(j) unlawful possession of firearms and ammunition under the Firearms Act (*Ch. 213*);

(k) rape and sexual assault under the Sexual Offences Act (*Ch. 99*);

(l) kidnapping, abduction and unlawful detention under the Penal Code (*Ch.84*);

(m) stealing under the Penal Code *(Ch.84)*;

(n) an act of reprisal resulting in assault or other unlawful harm to any person under the Penal Code (*Ch.84*);

(o) fraudulent practices under the Penal Code *(Ch.84)*;

(p) physical or mental abuse of prisoners by a member of the Security Forces resulting in dangerous or grievous harm under the Penal Code *(Ch.84*);

(q) failure to preserve the peace, to prevent and detect crime, to investigate a crime or any criminal activity in breach of duty as a member of the Bahamas Police Force under the Police Force Act (*Ch. 51*) ;

(r) membership of a gang or participation in any activities of a gang in contravention of the Anti-Gang Act *(No.8 of 2024)*;

(s) conspiracy to abet a crime or criminal activity, concealing a crime, or being an accessory to a crime after the fact under the Penal Code *(Ch. 84)*;

(t) the unlawful damage to property or the taking of money or property under the Penal Code *(Ch.84)*; and

(u) acts of fraud and corrupt practices under the Penal Code *(Ch.84)*.

PART II - THE INDEPENDENT COMMISSION OF INVESTIGATIONS

4. Establishment of the Independent Commission of Investigations.

(1) There is established, a Commission of Parliament to be known as the Independent Commission of Investigations.

(2) The Commission shall be a body corporate having perpetual succession and a common seal and shall have the power to make contracts and to do things necessary for carrying out its functions under this Act.

(3) The Commission shall, in carrying out its functions —

(a) promote integrity and accountability among the members of the Commission;

(b) ensure confidentiality of information received by the Commission in connection with complaints made under this Act;

(c) strictly adhere to the Constitution and the written law of The Bahamas in performing the functions of the Commission;

(d) thoroughly and timeously investigate complaints of incidents received by the Commission;

(e) in a timely manner, prepare full reports of the results of investigations, including recommendations for disposing of complaints;

(f) detect and prevent incidents by members of the Security Forces and specified officials; and

(g) do all such things as are incidental, or conducive, to carrying out the functions of this Act.

(4) The Commission shall consist of three Commissioners, who shall be appointed by the Governor-General by instrument under the Public Seal, on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, from persons of high integrity, of whom—

(a) two shall be persons who possess the qualifications to hold high judicial office, or who have held high judicial office; and

(b) one person shall be a chartered accountant, or a certified accountant and a member of The Bahamas Institute of Chartered Accountants, or a member of another body which regulates the practice of accounting.

(5) The Commissioners who possess the qualification prescribed in subsection (4)(a) shall be appointed President and Vice President of the Commission respectively, and in the absence of the President, the Vice President shall have all the powers, rights and privileges of the President.

(6) A quorum of the Commission shall be two, and all the powers of the Commission may be exercised by a quorum of the Commission.

(7) If the Commission is equally divided on any matter arising during proceedings, the President or Vice President presiding, shall have a second or casting vote.

(8) For the purposes of subsection (4) (a) –

(a) "**high judicial office**' means the office of judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

(b) a person is qualified to hold high judicial office who is a counsel and attorney, is a member of The Bahamas Bar or the Bar of a Commonwealth country, membership of which is a qualification for admission to practice in The Bahamas, and who has practised as counsel for not less than ten years.

(9) The provisions of the *First Schedule* shall have effect as to the constitution of the Commission, and otherwise in relation thereto.

5. Functions of Commission.

(1) The Commission shall receive complaints of incidents against concerned officers or concerned specified officials, and supervise the investigations of the complaints;

(2) In furtherance of investigations into complaints received, and where the Commission considers necessary, the Commission shall ensure —

(a) the search of buildings, premises or other places;

(b) the inspection of relevant records;

(c) the collection of evidence relating to the incident under investigation; and

(d) the interview by investigators, of all relevant witnesses and other persons who may have information of the incident under investigation.

