

THE CORRUPTION PREVENTION (SPECIAL
PROSECUTOR) ACT, 2008

(Act of 2008)

ARRANGEMENT OF SECTIONS

PART I. Preliminary

1. Short title and commencement.
2. Interpretation.
3. Meaning of corrupt conduct.
4. Principal objects of Act.
5. Application of Act.
6. DPP's functions not affected by this Act.
7. Remedy under other provision of law unaffected.

PART II. Corrupt Conduct and Related Offences

8. General offence of corrupt conduct.
9. Offences relating to undue advantage sought by public official.
10. Offences relating to undue advantage promised, etc. to public officials.
11. Offences relating to undue advantage by foreign public officials and officials of public international organizations.
12. Offences relating to advantage in private sector.
13. Embezzlement, misappropriation or other diversion of property by a public official.
14. Embezzlement of property in the private sector.
15. Offence of trading in influence.
16. Abuse of function.
17. Offence of instigating and aiding, etc. corrupt conduct.
18. Offence of illicit enrichment.
19. Defence to charge of illicit enrichment.
20. Offence of improperly using certain information or property belonging to the Government.
21. Offence of intermediary, etc. illicitly obtaining benefit.
22. Offences of corrupt conduct by agent.

23. Offence of concealing property.
24. Offence of obstruction of justice.
25. Corruptly procuring or obtaining withdrawal of tenders.
26. Offence of making false or misleading statement or return in relation to Government property.
27. Duty to report corrupt conduct.
28. Offence of failure to report corrupt conduct.
29. Interfering with duty to report corrupt conduct.
30. Offence re off-the book dealings.
31. Offence by body corporate.

PART III. The Office of the Special Prosecutor for Corruption

Constitution of Office

32. Constitution of Office.

Functions of Office

33. Power to investigate and prosecute corruption.
34. Functions of Office generally.
35. Office to cooperate with other bodies.
36. Office to act independently, etc.

Special Prosecutor

37. Appointment of Special Prosecutor.
38. Eligibility and procedure for appointment of Special Prosecutor.
39. Disqualification for appointment.
40. Tenure of Special Prosecutor.
41. Removal of Special Prosecutor from Office.
42. Restriction on employment.
43. Filling of vacancy.
44. Remuneration of Special Prosecutor.
45. Pensions and gratuities of Special Prosecutor.

Appointment of Staff

46. Appointment of staff.
47. Oath of secrecy.

Proceedings of the Office

48. Notification about possible corrupt conduct.
49. Complaint, etc. to be recorded and investigated.
50. Duty to notify Office of possible corrupt conduct.
51. Evidence.
52. Restriction on disclosure of certain matters.

Powers of Entry, etc., Privilege and Confidentiality

53. Power to enter premises and retain documents.
54. Privilege.
55. Secrecy of information.

Accounts, Reports and Register

56. Accounts, etc.
57. Reports to Parliament.
58. Register.

PART IV. Provisions Relating to Statutory Declarations

59. Duty of parliamentarians and public officials to furnish statutory declaration.
60. Expenses incurred in preparation of declaration, etc., tax deductible.
61. Office may require further information.
62. Offences relating to declaration.
63. Offences relating to obstruction.

PART V. Corruption Tribunal

64. Establishment of Corruption Tribunal.
65. Jurisdiction of Corruption Tribunal.
66. Office may cause Tribunal to conduct enquiries.
67. Issue of summons.
68. Witness may be examined on oath.
69. Duty and privileges of witness.

PART VI. Enforcement Production and Inspection Orders

70. Meaning of "legal professional privilege" and "exclude material".

71. Production and inspection orders.
72. Scope of production order.
73. Evidential value of information.

Restraint Orders

74. Application for restraint order.
75. Restraint order.
76. Undertakings by Crown.
77. Notice of application for restraint order.
78. Service of restraint order.
79. Contravention of restraint order.
80. Notice and duration of restraint order.
81. Extension of restraint order.

Account Monitoring Orders

82. Monitoring orders.
83. Monitoring orders not to be disclosed.

Certification of Copies of Documents.

84. Certification of copies of documents.

Search Warrants

85. Search warrant to facilitate investigations.

Other Orders

- 85A. Sections 109 to 114 of Proceeds of Crime Act apply.

PART VII. General

86. Provisions applicable where no Leader of the Opposition.
87. Review of Act.
88. Regulations.
89. Repeal of Corruption Prevention Act and Parliament (Integrity of Members) Act.

PART VIII. Transitional Provisions

90. Vesting of property.
91. Transfer of employees of Office.
92. Saving of actions and investigations.

SCHEDULES.

A BILL

ENTITLED

AN ACT to Promote and Strengthen Measures to Prevent and Combat Corrupt Conduct More Efficiently and Effectively; to provide for the offence of corrupt conduct and offences relating to corrupt conduct; to provide for the establishment of a commission of Parliament to be known as the Office of the Special Prosecutor for Corruption with special responsibility for the investigation and prosecution of corrupt conduct; to repeal the Corruption (Prevention) Act and the Parliament (Integrity of Members) Act; and for connected matters.

[]

PART I. Preliminary

1.—(1) This Act may be cited as the Corruption Prevention (Special Prosecutor) Act, 2008, and subject to subsection (2), shall come into operation on a day to be appointed by the Minister by notice published in the Gazette.

Short title
and com-
mencement.

(2) Different days may be appointed for the coming into operation of this Act or, as the case may be, of different sections of this Act.

Interpreta-
tion.

2.—(1) In this Act, unless the context otherwise requires—

“advantage” includes—

- (a) any benefit, whether direct or indirect;
- (b) any act or omission at the request of another person, whether or not the nature or timing of the act or omission is then known or the making of the request is express or implied, direct or indirect;
- (c) any gift, loan, sponsorship, fee, reward or commission consisting of money, any valuable security, or any other property;
- (d) any office, employment or contract;
- (e) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (f) any service, or favour, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (g) the exercise or failure to exercise of any right, power or duty; and
- (h) any offer, undertaking or promise, whether conditional or unconditional, within the meaning of paragraph (a), (b), (c), (d), (e), (f) or (g);

“agent” means any person employed by or acting for another and includes a parliamentarian, public official, public body or any political party or institution or officer thereof, a trustee, an administrator or executor of the estate of a deceased person, a sub-contractor, and any person employed by or acting for such trustee, administrator, executor, or sub-contractor;

“appointed day” means the day on which this Act, or as the case may be a section of this Act, comes into operation;

“assets and liabilities” includes, in relation to assets any property whether in or outside of Jamaica and in relation to liabilities, any obligation to pay money whether in or outside of Jamaica;

“associate”, in relation to a person, includes an agent known to act subject to the directives or influence of the person;

“authorized officer” means a person so designated under section 34(3);

“child” means a person under the age of eighteen years;

“complaint” includes any complaint referred to in section 33 (1) (a) relating to corrupt conduct by a parliamentarian, public official, or person in the private sector and information or notification under section 48 or any referral under section 50;

“consideration” means valuable consideration of any kind;

“Corruption Tribunal” or “Tribunal” means the tribunal established under section 64;

“corrupt conduct” has the meaning assigned to it in section 3;