(3) The Commission may, in the exercise of its functions under subsection (2) —

(a) authorize investigators to take charge of, and preserve, the scene of an incident;

(b) order the production of copies of reports, documents or other information regarding an incident;

(c) direct the investigators to collect evidence from the scene of an incident and from any other scene connected to the incident:

(d) require the relevant Security Force or relevant public body to furnish information relating to any matter specified in the Commission's request;

(e) summon, and examine witnesses on oath;

(f) assess the evidence given on oath;

(g) submit the evidence collected, the Commission's assessment of the evidence and the recommendations of the Commission, to the Director of Public Prosecutions; and

(h) certify to the Court, a contempt allegedly committed by a person in proceedings before the Commission.

(4) The Commission shall make such recommendations to the Minister as the Commission considers necessary or desirable for the review and reform of any written laws and procedures for —

(a) the protection of complainants against reprisal, discrimination and intimidation;

(b) ensuring the system by which complaints are made, is fully accessible; and

(c) reviewing policies on recruitment, disciplinary procedures, and conditions of service of a Security Force or a public body.

(5) For the purpose of the discharge of its functions, the Commission, upon the authority of a warrant issued in that behalf by a Magistrate, has power to —

(a) access all records, documents or other information relevant to a complaint or other matter being investigated by the Commission under this Act;

(b) enter premises where the Commission has reason to believe records, documents or other information referred to in subparagraph (i) may be found;

(c) enter premises occupied by a person named in the warrant, and to make enquiries or to inspect documents, records, information or property as the Commission considers necessary for the purpose of investigating a complaint under this Act; and

(6) The Commission shall retain records, documents or other property if, and for so long as, the retention is certified by the Commission to be reasonably necessary for the purposes of this Act.

6. Powers and Independence of Commission.

(1) The Commission shall have such powers as may be required or are incidental to the performance of its functions under this Act.

(2) Subject to the provisions of the Constitution, the Commission shall, in the exercise of the powers conferred by this Act, not be subject to the direction or control of any person or authority.

(3) Nothing in subsection (2) shall be construed as preventing the assignment to a Minister, of responsibility for aspects of the administration of this Act as are necessary or desirable to facilitate the relationship between Parliament and the Commission.

(4) The Commission may consult with any person, institution or organization in the exercise of the Commission's powers under this Act.

(5) The Commission may with the consent of the Minister, enter into written agreements, arrangements or memoranda of understanding with foreign law enforcement agencies, as the Commission considers necessary or desirable for the discharge of its functions.

7. Appointment of Directors of Complaints.

(1) There shall be three Directors of Complaints appointed by the Commission, each of whom shall be responsible for preparing and setting

up the schemes of management and functioning of the Commission in the regions of The Bahamas as set forth in the *Second Schedule*.

(2) Directors shall be appointed by the Commission for a period of three years at the remuneration and on the terms and conditions as are determined by the Commission after consultation with the Minister and may be re-appointed by the Commission for a further three-year term.

(3) A Director may be removed from office for —

(a) inability to discharge the functions of Director (whether arising from infirmity of mind or body);

(b) failure to competently discharge the functions of office of Director;

(c) misconduct which may constitute a fundamental breach of the contract of employment or may be repugnant to the fundamental interests of the Commission as employer.

(4) A reference in this Act to a Director of Complaints in relation to an investigation of an incident shall, unless the context otherwise requires, be construed as a Director of Complaints for the relevant region.

(5) The Minister may by order amend the *Second Schedule.*

8. Appointment of investigators.

(1) Investigators shall be appointed by the Commission for the purpose of investigating complaints under this Act at the remuneration and on the terms and conditions as are determined by the Commission after consultation with the Minister.

(2) A person appointed as an investigator under subsection (1) shall have —

(a) a bachelor's degree, in criminology or psychology; or

(b) three years' experience in investigations; and

(c) high ethical standards;

(d) the ability —

(i) to analyse evidence objectively and draw reasonable conclusions;

(ii) to work under pressure;

(iii) to communicate effectively; and

(iv) to think critically.

9. Appointment of employees of Commission.

(1) The Commission shall appoint for the purposes of this Act, at the remuneration and on the terms and conditions as may be approved by the Minister, other employees and agents, as are necessary for the proper functioning of the Commission.

(2) The Governor-General may, subject to such conditions as he may impose, approve the transfer of an officer in the service of the Government to the Commission on terms and conditions no less favourable than those of the public service.

(3) The Commission shall ensure that in making appointments under this section, due regard is had to the ability of the employees to function in an independent, impartial and objective manner, and without unduly close associations or relations with members of the Security Forces, or specified officials, who might be subjects of investigation by the Commission under this Act.

(4) For the performance of the functions of the Commission, the Commission may, with the consent of the appropriate authority, use the services of any public officer or other Government employee.

(5) The Commission shall, with the approval of the Minister, make appropriate provisions for the payment of salaries, contributory pensions, gratuities, or other allowances to employees of the Commission in respect of their service with the Commission, and retirement from the Commission.

(6) In subsection (4), **"appropriate authority"** means the person or authority vested by law with the power to appoint public officers or employees of the Government.

10. Oath of secrecy.

Every member of the Commission, and every person employed by the Commission shall, before performing any function assigned by this Act, take and subscribe an oath in the form set out in the *Third Schedule*, to be administered —

(a) in the case of the Commissioners, by the Governor-General;

(b) in the case of the Directors of Complaints, investigators and other employees of the Commission, by the President of the Commission.

PART III - FINANCIAL PROVISIONS

11. Funds of the Commission.

(1) The funds of the Commission shall consist of funds appropriated by Parliament for the purposes of the Commission.

(2) The Commission shall, at least three months before the commencement of each financial year, prepare estimates of revenue and expenditure required for the purpose of the Act for the financial year, and shall submit the estimates to the Minister for approval.

(3) The Minister shall submit the estimates approved under subsection (2) to the Minister of Finance to be included in the annual budget to be tabled in Parliament.

12. Accounts and audit of the Commission.

(1) The Commission shall keep proper accounts of the financial transactions of the Commission.

(2) The accounts of the Commission shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General. and a statement of accounts so audited shall form part of the annual report under section 31.

PART IV – COMPLAINTS AND INVESTIGATIONS

13. Complaints by members of the public, etc.

(1) A member of the public may make a complaint in the prescribed form to the Commission or a Director of Complaints of an incident involving an officer of a Security Force or a specified official.

(2) An officer of a Security Force, a specified official, a public officer or appointee to a public body, who in the course of duty or employment becomes aware of, or is involved in, an incident, shall make a complaint to the Commission or Director of Complaints.

(3) A person who makes a complaint under subsection (2) is protected, and such disclosure shall not be regarded as a breach of duty or a breach of his contract of employment, or a breach of secrecy or confidentiality, if that person acted in good faith and in the reasonable belief that the information contained in the complaint is substantially true.

(4) On receipt of a complaint under subsections (1) and (2), the Commission or Director of Complaints shall review the complaint, and where the Commission or the Director of Complaints is of the opinion, that the conduct complained of may constitute an incident to which this Act applies, the Commission, or Director of Complaints shall forward the complaint to an investigator to find the facts and to report the findings to the Commission.

(5) On completion of an investigation of an incident under subsection (4), the investigator shall forward a report of the results of the investigation to the Commission.

(6) The Commission shall consider the report of the results of the investigation and where it finds there is sufficient evidence of an incident, shall convene a hearing of the complaint in accordance with section 19.

(7) Where the results of an investigation under this section —

(a) clearly indicate participation in an incident by a concerned officer or concerned specified official;

(b) do not constitute an incident to which this Act applies; or

(c) clearly indicate no participation by a concerned officer or a concerned specified official,

the Commission shall resolve the complaint informally in accordance with section 18 without convening a hearing.

14. Complaints by Attorney-General, and the heads of Security Forces and public bodies, etc.

(1) The Attorney-General, or the relevant head of a Security Force or a public body shall make a complaint to the Commission of an incident involving an officer of a Security Force or a specified official.