“document” includes, in addition to a document in writing—

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any disc, tape, soundtrack or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;
- (d) any film (including microfilm), negative; tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;
- (e) a document in electronic form;

“financial institution” has the meaning assigned to it in the Financial Institutions Act;

“foreign public official” means any person—

- (a) holding a legislative, executive, administrative or judicial office of a country or territory other than Jamaica, whether appointed or elected;
- (b) performing a public function for a country or territory other than Jamaica, including for an enterprise or agency of that country or territory that is similar to a public body under this Act;

“functions” includes powers and duties;

“investigation” means any inquiry or investigation conducted under this Act;

“judicial office” means any of the following offices—

- (a) Chief Justice;
- (b) Member of a tribunal appointed under the Constitution of Jamaica;
- (c) Judge of the Court of Appeal;
- (d) Registrar of the Court of Appeal;
- (e) Judge of the Supreme Court;
- (f) Registrar of the Supreme Court;
- (g) Member of a tribunal appointed under the Commissions of Enquiry Act;
- (h) Resident Magistrate; or
- (i) Justice of the Peace exercising summary jurisdiction;

“official of a public international organization” means an international civil servant or any person who is authorized by a public international organization to act on behalf of the organization;

“Office” means the Office of the Special Prosecutor for Corruption constituted under section 32;

“parliamentarian” means a member of the House of Representatives or a member of the Senate;

“performing a function” includes exercising or failing to exercise the function irrespective of whether the function—

- (a) is or is not within the competence of the person exercising it; or
- (b) is exercised in Jamaica, or any part of Jamaica, or elsewhere;

“principal” includes—

- (a) an employer;
- (b) a beneficiary under a trust;
- (c) a trust estate as though it were a person;
- (d) any person beneficially interested in the estate of a deceased person;
- (e) the estate of a deceased person as though it were a person; and
- (f) in the case of an employee of a public body, the public body;

“private sector” includes any—

- (a) natural person or group of two or more natural persons who carries on a business;
- (b) syndicate, agency, trust, partnership, fund, association, organization or institution;
- (c) company registered under the Companies Act;
- (d) body of persons corporate or unincorporated; or
- (e) other legal person,

but does not include a public officer or a public body;

“property” means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets;

“public body” means—

- (a) a Ministry, Department or Agency of Government;
- (b) a Parish Council, the Kingston and St. Andrew Corporation, a Municipal Council or Municipality established under the Municipalities Act, a statutory body or authority; and
- (c) a company registered under the Companies Act, being a company in which the Government or an agency of Government, whether by the holding of shares or by financial input, is in a position to influence the policy of the company;

“public function” means any public service or function in the discharge of which Jamaica, or the public has an interest, whether or not payment is received therefor, which is carried out by—

- (a) a person for, or on behalf of, or under the direction of, a public body;
- (b) a body, whether public or private, certain of whose functions are functions of a public nature or in whose decision making the Government has or potentially has an interest;
- (c) a parliamentarian, acting in such capacity;

“public international organization” means—

- (a) an organization—
 - (i) of which two or more countries are members; or
 - (ii) that is constituted by persons representing two or more countries;
- (b) an organization established by, or a group of organizations constituted by—
 - (i) organizations of which two or more countries are members; or

- (ii) organizations that are constituted by the representatives of two or more countries; or
- (c) an organization that is—
 - (i) an organ of or office within an organization described in paragraph (a) or (b)—
 - (ii) a commission, council or other body established by an organization or organ referred to in sub-paragraph (i); or
 - (iii) a committee or a subcommittee of a committee of an organization referred to in paragraph (a) or (b) or of an organ, council or body referred to in sub-paragraph (i) or (ii);

“public official” means—

- (a) any person holding an executive or administrative office, whether appointed or elected, whether permanent or temporary, or whether paid or unpaid;
- (b) any other person who performs a public function;
- (c) any member of the Security Forces;

but does not include a parliamentarian or a person who holds a judicial office;

“relevant public body” means the public body to which a matter that concerns or may concern corrupt conduct relates;

“Security Forces” means—

- (a) the Jamaica Constabulary Force;
- (b) the Jamaica Defence Force;
- (c) the Island Special Constabulary Force; and
- (d) the Rural Police;

“single man” or “single woman”, used with reference to the definition of “spouse”, includes a widow or widower, as the case may be, and a divorcee;

“Special Prosecutor” means the person appointed as the Special Prosecutor under section 37;

“spouse” includes—

- (a) a single woman who, for a period of not less than five years, has cohabited with the single man as if she were in law his wife; and
- (b) a single man who, for a period of not less than five years, has cohabited with a single woman as if he were in law her husband;

“statutory declaration” means a statutory declaration made under section 59;

“valuable security” means any document—

- (a) creating, transferring, surrendering or releasing any right to, in or over property;
- (b) authorizing the payment of money or delivery of any property; or
- (c) evidencing the creation, transfer, surrender or release of any such right, the payment of money or delivery of any property or the satisfaction of any obligation.

(2) For the purpose of the definition of “public function”, the term “public service” includes the provision of electricity, water and communication.

(3) For the purposes of this Act—

- (a) a person offers an advantage if he, or any other person acting on his behalf, directly or indirectly gives, affords or holds out, or agrees, undertakes or promises to give, afford or hold out, any advantage to or for the benefit of or in trust for any other person;
- (b) a person solicits an advantage if he, or any other person acting on his behalf, directly or indirectly demands, invites, asks for or indicates willingness to receive, any advantage, whether for himself or for any other person; and

- (c) a person accepts an advantage if he, or any other person acting on his behalf, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any advantage, whether for himself or for any other person.

(4) The Minister may, by order, subject to affirmative resolution, exclude from the definition of “public official” any member of any council, board, committee or other body, who would, by virtue of his membership thereof, fall within that definition.

3.—(1) For the purpose of this Act, “corrupt conduct” includes the conduct specified in the First Schedule.

Meaning of corrupt conduct. First Schedule.

(2) The mention of a particular kind of conduct in the First Schedule shall not be regarded as limiting the scope of any other provision of this Act.

4. The principal objects of this Act are to—

Principal objects of Act.

- (a) promote and strengthen measures for the prevention and combat of corrupt conduct in the public and private sectors more efficiently and effectively;
- (b) promote integrity, accountability and proper management of public affairs and public property; and
- (c) provide for the establishment of a commission of Parliament to be known as the Office of the Special Prosecutor for Corruption with special responsibility for the investigation and prosecution of corrupt conduct.

5.—(1) Conduct may amount to corrupt conduct under this Act even though it occurred outside Jamaica, and such conduct refers to matters arising outside Jamaica, matters arising under the laws of Jamaica, or under any other law.

Application of Act.

(2) Where a citizen of Jamaica engages in corrupt conduct or commits an offence under section 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 28, 29 or 30 in another State, he shall be liable to be prosecuted and tried for the offence as if he had committed the offence in Jamaica.

DPP's functions not affected by this Act.

6. For the avoidance of doubt it is hereby declared that nothing in this Act affects the functions of the Director of Public Prosecutions under section 94 of the Constitution of Jamaica.

Remedy under other provision of law unaffected.

7. Nothing in this Act shall be construed as limiting or affecting any remedy or right of appeal, objection or procedure given to any person by any other provision of law.