(2) Where the Attorney-General, or the relevant head of a Security Force or a public body becomes aware of an incident involving an officer of the Security Force or a specified official, the Attorney-General or the relevant head of a Security Force or a public body shall make a complaint and a report of the incident to the Commission —

(a) forthwith, and not later than twenty-four hours after the incident, where the incident involves conduct which resulted in the death of, or injury to, any person; or

(b) within forty-eight hours of the incident, in any other case.

(3) The Attorney-General, and the relevant head of a Security Force or a public body shall take such steps as are necessary to ensure measures are implemented to enable the investigation of a complaint by the Commission.

(4) An investigation under this Act may be undertaken by the Commission on its own initiative on information received from any other source.

15. Report required where public confidence affected.

Where no complaint is made under section 13 or section 14 and the Commission becomes aware of the occurrence of an incident and is of the opinion that the incident, if proven, is likely to have a significant impact on public confidence, the Commission shall require the relevant Security Force or the relevant public body to make a report of the incident to the Commission, containing such particulars as the Commission may specify.

16. Duty to preserve evidence.

(1) Notwithstanding anything to the contrary in any other written law, the Commission shall have responsibility for the preservation of the scene of an incident and may issue directions to the Commissioner of Police for the purpose of this section.

(2) The Commissioner of Police shall implement measures in accordance with directions issued by the Commission under subsection (1), to ensure that officers of the Royal Bahamas Police Force shall, as soon as practicable after being notified of an incident, attend at the scene of the incident to ensure preservation of the scene until the arrival of an investigator assigned to that scene by the Commission and thereafter, each officer shall be under a duty, until the investigator is satisfied that it is no longer necessary to do so, to continue to take steps for the purpose of preserving the scene.

(3) An officer of the Royal Bahamas Police Force, who is at the scene of an incident, or in any case where there is more than one such officer, the officer senior in rank and command, shall take such steps in accordance with directions issued by the Commission under subsection (1), for obtaining or preserving the evidence and facilitating the making of a report of the incident to the Commission.

17. Public information.

(1) The Commission —

(a) unless satisfied, of the necessity for confidentiality —

(i) may issue a press release at the commencement of the investigation into an incident;

(ii) shall issue a press release on the resolution of a complaint of an incident;

(b) shall submit a report to Parliament on the resolution .

(2) Press releases issued under subsection (1)(a)(ii) and reports submitted to Parliament under subsection (1) (b) shall not contain details of evidence adduced before the Commission or the recommendations of the Commission to the Director of Public Prosecutions

18. Informal resolution of complaints.

(1) The Commission is not required to hold a hearing into a complaint where the Commission is satisfied that the complaint may be justly and adequately resolved otherwise than by a hearing.

(2) Where the Commission is satisfied that —

(a) the complaint relates to conduct which, even if proven, would not justify a criminal charge; or

(b) there is insufficient evidence of the involvement of a concerned officer or a concerned specified official in an incident,

the Commission shall resolve the complaint informally.

(3) Where a complaint is resolved informally —

(a) a record shall be made of the details of the resolution;

(b) the complainant and the concerned officer or concerned specified official shall each sign the record of the resolution of the complaint;

(c) a copy of the record of the resolution of the complaint shall be furnished forthwith to the complainant and the concerned officer or concerned specified official.

(4) The Commission shall submit to the Director of Public Prosecutions, a report containing a record of the resolution of the complaint and the Commission's recommendations.

(5) An answer or statement made in disposing of the complaint informally shall not be used or received in any criminal or civil proceedings, except with the consent of the complainant, the concerned officer or concerned specified official.

(6) Where, after a complaint has been resolved informally, the Commission becomes aware of the existence of additional evidence, the Commission may order the formal resolution of the complaint to proceed and shall notify the complainant, the concerned officer, or the concerned specified official, of the Commission's decision to hold a hearing into the incident.

19. Formal resolution of complaints.

(1) Where a complaint of an incident is required by section 13(6) to be resolved formally, the Commission shall hold a hearing into the complaint.

(2) The Commission may make rules for its guidance, and the conduct and management of investigations, including the times and places of hearings, and may adjourn for such time and to such place within or outside The Bahamas as the Commission thinks fit.

20. Hearings of the Commission.

(1) Where the Commission holds a hearing into a complaint, the Commission shall afford the concerned officer, or the concerned specified official, an opportunity to be heard at the hearing.

(2) The Commission shall, for the purpose of deciding the most appropriate mode of hearing, make an assessment, of—

(a) the seriousness of the incident;

(b) the national importance of the investigation of the incident;

(c) public interest considerations;

(d) the circumstances in which the incident is alleged to have occurred.

(3) After making the assessment in subsection (2) the Commission may determine whether to hold hearings in public or in private or partly in public and partly in private.

(4) Where the Commission proposes to hold hearings in public or partly in public, the Commission shall consult the Director of Public Prosecutions.

(5) At the end of a hearing, the Commission shall assess the evidence, form its opinion on the incident under investigation, prepare a report containing its recommendations, and submit the report to the Director of Public Prosecutions along with the investigator's report and other documents or transcripts it considers relevant to the incident.

21. Ongoing investigations by Security Force or public body.

(1) Where before the commencement of this Act, there is an investigation of an incident by a Security Force or public body, the Security Force or public body shall notify the Commission of the details and the stage of the investigation, and the Commission shall take over the management, supervision, direction and control of the investigation.

(2) The Commission shall request from the responsible head, or responsible officer, the delivery of documents and other information relating to the investigation, and direct that no further action be taken by the Security Force or public body in the investigation.

(3) The responsible head or the responsible officer, shall forthwith comply with the request to deliver the documents, to supply information relative to the ongoing investigation, and to follow the directions of the Commission.

(4) The investigation shall be continued and completed by the Commission under this Act.

22. Commission's powers to summon and examine witnesses.

(1) Subject to this Act, the Commission shall have the powers of a Justice of the Court to —

(a) summon and compel the attendance of complainants and witnesses;

(b) call for the production of documents or other exhibits,

(c) retain and examine relevant documents;

(d) examine witnesses on oath;

(e) subject to the Supreme Court Civil Procedure Rules, 2022 (*S.I. No. 76 of 2022*), issue a commission or a request to examine witnesses abroad.

(2) A witness who gives false evidence in a hearing before the Commission commits perjury and shall be liable to a penalty under section 82 of the Penal Code (*Ch. 84*).

23. Immunity of witnesses and persons assisting the Commission.

(1) No Commissioner or person assisting the Commission in the conduct of an investigation shall be liable to any action, suit or proceedings for anything done in the due execution or carrying out of the functions of the Commission under this Act.

(2) No person attending before the Commission shall be excused from answering questions or producing documents or other exhibits by reason that the answer or the production of the documents or exhibits, would be self-incriminating.

(3) Notwithstanding any other law to the contrary, no answer given, or document or other exhibit produced, shall be admissible as evidence against a witness in any proceedings, except in criminal proceedings in which the witness is charged with giving false evidence before the Commission, or conspiring with or procuring others to give false evidence before the Commission.

24. Appearance of Counsel and Attorney.

(1) A person who is the subject of an investigation under this Act or is in any way implicated or concerned in the incident under investigation, may be represented by a counsel and attorney, and a witness who may consider it prudent to be represented, may with leave of the Commission, be represented by a counsel and attorney before the Commission.

(2) Where in any matter before the Commission, a person who is the subject of the investigation or is in any way implicated or concerned in the incident under investigation, asserts that he is unable to retain counsel, the Commission —

(a) shall, if the incident under investigation is an offence punishable with death, appoint a counsel and attorney;

(b) may, in any other case, appoint counsel and attorney.

(3) A person referred to in subsection (1) or his counsel and attorney, may require the Commission to summon witnesses as are necessary for the purpose of presenting evidence on his behalf in the investigation.

25. Duty of summoned witnesses.

(1) Where any person —

(a) on being summoned as a witness before the Commission fails to attend; or

(b) being in attendance as a witness —

(i) refuses to take the oath or to affirm;

(ii) refuses to produce a document in his power, or control;

(iii) refuses to answer any question to which the Commission may legally require an answer; or

(iv) leaves the Commission without the permission of the Commission; or

(c) does any other thing which would, if the Commission had been a Justice of the Court, be a contempt of court,

the Commissioner presiding, may certify the contempt of that person to the Court and the Court may inquire into the alleged offence of contempt.