PART II. Corrupt Conduct and Related Offences

General offence of corrupt conduct.

8. A person who engages in corrupt conduct commits an offence and is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Offences relating to undue advantage sought by public official.

9.—(1) A public official commits an offence if he—

- (a) corruptly solicits or accepts, whether directly or indirectly, for himself or another person or body any undue advantage for doing any act or omitting to do any act in the performance of his public function; or
- (b) in the performance of his public function does any act or omits to do any act for the purpose of obtaining any undue advantage for himself or any other person.

(2) A public official who contravenes subsection (1) is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

10.—(1) A person shall not intentionally promise, offer or give, to a public official, directly or indirectly, an undue advantage, for the official himself or another person or body, in order that the official act or refrain from acting in the performance of his public function.

Offences relating to undue advantage promised, etc. to public officials.

(2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

11.—(1) A person shall not intentionally promise, offer or give to a foreign public official or an official of a public international organization, directly or indirectly, any undue advantage, for the official himself or another person or body, in order that the official act or refrain from acting in the exercise of his official duties.

Offences relating to undue advantage by foreign public officials and officials of public international organizations.

(2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(3) A foreign public official or an official of a public international organization who intentionally solicits or accepts, whether directly or indirectly, any undue advantage, for the official himself or another person or body, for doing any act or refraining from doing any act in the performance of his public functions commits an offence.

(4) A foreign public official or an official of a public international organization who contravenes subsection (3) is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Offences relating to undue advantage in private sector.

12.—(1) A person shall not, intentionally in the course of economic, financial or commercial activities—

- (a) promise, offer or give, whether directly or indirectly, any undue advantage to any person who directs or works, in any capacity, for a private sector body, for the person himself or for another person; or
- (b) solicit or accept, whether directly or indirectly, any undue advantage from any person who directs or works, in any capacity, for a private sector body, for the person himself or for another person,

in order that he, in breach of his public function, act or refrain from acting.

(2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

13.—(1) A public official shall not embezzle or intentionally misappropriate or otherwise divert, for his benefit or for the benefit of another person or body, any property entrusted to the public official by virtue of his position.

Embezzlement, misappropriation or other diversion of property by a public official.

(2) A public official who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

14.—(1) A person who directs or works, in any capacity, in the private sector shall not intentionally in the course of economic, financial or commercial activities, embezzle any property entrusted to him by virtue of his position.

Embezzlement of property in the private sector.

(2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

15.—(1) A person shall not promise, offer or give to a public official or any other person, whether directly or indirectly, any undue advantage in order that the public official or the person abuse his real or supposed influence with a view to obtaining from another public official or public body any advantage for the original instigator of the act or for any other person.

Offence of trading in influence.

(2) A public official or other person shall not solicit or accept, whether directly or indirectly, any undue advantage for himself or for another person in order that the public official or the person abuse his real or supposed influence with a view to obtaining from another public official or public body, any undue advantage.

(3) A public official or any other person who contravenes subsection (1) or (2) commits an offence and is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Abuse of
function.

16.—(1) A public official shall not in the discharge of his function, intentionally, abuse his function or position, that is to say, perform or fail to perform an act, for the purpose of obtaining an undue advantage for himself or for another person or body.

(2) A public official who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Offence of
instigating
and aiding,
etc., corrupt
conduct.

17.—(1) A person who instigates, aids, abets or is an accessory after the fact or participates in whatsoever manner in the commission or attempted commission of or conspires to commit an offence under this Act commits an offence.

(2) A person who contravenes subsection (1) is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

18.—(1) Where a public official—

- (a) owns assets disproportionate to his lawful earnings; and
- (b) upon being requested by the Office or any person duly authorized to investigate an allegation of corrupt conduct against him, to provide an explanation as to how he came by the assets he—
 - (i) fails to do so; or
 - (ii) gives an explanation which is not considered to be satisfactory,

Offence of
illicit
enrichment.

he shall be liable to prosecution for the offence of illicit enrichment.

(2) A person who commits the offence of illicit enrichment shall be liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

19.—(1) It shall be a defence to a person charged with an offence of illicit enrichment to show the court that he came by the assets by lawful means.

Defence to
charge of
illicit
enrichment.

(2) Resources or property shall, in the absence of evidence to the contrary, be presumed to have been in the control of the accused in the circumstances set out in subsection (3).

(3) Subsection (2) applies where a court is satisfied in proceedings for an offence under section 18 that, having regard to the closeness of the relationship between the accused and another person and to other circumstances, there is reason to believe that the other person—

- (a) was holding pecuniary resources or property in trust for or otherwise on behalf of the accused; or
- (b) acquired such resources or property as a gift from the accused.

Offence of improperly using certain information or property belonging to the Government.

20.—(1) A person commits an offence if he improperly uses for his own benefit or for the benefit of another person—

- (a) any classified or confidential information that he obtains as a result of or in the course of the performance of his public function; or
- (b) any property belonging to a public body or any body performing a public function to which he has access as a result of or in the course of the performance of his functions.

(2) A person who contravenes subsection (1) is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Offence of intermediary, etc., illicitly obtaining benefit.

21.—(1) Any person who is, or is acting as, an intermediary or through a third person who seeks to obtain a decision from any public body whereby he illicitly obtains for himself or for another person any undue advantage (whether or not the act or omission to act from which the advantage is derived is detrimental to the Government) commits an offence.

(2) A person who contravenes subsection (1) is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

22.—(1) An agent commits an offence if he—

- (a) corruptly accepts or obtains, or agrees to accept or attempts to obtain from any person (including a person in the private sector) for himself or for any other person any undue advantage as an inducement or reward for doing or for omitting to do, or for having done or omitted to do, any act in relation to his principal's affairs or business, or for showing or omitting to show favour or disfavour to any person in relation to his principal's affairs or business; or
- (b) knowingly uses with intent to deceive his principal, any receipt, account, or other document—
 - (i) in respect of which the principal is interested;
 - (ii) which contains any statement which is false or erroneous or defective in any material particular; and
 - (iii) which, to the knowledge of the agent, is intended to mislead the principal.

Offences of
corrupt
conduct
by agent.

(2) An agent who contravenes subsection (1) is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(3) A person commits an offence if he—

- (a) corruptly gives, or agrees to give or offers, any gift or consideration to any agent as an inducement or reward for doing or omitting to do, or for having done or omitted to do, any act in relation to his principal's affairs or business or for showing or omitting to show favour or disfavour to any person in relation to his principal's affairs or business; or
- (b) knowingly gives to any agent, any receipt, account, or other document—
 - (i) in respect of which the principal is interested;
 - (ii) which contains any statement which is false or erroneous or defective in a material particular; and
 - (iii) which, to the knowledge of the agent, is intended to mislead the principal.

(4) A person who contravenes subsection (3) is liable—

- (a) on summary conviction in a Resident Magistrate's 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; and
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Offence of
concealing
property.

23.—(1) A person shall not, whether within or outside Jamaica, whether directly or indirectly, whether on behalf of himself or on behalf of any other person—

- (a) enter into, or cause to be entered into, any dealing in relation to; or
- (b) otherwise use or cause to be used, or hold, receive, or conceal,

any property or any part thereof which was the subject matter of an offence under this Part.