(2) A witness before the Commission shall be entitled, subject to section 23(2) to the same immunities and privileges as a witness in civil proceedings before the Court.

26. Evidence.

(1) Subject to subsection (4), the Commission may at any time require, an officer of a Security Force, a specified official or other person who, in the opinion of the Commission, is able to assist in an investigation under this Act —

(a) to furnish a statement of such information; and

(b) to produce any document or other exhibit in the possession of, or under the control of, the officer, specified official, or other person.

(2) The statements furnished under subsection (1), shall be sworn before a notary public.

(3) Subject to subsection (4), the Commission may summon and examine —

(a) a complainant; or

(b) an officer of a Security Force, a specified official or any other person who, in the opinion of the Commission, can furnish information relating to an investigation by the Commission.

(4) A person shall not, for the purpose of an investigation, be compelled to give evidence or produce documents or other exhibits which he could not be compelled to give or produce in proceedings before the Court.

27. Action by Director of Public Prosecutions.

(1) Where on receipt of a report and recommendations from the Commission under section 18(4) or section 20(5), the Director of Public Prosecutions determines that a concerned officer or concerned specified official ought to be prosecuted for a criminal offence, the Director of Public Prosecutions shall institute, and undertake criminal proceedings against the officer or specified official.

(2) Upon a determination by the Director of Public Prosecutions under subsection (1), the Director of Public Prosecutions shall forthwith inform —

(a) the Commission;

(b) Parliament;

(c) the concerned officer or concerned specified official;

(d) the appropriate Service Commission where the action relates to an officer of a Security Force, or to a public officer;

(e) the appropriate public body by which the concerned specified official is appointed or is employed,

of the decision made and action taken on the recommendations of the Commission.

28. Duty of investigators to provide support.

Investigators appointed under this Act by the Commission shall, on the request of the Director of Public Prosecutions, attend the Court to give evidence and provide such other support as the Director of Public Prosecutions may require in criminal proceedings instituted or undertaken by the Director of Public Prosecutions.

PART V- GENERAL

29. Privileges.

(1) Except in proceedings for an offence under section 34(c), no proceedings shall lie against the Commission, a Commissioners or other person concerned with the administration of this Act, for things done or said, in the performance of the functions under this Act.

(2) Anything said or information supplied, or document or other exhibit produced by a person for, or during an investigation under this Act, shall have absolute privilege under section 320(1)(e) of the Penal Code (*Ch.84*).

30. Secrecy.

(1) Each Commissioner and every person concerned with the administration of this Act, shall hold secret and confidential, all documents, information and disclosures to the Commission in the execution of their functions under this Act, except that no disclosure—

(a) made by a Commissioner or any person in proceedings for an offence under section 34(c) of this Act or for perjury under section 22(2) of this Act;

(b) which a Commissioner thinks necessary in the discharge of the functions of the Commission, and does not prejudice the security, defence or international relations of The Bahamas,

shall be deemed inconsistent with a duty imposed by this section.

(2) No Commissioner or any person specified in this section shall be called upon to give evidence in respect of any document, information or other exhibit in any proceedings, or produce any such document, information or other exhibit in proceedings other than proceedings under this Act.

31. Annual Reports.

(1) The Commission shall submit to Parliament an annual report on the execution of the functions of the Commission before the thirtieth day of September in every year.

(2) Reports under this section shall be submitted to the President of the Senate and the Speaker of the House of Assembly, who shall as soon as possible, have the reports laid before each House of Parliament.

(3) Subject to subsections (4), (5) and (6), the Commission may, in the public interest, publish in such manner as it thinks fit, reports laid under subsection (2) within seven days of the report being laid.

(4) The Commission shall not in any report furnished under this section, disclose any communication —

(a) between a medical practitioner and his patient concerning the patient's physical or mental health;

(b) between a minister of religion and a person consulting him in that capacity about his religious or other beliefs;

(c) between a counsel and attorney and his client in their professional relationship about the client's legal history.

(5) Where the Commission makes a recommendation to the Director of Public Prosecutions to institute, or undertake criminal proceedings against a concerned officer or concerned specified official, no report furnished under this section shall contain a record of the recommendation of the Commission, a record of the evidence adduced before the Commission, or

the decision of the Director of Public Prosecutions, unless the matter is finally disposed of.

(6) Subject to subsection (5), the Commission may, on application, grant public access to the Commission's report if the Commission is satisfied there are no compelling reasons for denying access to the report, and may publish the report in the Gazette and in one daily newspaper.

32. Obligation to comply with recommendations in report.

(1) The annual report of the Commission under section 31 may include recommendations in relation to recruitment, discipline, ethics, staff training, conditions of service of the Security Forces and public bodies, and other matters the Commission deems appropriate.

(2) Where recommendations are made under subsection (1) by the Commission, the recommendations shall be complied with, in the manner and within the time specified in the report.

(3) The responsible officer or responsible head shall report to the Commission on the compliance with the recommendations, within the period specified by the Commission in the report, and shall take such steps as are necessary to ensure compliance with the Commission's recommendations.

(4) Where the relevant Security Force or relevant public body fails to comply with the recommendations of the Commission within the time specified for compliance or within sixty days following the expiration of that time, without any good or sufficient cause, the Commission shall report the failure to Parliament.

33. Register.

(1) The Commission shall, in respect of every investigation, record in a register —

(a) the subject matter and date of every complaint received;

(b) the Commission's decision and recommendations on the investigation of each complaint; and

(c) the disposition of the matter.

(2) A person may apply to the Commission to inspect the register, and the Commission may allow the inspection of the register where the complaint is finally disposed of by the Director of Public Prosecutions or a court.

(3) The register shall be inspected on payment of the prescribed fee, during the hours and on the business days of the Commission, as the Commission may determine.

34. Offences.

A person who —

(a) wilfully makes a false statement to the Commission, an investigator or any other person executing functions under this Act;

(b) without lawful justification or excuse—

(i) obstructs, or hinders the Commission or other person exercising functions under this Act;

(ii) fails to comply with any lawful requirement of the Commission or other person executing functions under this Act on behalf of the Commission;

(iii) wilfully refuses or neglects to carry out any duty required to be performed under this Act;

(c) deals with documents, information or things mentioned in section 30(2) in a manner inconsistent with the provisions of that section;

(d) wilfully and without lawful excuse –

(i) obstructs, delays or prevents communication of information to an investigator or to the Commission;

(ii) makes false statements to investigators or Directors;

(iii) interferes or tampers with a witness summoned to give evidence before the Commission;

(iv) destroys evidence of the commission of an incident,

commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars, or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

35. Rules.

The Commission may make Rules for giving effect to this Act prescribing —

(a) the practice and procedure to be adopted for investigation of complaints by the Commission;

(b) the practice and procedure to be adopted for hearings before the Commission;

(c) the guidance, conduct and management of investigations;

(d) the times and places of hearings;

(e) the procedure for informal resolution of complaints before the Commission;

(f) the form of recommendation of the Commission to the Director of Public Prosecutions following an investigation under this Act;

(g) the complaint form under section 13;

(h) the form in which records are to be kept by the Commission, and the form of report to be made under this Act;

(i) the form of submission to Parliament of the Commission's final report on an investigation;

(j) the fees to be prescribed; and

(k) such other matters as may be required by this Act, to be prescribed.

FIRST SCHEDULE

(Section 4)

Tenure of Office of Commissioners

1. Tenure of Office.

(1) Subject to this Act, a person appointed as a Commissioner shall hold office for five years on such terms as may be specified in the instrument of appointment and may be reappointed for a further term of five years.

(2) A Commissioner may by instrument in writing addressed to the Governor-General, resign his office.

(3) Notwithstanding the expiration of the term of a Commissioner under paragraph (1), the Commissioner may continue in office for such period after the expiration of his term as the Governor-General, on the recommendation of the Prime Minister after consultation with Leader of the Opposition, may specify, in order to enable the Commissioner to give his decision or to do any other thing in relation to any investigation in which he was involved before the expiration of his term under paragraph (1).