(2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction in a Resident Magistrate's 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; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

24.—(1) A person shall not—

- (a) use physical force, threats or intimidation against, or promise, offer or give any advantage to, any person to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of an offence under this Act; or
- (b) use physical force, threats or intimidation against any person to interfere with the performance of function of a person holding a judicial office, a member of a jury, the prosecution, a member of the Security Forces or any other justice or law enforcement official involved in an investigation, prosecution or other proceeding in relation to the commission of an offence under this Act.

Offence of
obstruction
of justice.

(2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Corruptly
procuring or
obtaining
withdrawal
of tenders.

25.—(1) A person commits an offence if he—

- (a) with intent to obtain from the Government or any public body a contract for performing any work, providing any service, doing anything, or supplying any article, material or substance (hereinafter referred to as a “public sector contract”) offers any undue advantage to any person who has made a tender for the contract, as an inducement or a reward for his withdrawing that tender; or
- (b) solicits or accepts any undue advantage as an inducement or a reward for his withdrawing a tender made by him for a public sector contract.

(2) A person who contravenes subsection (1) is liable—

- (a) on summary conviction in a Resident Magistrate’s Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Offence of
making
false or
misleading
statement or
return in
relation to
Government
property.

26.—(1) Any person charged with the receipt, custody, use or management of Government property, who knowingly furnishes, in his capacity as such, any false statement or return in respect of any money or other property received by him or entrusted to his care, or of any balance of money or other property in his possession or under his control commits an offence.

(2) A person who contravenes subsection (1) is liable—

- (a) on summary conviction in a Resident Magistrate’s Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

27.—(1) A public official who is offered or receives an undue advantage in circumstances which may constitute an offence under this Act, or the common law offence of bribery, shall disclose to the Office as soon as reasonably practicable and in the prescribed manner—

Duty to report corrupt conduct.

- (a) the existence and nature of the advantage, or the offer of it; and
- (b) the name, if known, of the person by whom the advantage was given or procured or offered or who agreed to give or procure or offer the advantage.

(2) A person performing any public function who knows or reasonably suspects, or ought reasonably to have known or reasonably to have suspected, that any person has committed, is committing or is about to commit an offence under this Act, or the common law offence of bribery, shall disclose to the Office, as soon as is reasonably practicable and in the prescribed manner, that knowledge or suspicion, and the information on which it is based, or cause such knowledge or suspicion to be so disclosed.

28.—(1) A person who fails to comply with section 27 commits an offence and is liable—

Offence of failure to report corrupt conduct.

- (a) on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that he reasonably believed that if he made the disclosure required to be made by him under that section, physical harm would be done to him or to another person, having regarded to the closeness of the person to the first mentioned person or to his property or the property of the other person.

Interfering
with duty to
report
corrupt
conduct.

29.—(1) A person who intentionally takes any action harmful to any other person, including interference with the other person's lawful employment or occupation, on the ground that the other person has made or may make a disclosure in accordance with section 27 commits an offence.

(2) A person who contravenes subsection (1) is liable—

- (a) on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment; and
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Offence re
off-the-book
dealings.

30.—(1) A person commits an offence who, for the purpose of facilitating engagement in corrupt conduct or the commission of any other offence under this Act—

- (a) establishes off-the-book accounts;
- (b) makes an off-the-book or inadequately identified transaction;
- (c) records any non-existent expenditure;
- (d) enters any liability with an incorrect identifications of its object;
- (e) uses any false document; or
- (f) intentionally destroys any bookkeeping documents.

(2) A person who contravenes subsection (1) is liable—

- (a) on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment; or
- (b) on conviction in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

31. Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, commits that offence and is liable to be proceeded against and punished accordingly.

Offence by
body
corporate.

PART III. The Office of the Special Prosecutor for Corruption Constitution of Office

32.—(1) For the purposes of this Act, there is hereby constituted a commission of Parliament to be known as the Office of the Special Prosecutor for Corruption.

Constitution
of Office.

(2) The Office—

- (a) shall consist of departments with respective responsibility for general administration, investigation and prosecution; and
- (b) may consist of such other departments and divisions as the Office considers necessary for the performance of its functions.

Functions of Office

33.—(1) Subject to the provisions of this Act, the Office shall—

Power to
investigate
and
prosecute
corruption.

- (a) cause to be investigated, on its own initiative, or as a result of any complaint, information or notification under section 48 or a referral under section 50, any complaint or any circumstances which, in the opinion of the Special Prosecutor, imply that—
 - (i) corrupt conduct;
 - (ii) conduct likely to allow, encourage or cause corrupt conduct;
 - (iii) any other matter connected with corrupt conduct, has occurred or may be about to occur;
- (b) review any matter referred to the Office by either House of Parliament;

- (c) review cases involving corrupt conduct;
- (d) direct, supervise or coordinate, as the case may require, investigations relating to corrupt conduct;
- (e) communicate to appropriate authorities the results of its investigations;
- (f) subject to section 6 and this section, institute and undertake criminal proceedings for corrupt conduct in any case which, in its opinion, warrant the direct involvement of the Office by virtue of the size or significance of the case.

(2) The Office may, if it considers it appropriate in any particular case—

- (a) request another public body or private sector body to carry out an investigation on its behalf or to assist in the investigative process; or
- (b) hold consultations with the Director of Public Prosecutions regarding any matter with a view to determining the appropriate action to be taken.

(3) Where the Office decides not to institute criminal proceedings in respect of any matter, it may refer that matter to—

- (a) the Director of Public Prosecutions for such further action as the Director of Public Prosecutions considers appropriate; or
- (b) the relevant body for appropriate action by that body.

(4) In subsection (3) “relevant body” means the public body or private sector body in relation to which, or a member of staff of which, an investigation is conducted or proceedings are instituted regarding an allegation or complaint regarding corrupt conduct.

(5) The Office may cause an investigation to be conducted even though no particular parliamentarian or public official is implicated.

(6) In considering whether or not to cause an investigation to be conducted, continued or discontinued, the Office shall have regard to such matters as it thinks fit, including whether or not, in its opinion—

- (a) the subject matter of the investigation is trivial;

- (b) the conduct concerned occurred at too remote a time to justify investigation; or
- (c) the complaint was frivolous, vexatious or not made in good faith.

(7) If the Office decides to discontinue or not to commence an investigation of a complaint or report made to it, the Special Prosecutor shall, in writing, inform the complainant or person who made the report of its decision and the reasons for such decision.

34.—(1) The Office shall—

- (a) receive and keep on record statutory declarations furnished by parliamentarians and public officials pursuant to section 59;
- (b) examine such statutory declarations and request from a parliamentarian or public official any information relevant to a statutory declaration made by him, which in its opinion would assist it in its examination;
- (c) make such independent, enquiries and investigations relating to a statutory declaration as it thinks necessary; and
- (d) perform such other functions in relation to declarations as may be assigned to it by the Minister or by or under this Act or any other enactment.

Functions of
Office
generally.

(2) The Office—

- (a) may provide advice or assistance, or both, to the Security Forces, any public body or other person on—
 - (i) ways in which corrupt conduct may be eliminated; and
 - (ii) changes in practice or procedures compatible with the effective performance of their functions which the Special Prosecutor thinks necessary to reduce the likelihood of the occurrence of corrupt conduct;

- (b) shall establish procedures and develop, implement and monitor a national plan and other plans and programmes relating to the prevention and combat of corrupt conduct;
- (c) shall advise and assist Parliament on ways and means in which corrupt conduct may be eliminated; and
- (d) shall perform such other functions as may be assigned to it by the Minister or by or under this Act or any other enactment.

(3) The Office may, from time to time, designate any person (whether employed by the Office or not) possessing the prescribed qualification to be an authorized officer.

Office to cooperate with other bodies.

35. In performing its functions under this Act, the Office shall, as far as is practicable, work in cooperation with the Contractor-General and the Auditor-General and such other persons or bodies as the Special Prosecutor thinks appropriate.

Office to act independently, etc.

36.—(1) The Office shall, at all times, act independently, impartially and fairly having regard to the purposes of the Act and the importance of protecting the public interest.

(2) Subject to section 6 and subsection (3), in the exercise of the powers conferred upon the Office by this Act, the Office and the Special Prosecutor shall not be subject to the direction or control of any person or authority.

(3) Nothing in this section shall be construed as preventing the assignment to a Minister of responsibility for such aspects of the administration of this Act as are necessary or desirable to facilitate liaison between Parliament and the Office.

Special Prosecutor

Appointment of Special Prosecutor.

37. For the due administration of the Office, there shall be appointed a Special Prosecutor who shall be the chief prosecutor in the Office and be in charge of the day-to-day administration of the Office.

38.—(1) A person shall not be appointed as or act as the Special Prosecutor unless the person—

Eligibility and procedure for appointment of Special Prosecutor.

- (a) possesses the competence and qualifications for appointment at the level of Senior Deputy Director of Public Prosecutions;
- (b) is a person of high integrity and is able to exercise competence, diligence and sound judgment in fulfilling his responsibilities under this Act.

(2) The Governor-General shall, after consultation with the Prime Minister and the Leader of the Opposition by instrument under the Broad Seal, appoint a person who is eligible under this section, and is not disqualified under section 39, to be the Special Prosecutor.

39.—(1) A person shall not be qualified to be appointed as or act as the Special Prosecutor, if that person—

Disqualification for appointment.

- (a) is a member or former member of the Senate or the House of Representatives or a political party;
- (b) is an undischarged bankrupt; or
- (c) has at any time been convicted of any offence involving dishonesty or moral turpitude.

(2) The Special Prosecutor shall be deemed to have vacated office if any circumstances arise that, if he were not holding the office, would have caused him to be disqualified for appointment by virtue of subsection (1).

40.—(1) Subject to the provisions of this Act, a person appointed as the Special Prosecutor shall hold office for a period of five years and may be re-appointed for two terms not exceeding five years at a time.

Tenure of Special Prosecutor.

(2) A person appointed as the Special Prosecutor may, at his own request, be relieved of office by the Governor-General and shall in any case, subject to subsections (3) and (4), vacate office on attaining the age of seventy years.

(3) The Governor-General may, on the recommendation of the Prime Minister, after consultation with the Leader of the Opposition, permit the Special Prosecutor to continue in office until he has attained

such age not exceeding seventy-five years, as may (before he has attained the age of seventy years) have been agreed between the Governor-General and the Special Prosecutor.

(4) Notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office, the Special Prosecutor may continue in office for such period after attaining that age as the Prime Minister, after consultation with the Leader of the Opposition, may specify, in order to enable the Special Prosecutor to give his decision or to do any other thing in relation to any investigation he was conducting before he attained that age.

(5) Nothing done by the Special Prosecutor shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

Removal of
Special
Prosecutor
from office.

41.—(1) The Special Prosecutor may be removed from office on the following grounds—

- (a) inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause);
- (b) failure to discharge the functions of his office in a competent manner;
- (c) misbehaviour; or
- (d) trading with the Government of Jamaica contrary to subsection (2),

and shall not be so removed except in accordance with the provisions of this section.

(2) The Special Prosecutor shall not, while holding office as Special Prosecutor 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 any contract with the Government of Jamaica.

(3) If each House of Parliament, by resolution, decides that the question of removing the Special Prosecutor from office ought to be investigated, then—

- (a) the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition, shall appoint a

tribunal consisting of a chairman and not less than two other members from among persons who hold or have held office as a 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) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and advise the Governor-General whether the Special Prosecutor ought to be removed from office for inability or failure as aforesaid or for misbehaviour or trading contrary to subsection (2).

(4) The provisions of sections 8 to 16 of the Commissions of Enquiry Act shall apply with necessary modifications in relation to a tribunal appointed under subsection (3) or, as the case may require, to the members thereof, as they apply in relation to offices or officers appointed under that Act.

(5) Where the question of removing the Special Prosecutor from office has been referred to a tribunal appointed under subsection (3)(a) and the tribunal has advised the Governor-General that the Special Prosecutor ought to be removed from office, the Governor-General shall by instrument under the Broad Seal, remove the Special Prosecutor from Office.

(6) Where the question of removing the Special Prosecutor from office has been referred to a tribunal under subsection (3), the Governor-General may, after consultation with the Prime Minister and the Leader of the Opposition, suspend the Special Prosecutor from performing the functions of his office and any such suspension—

- (a) may, at any time, be revoked by the Governor-General acting as aforesaid; and
- (b) shall, in any case, cease to have effect if the tribunal advises the Governor-General that the Special Prosecutor ought not to be removed from office.

Restriction
on
employment.

42. A person appointed as the Special Prosecutor shall be a full-time officer and, except with the approval of the Governor-General acting in his discretion—

- (a) shall not be employed in any other capacity during any period in which he holds office as Special Prosecutor; and
- (b) for a period of two years after he has ceased to hold office as the Special Prosecutor, shall not be eligible for appointment in the public service.

Filling of
vacancy.

43.—(1) Where a vacancy arises in the office of Special Prosecutor, the Governor-General may, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, designate a person to act in that office during the vacancy until an appointment is made.

(2) Where, by reason of illness, absence from Jamaica or other sufficient cause, a person appointed as the Special Prosecutor is unable to perform his functions as such, the Governor-General may, after consultation with the Prime Minister and the Leader of the Opposition, appoint such person as he thinks fit, being a person qualified under this Act, to perform those functions.

Remuneration
of Special
Prosecutor.

44.—(1) Subject to subsection (2), the Special Prosecutor shall receive the emoluments and be subject to such other terms and conditions of service as may, from time to time, be prescribed by or under any law or by a resolution of the House of Representatives, such emoluments being not less than the emoluments which may, from time to time, be payable to a Judge of the Supreme Court.

(2) The emoluments and terms and conditions of service of the Special Prosecutor, shall not be altered to his disadvantage during the period of his appointment or reappointment, as the case may be.

(3) The emoluments for the time being payable to the Special Prosecutor under this Act shall be charged on and paid out of the Consolidated Fund.

Pensions and
gratuities of
Special
Prosecutor.
Second
Schedule.

45. The provisions of the Second Schedule shall have effect with respect to the pension and other benefits to be paid to or in respect of a person who has held office as the Special Prosecutor.

Appointment of Staff

46.—(1) Subject to subsection (2), the Commission constituted under subsection (3) may— Appointment of staff.