(4) Nothing done by a Commissioner shall be invalid by reason only that the term of the Commissioner has expired.

2. Disqualification for appointment.

(1) (1) No person shall be qualified to be appointed a Commissioner who —

(a) is a member of the Senate or the House of Assembly;

(b) has been adjudged or otherwise declared bankrupt, and has not been discharged;

(c) has been convicted of an offence of dishonesty or moral turpitude;

(d) has served as a member of a Security Force; or

(e) is a party to, or a partner of, a firm, or a director or manager of a company, which, to his knowledge, is a party to a contract with the Government of The Bahamas for or on account of the public service unless, prior to his appointment, he has disclosed to the Governor-General the nature of the contract and his interest, or the interest of his firm or company.

(2) A Commissioner shall be deemed to vacate his office if he is disqualified for appointment under sub-paragraph (1).

3. Removal from office.

(1) A Commissioner may be removed from office by the Governor-General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition on the following grounds —

(a) inability to discharge the functions of office (whether arising from infirmity of body, or mind or any other cause);

(b) failure to competently discharge the functions of his office;

(c) misbehaviour, namely behaviour which violates moral principles, professional standards of conduct, and threatens to undermine the public's trust;

(d) trading with the Government of The Bahamas contrary to sub-paragraph (2)

(2) Subject to subparagraph (3), a Commissioner shall not, while holding office as a Commissioner become a party to, or a partner in a firm or a director or manager of a company which to his knowledge, is or becomes a party to a contract with the Government of The Bahamas for or on account of the public service.

(3) Sub-paragraph (2) shall not apply where—

(a) a Commissioner, before becoming a party to a contract in the circumstances referred to in sub-paragraph (2), disclosed to the Commission the nature of the contract and his interest therein; and

(b) the Commission determined that, in the circumstances, the Commissioner should not be liable to removal under this paragraph.

4. Restriction on employment.

A person appointed as a Commissioner shall be a full-time officer and except with the approval of the Governor-General acting in his discretion, shall not be employed in any other capacity during the period in which he holds office as a Commissioner.

5. Filling of vacancy.

(1) Where a vacancy arises in the office of Commissioner, the Governor-General may, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, designate a person being a person qualified under section 4(4), to act in the office of Commissioner during the vacancy until an appointment is made

(2) Where, by reason of illness, absence from The Bahamas or other sufficient cause, a Commissioner is unable to perform his functions , the Governor-General may, on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, appoint such person as he thinks fit, being a person qualified to perform the functions of the Commissioner, and the Commission may until the Commissioner is appointed perform its functions with the quorum of Commissioners prescribed in section 4(6).

6. Remuneration of Commissioner.

(1) Subject to sub-paragraph (2), a Commissioner shall be paid the remuneration and allowances as determined by the Governor-General acting in accordance with the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(2) The emoluments and terms and conditions of service of a Commissioner, other than allowances, shall not be altered to the disadvantage of a Commissioner during the period of appointment.

(3) The emoluments payable to a Commissioner under this Act shall be a charge on the Consolidated Fund.

SECOND SCHEDULE

(Section 7)

Schemes for Management of regions

The schemes shall—

(a) provide for the establishment, management and functions of two regional offices for the Family Islands and one for New Providence;

(b) define the islands or parts thereof which comprise the regions to be administered by a Director of Complaints;

(c) establish the responsibilities of the Director of Complaints for the operation and management of each regional office;

(d) provide for —

(i) the application of the funds allocated to each region;

(ii) the employment, duties and other terms and conditions of employment of the staff of each region;

(iii) such other matters as the Commission considers expedient for giving effect to the purposes of the Act.

THIRD SCHEDULE

(Section 10)

Oath to be taken by Commissioners and persons appointed to staff of Commission

I……..do swear that I will faithfully perform the functions assigned to me under the Independent Commission of Investigations Act, and I will not, on any account, at any time whatsoever, except in so far as this Act authorizes, 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 this Act.

So help me God

Signature……

Dated…….....