- (a) appoint and employ for the purposes of this Act, at such remuneration and on such terms and conditions as may be approved by the Commission constituted under subsection (3), such officers and agents as may be considered necessary for the proper performance of the functions of the Office; and
- (b) establish the salaries, wages, allowances and conditions of employment of officers and employees of the Office.

(2) The Special Prosecutor may appoint such number of prosecutors as are necessary to enable the Office to exercise its prosecutorial functions from among persons who—

- (a) by virtue of their training, qualifications and experience are qualified for appointment at the level at which they are to be appointed; and
- (b) are persons of high integrity and are able to exercise competence, diligence and sound judgment in fulfilling their responsibilities under this Act.

(3) The Commission referred to in subsection (1) shall consist of —

- (a) the Speaker, as chairman;
- (b) the President of the Senate;
- (c) the person designated by the Prime Minister as Leader of Government Business in the House of Representatives;
- (d) the person designated by the Leader of the Opposition as Leader of Opposition Business in the Senate; and
- (e) the Minister responsible for finance.

(3) The Governor-General may, subject to such conditions as he may impose, approve of the appointment to the staff of the Office,

of any officer in the public service, provided that in relation to pension, gratuity, allowance and other rights as a public official, such officer shall be deemed to be in the public service while so employed.

Oath of
secrecy.

47. The Special Prosecutor and every person appointed to the staff of the Office shall, before he performs any function assigned to him under or by virtue of this Act, take and subscribe an oath in the form set out in the Third Schedule to be administered—

Third
Schedule.

- (a) in the case of the Special Prosecutor, by the Governor-General; and
- (b) in the case of every other person, by the Special Prosecutor.

Proceedings of the Office

Notification
about possible
corrupt
conduct.

48.—(1) Any person or body may, without disclosing his or its identity, orally or in writing, complain about, give information on, or notify the Office about a matter that involves, or may involve, corrupt conduct.

(2) Subsection (1) does not limit to whom a person can complain about corrupt conduct.

Complaint,
etc., to be
recorded and
investigated.

49. On receipt of a complaint, information or notification under section 48, the Office shall—

- (a) cause it to be recorded in the prescribed form and furnish to the person or body a copy of that record signed by the person receiving the complaint; and
- (b) cause an investigation into the matter to be made forthwith.

Duty to
notify Office
of possible
corrupt
conduct.

50.—(1) Where in the performance of his function—

- (a) the Auditor-General;
- (b) the Public Defender;
- (c) the Contractor-General;
- (d) a Permanent Secretary; or
- (e) the managing director or chief executive officer of a public body, as the case may be,

suspects on reasonable grounds that any matter involves or may involve corrupt conduct, he shall refer the matter to the Office.

(2) Where in the course of an investigation—

- (a) it is suspected that corrupt conduct has been committed; and
- (b) the Commissioner of Police is of the opinion that the matter ought to be investigated by the Office,

the Commissioner of Police shall refer the matter to the Office.

51.—(1) Subject to the provisions of subsection (4) and section 19(1), the Office may, by notice in writing served on a parliamentarian, public official or any other person who, in his opinion, is able to give assistance in relation to an investigation of any matter pursuant to this Act, to furnish such information and produce any document or thing in connection with such matter as may be in the possession or under the control of that parliamentarian, public official or other person. Evidence.

(2) For the purpose of an investigation under this Act, the Special Prosecutor shall have the same powers as a Judge of the Supreme Court in respect of the attendance and examination of witnesses and the production of documents.

(3) Any obligation to maintain secrecy or any restriction on the disclosure of information or the production of any document, paper or thing imposed on any person—

- (a) by or under the Official Secrets Act, 1911 to 1939 of the United Kingdom (or any Act of the Parliament of Jamaica replacing the same in its application to Jamaica); or
- (b) subject to the provisions of this Act, by any other law (including a rule of law),

shall not apply in relation to the disclosure of information or the production of any document or thing by that person to the Special Prosecutor for the purpose of an investigation; and accordingly, no person shall be liable to prosecution for an offence under the Official Secrets Act, 1911 to 1939 or such Act of Parliament of Jamaica or any other law, by

reason only of his compliance with a requirement of the Special Prosecutor under this Act.

(4) No person shall, for the purpose of an investigation, be compelled to give any evidence or produce documents which he could not be compelled to give or produce in proceedings in any court of law.

Restriction
on disclosure
of certain
matters.

52.—(1) Where the Secretary to the Cabinet, at the direction of Cabinet—

- (a) gives notice that the disclosure by the Office of any document or information specified in the notice, or any class of document or information so specified would—
 - (i) involve the disclosure of the deliberations or proceedings of the Cabinet or any committee thereof, relating to matters of a secret or confidential nature and is likely to be injurious to the public interest;
 - (ii) prejudice the relations of Jamaica with the government of any other country or with any international organization; or
 - (iii) prejudice the detection of offences, the Special Prosecutor or any employee of the Office shall not communicate to any person for any purpose any document or information specified in the notice, or document or information of a class so specified; or
- (b) certifies that the giving of any information or the answering of any question or production of any document or thing would prejudice the security or defence of Jamaica,

the Office shall not further require such information or answer to be given or such document or thing to be produced.

(2) Except as provided under subsection (1), no law which authorizes or requires the refusal to answer any question or the withholding of any information or document or thing on the ground that the answering of the question or the disclosure of the information,

document or thing would be injurious to the public interest, shall apply in respect of any investigation by or proceedings before the Special Prosecutor.

Powers of Entry, etc., Privilege and Confidentiality

53.—(1) The Special Prosecutor or an authorized officer may, at any time, for the purpose of an investigation—

Power to enter premises and retain documents.

- (a) enter and inspect any premises occupied or used by a public body, parliamentarian or public official in that capacity;
- (b) inspect any document or other thing in or on the premises; and
- (c) take copies of any document in or on the premises.

(2) The public body, parliamentarian or public official shall make available to the Special Prosecutor or authorized officer such facilities as are necessary to enable the powers conferred by this section to be exercised.

54.—(1) Except in the manner specified under this Act, no proceedings whatsoever shall lie against the Office or any person authorized for anything done, reported or said by him in the performance of his functions under this Act.

Privilege.

(2) Anything said or information supplied or any document or thing produced by any person for enquiry by the Office under this Act, shall be absolutely privileged.

(3) For the purposes of the Defamation Act, any report made by the Office under this Act and any fair and accurate report thereon shall be deemed to be privileged.

55.—(1) The Office and every person concerned with the administration of this Act shall, subject to subsection (2), regard as secret and confidential all documents, information and things disclosed to them in the execution of any of the provisions of this Act, except that no disclosure—

Secrecy of information.

- (a) made by the Special Prosecutor or any person aforesaid in proceedings for an offence under section 26 of this Act or under the Perjury Act, by virtue of section 17(2) of that Act;

- (b) which the Special Prosecutor thinks it necessary to make in the discharge of his functions,

shall be deemed inconsistent with any duty imposed by this subsection.

(2) Neither the Special Prosecutor nor any such person as aforesaid shall be called upon to give evidence in respect of, or produce, any document, information or thing referred to in subsection (1) in any proceedings other than proceedings mentioned in that subsection.

Accounts, Reports and Register

Accounts,
etc.

56.—(1) The accounts and financial transactions of the Office shall be audited annually by the Auditor-General and a statement of accounts so audited shall form part of the annual report mentioned in section 57(2)(a).

(2) The Special Prosecutor shall—

- (a) submit to the Minister in a form satisfactory to the Minister, being a form which conforms to the best commercial standards, a statement of the accounts of the Office mentioned in subsection (1);
- (b) submit to the Minister for approval the estimates of revenue and expenditure for the financial year commencing on the 1st day of April next following.

(3) In this section, “Minister” means the Minister responsible for finance.

Reports to
Parliament.

57.—(1) The Office may, at any time, be required by Parliament to submit thereto a report in respect of any matter under investigation by the Office.

(2) The Office—

- (a) shall submit to Parliament an annual report relating generally to the execution of the functions of the Office; and
- (b) may, at any time, submit a report relating to any particular case or cases investigated by the Office which, in its opinion, require the special attention of Parliament.

(3) Reports under this section shall be submitted to the Speaker of the House of Representatives and the President of the Senate, respectively, who shall, as soon as possible, have the reports laid on the Tables of the respective Houses.

(4) The Office shall not, in any report furnished under this section, disclose or act upon any communication between—

- (a) a medical practitioner and his patient in their professional relationship;
- (b) a minister of religion and any person consulting him in his capacity as such; or
- (c) an attorney-at-law and his client in their professional relationship,

where such communication came to the knowledge of the Office during the course of an investigation under this Act.

58. Where the Office decides to investigate a complaint, it shall cause to be recorded in a register for the purpose—

- (a) the name of the complainant or the fact that the identity of the person making the notification was not disclosed;
- (b) the subject matter of the complaint and the date thereof; and
- (c) on the conclusion of the investigation, the Office's decision respecting the complaint,

and any person may, on payment of such fees as may be prescribed, inspect any register kept pursuant to this section during the hours and on the days of business of the Office.

PART IV. Provisions relating to Statutory Declarations

59.—(1) Every person who, on or after the appointed day, is a parliamentarian or public official shall, subject to the provisions of this section, furnish to the Office a statutory declaration of his assets and liabilities and his income in the form set out as Forms A and B, respectively, in the Fourth Schedule.

(2) The Special Prosecutor and every person employed to the Office shall furnish a statutory declaration to the Committee established for that purpose under subsection (15).

Register.

Duty of parliamentarians and public officials to furnish statutory declaration. Fourth Schedule. Forms A and B.

(3) Subsection (1) shall not apply to a public official who is in receipt of total emoluments less than the prescribed amount.

(4) Notwithstanding subsection (3), regulations made under section 88 may contain provisions requiring public officials who occupy such posts as are prescribed to furnish a statutory declaration pursuant to subsection (1).

(5) A declaration pursuant to subsection (1) shall include such particulars as are known to the declarant of the assets, liabilities and income of the spouse and children, where applicable, of the declarant.

(6) The particulars required to be furnished under subsection (5) shall be limited to assets held by the spouse or child (as the case may be) in trust for, or as agent of, the declarant—

- (a) if the spouse was not living with the declarant at any time during the period in relation to which the declaration is made; or
- (b) if the child of the declarant—
 - (i) has attained the age of eighteen years; or
 - (ii) is married and under the age of eighteen years, and was not living with the declarant at any time during the period in relation to which the declaration is made.

(7) Nothing in subsection (6) shall be construed as precluding the Office from requiring from a declarant any additional particulars the Office may think fit.

(8) Subject to subsection (9), a statutory declaration pursuant to subsection (1) shall be furnished—

- (a) subject to paragraph (b), in the case of a person elected or appointed, as the case may be, as a parliamentarian, within three months from the date of such election or appointment, as the case may be; and thereafter—
 - (i) on the 31st day of December in each year during any part of which he remains a parliamentarian; and

- (ii) at the end of twelve months from the date on which he ceases to be a parliamentarian,

so, however, that a declaration required to be made on the 31st day of December in any year shall be deemed to comply with the requirements of this subsection if it is made on the 31st day of March next following that date;

- (b) in the case of a person elected or appointed as a parliamentarian, as the case may be, after the dissolution of Parliament who was a parliamentarian immediately prior to such dissolution and had furnished all such declarations required up to that time shall furnish the next such declaration on the 31st day of December of the year in which the dissolution occurred and thereafter on the 31st day of December in each year during any part of which he remains a parliamentarian;
- (c) in the case of a person who is a public official on that date, including public officials referred to in subsection (4)—
 - (i) within three months after the date of appointment of a person as a public official; or
 - (ii) within three months after the date on which the emoluments of a public official become equivalent to or in excess of the prescribed amount,

and thereafter on the 31st day of December in each year during any part of which he remains a parliamentarian or a public official, or at such other intervals as the Office may direct by notice published in the Gazette.

(9) The Office may—

- (a) at any time in writing, require any public official or parliamentarian to furnish a statutory declaration;
- (b) by notice published in the Gazette, require such categories of public officials as are specified in the notice, to furnish a statutory declaration within the period so specified,

and the powers conferred by this paragraph may be exercised subject to such exceptions or conditions as the Office may specify in the notice.

(10) Where a person ceases to be a public official, including a public official referred to in subsection (4), he shall furnish a statutory declaration at the end of twelve months from the date on which he so ceases.

(11) A statutory declaration required to be made on the 31st day of December in any year shall be deemed to comply with the requirements of this section if it is made on or before the 31st day of March next following that date.

(12) A statutory declaration furnished pursuant to subsection (1) may, if the declarant so desires, be accompanied by a statement of affairs certified by a registered public accountant.

(13) A first declaration furnished by a parliamentarian under this subsection (1) shall include particulars of all the assets, liabilities and income of the parliamentarian as at the date of his election or appointment, as the case may be.

(14) The Office may, if it thinks necessary for the purpose of carrying out any investigation under this Act, request that information be supplied to it by—

- (a) any public body;
- (b) a Commissioner as defined in section 2 of the Revenue Administration Act;
- (c) a bank licensed under the Banking Act;
- (d) a financial institution licensed under the Financial Institutions Act;
- (e) a building society registered under the Building Societies Act;
- (f) a society registered under the Co-operative Societies Act or the Industrial and Provident Societies Act, as the case may be; or

(g) a person registered under the Public Accountancy Act.

(15) There shall be constituted for the purpose of this section, a committee consisting of—

- (a) the Auditor-General;
- (b) a member of the Privy Council; and
- (c) a retired judge of the Supreme Court or the Court of Appeal who shall be the chairman.

(16) The Committee constituted under subsection (15) shall—

- (a) receive and examine the declarations of the Special Prosecutor other prosecutors, officials and employees of the Office;
- (b) audit the operations of the Office for the purpose of monitoring compliance with law;
- (c) deal with (by reports and recommendations) complaints of abuse of power, impropriety and other forms of misconduct on the part of the Office, the Special Prosecutor, other prosecutors, officials and employees of the Office;
- (d) deal with (by reports and recommendations) delay in the conduct of investigations;
- (e) assess the effectiveness and appropriateness of the procedures of the Office relating to the legality or propriety of its activities; and
- (f) notify the Director of Public Prosecutions of the existence or possible existence of corrupt conduct,

and for the purpose of this subsection shall exercise similar powers as are conferred upon the Office under this Act.

(17) In this section, "assets" does not include such gifts as may be prescribed or received by a parliamentarian or public official from such relatives of that parliamentarian or public official as may be prescribed.

(18) The Committee constituted under subsection (15) shall regulate its own proceedings.

Expenses incurred in preparation of declaration, etc., tax deductible.

60. For the purposes of subsection (1) of section 13 of the Income Tax Act, any disbursement and expenses incurred in a year of assessment by a parliamentarian or a public official in connection with the preparation of a statutory declaration or other document required to be furnished by him for the purposes of this Act shall be deemed to be made or incurred by him wholly and exclusively in acquiring his income for that year of assessment.

Office may require further information.

61. Where the Office, upon examination of a statutory declaration furnished pursuant to section 59, is of the opinion that further information is necessary, it may, in writing request the parliamentarian or public official concerned to furnish such other documents, information, or otherwise as may be specified, within such time as may be specified.

Offences relating to declaration.

62.—(1) Any person who—

- (a) fails, without reasonable cause, to furnish to the Office a statutory declaration which he is required to furnish in accordance with section 59;
- (b) knowingly makes any false statement in the statutory declaration;
- (c) fails, without reasonable cause, to give any information as the Office may require under this Act;
- (d) fails, without reasonable cause, to attend an enquiry being conducted by the Office under section 65 or knowingly gives false information at such enquiry,

commits an offence, and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two hundred thousand dollars, or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(2) Where the offence involves the deliberate non-disclosure of the property of a parliamentarian or public official the Court may, subject to determining the beneficial interest of innocent third parties, in addition to the imposition of a fine or term of imprisonment, or both—

- (a) if the property involved is situated within Jamaica, declare that it be forfeited to the Crown; or

- (b) if the property involved is situated outside Jamaica, order that an amount equivalent to the value of the property (the value to be assessed as directed by the Court), be paid by the parliamentarian or public official to the Crown.

(3) Payment of all sums due to the Crown pursuant to subsection (2)(b) may be enforced in like manner as a debt due to the Crown and any proceedings thereof on behalf of the Crown may be taken summarily in a Resident Magistrate's Court, without limit of amount.

(4) In considering whether an order for the forfeiture of the property of a parliamentarian or public official should be made under subsection (2)(a), the Court shall have regard to the rights and interests, if any, of third parties in that property.

(5) A person who claims an interest in any property referred to in subsection (4) may apply to the Court for an order under subsection (6)—

- (a) during the proceedings for the offence referred to in subsection (2); or
- (b) within a period of six months after the day on which a forfeiture order is made in respect of that property or such longer period as the Court may, having regard to all the circumstances, allow.

(6) Where an application is made under subsection (5) the Court shall take account of the representations made by the applicant in relation to the property and shall make an order declaring the nature and extent of the applicant's interest, if any, in the property.

(7) The Court may—

- (a) where subsection (5)(a) applies, decide that the property, or the part thereof to which the applicant's interest relates, should not be forfeited to the Crown; or
- (b) where subsection (5)(b) applies, order that—
 - (i) the property, or the part thereof to which the applicant's interest relates, be returned to the applicant; or

- (ii) an amount equal to the value of the applicant's interest, as declared in the order under subsection (5), be paid to the applicant.

Offences relating to obstruction.

63.—(1) A person commits an offence if he—

- (a) refuses the Special Prosecutor or any authorized officer in the execution of his duty under this Act access to any place;
- (b) assaults, obstructs, hinders or delays the Special Prosecutor or any authorized officer in the execution of his duty under this Act in effecting any entrance which he is entitled to effect under this Act, or in the execution of any duty imposed or power conferred by this Act;
- (c) fails to comply with any lawful demands, of the Special Prosecutor or any authorized officer in the execution of his duty under this Act; or
- (d) refuses or neglects to give any information which may reasonably be required of the person and which he has in his power to give.

(2) A person who contravenes subsection (1) is liable—

- (a) on summary conviction in a Resident Magistrate's Court, to a fine not exceeding two million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment; or
- (b) on conviction in a Circuit Court, to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

PART V. Corruption Tribunal

Establishment of Corruption Tribunal.

64.—(1) There is hereby established for the purposes of this Act a tribunal to be known as the Corruption Tribunal.

Fifth Schedule.

(2) The provisions of the Fifth Schedule shall have effect as to the constitution of the Corruption Tribunal and otherwise in relation thereto.

65. The functions of the Corruption Tribunal shall be to hold all investigations, hearings and enquiries of the Office.

Jurisdiction
of Corruption
Tribunal.

66.—(1) Where the Office, upon examination of a statutory declaration furnished pursuant to section 59(1), is of the opinion that an investigation is necessary, or determines that a hearing or enquiry is necessary for the purposes of this Act it may, in writing request the Corruption Tribunal to require the parliamentarian or public official to attend on the Tribunal, at such time as may be specified by the Tribunal, to be heard by the Tribunal on any matter relating to the declaration.

Office may
cause
Tribunal to
conduct
enquiries.

(2) The Corruption Tribunal may summon before it and examine on oath—

- (a) a person who has made a complaint, a referral or representation to it; or
- (b) any parliamentarian, public official or any other person who, in the opinion of the Special Prosecutor, is able to furnish information relating to the investigation,

and such examination shall be deemed to be a judicial proceeding within the meaning of section 4 of the Perjury Act.

(3) A parliamentarian, public official or other person required to attend on the Corruption Tribunal pursuant to this section may—

- (a) be accompanied and represented by an attorney-at-law and a registered public accountant; and
- (b) require the Office to summon such witnesses as he thinks necessary.

67.—(1) Any summons to attend, to give evidence or to produce documents before the Corruption Tribunal shall be served on the person required to attend or to produce the documents and shall be issued under the hand of the Special Prosecutor or any person designated by the Special Prosecutor.

Issue of
summons.

(2) A summons under this section shall be in the form set out as Form C in the Fourth Schedule and shall be served on the person mentioned therein either by delivering to him a copy thereof or by substituted service as may be prescribed.

Fourth
Schedule.
Form C.

(3) A summons under this section may be served by any person deputed by the Special Prosecutor or by a constable.

Witness may be examined on oath.

68. The Corruption Tribunal may—

- (a) require that any facts, matters or things relating to the subject of enquiry be verified or otherwise ascertained by the oral examination of witnesses; and
- (b) cause any such witnesses to be examined upon oath.

Duty and privileges of witness.

69.—(1) Subject to subsection (2), all persons summoned to attend and give evidence or to produce any paper, book, record or document before the Corruption Tribunal—

- (a) shall be bound to obey the summons served upon them;
- (b) shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same right or privilege as before a court of law;
- (c) shall be entitled, on attending, to be paid their expenses, including travelling expenses, at the rates prescribed by the Witnesses' Expenses Act for witnesses who are entitled to have their expenses paid from public funds.

(2) The Corruption Tribunal may disallow the whole or any part of such expenses in any case, if it thinks fit.

(3) Any person who—

- (a) without sufficient cause, fails or refuses to attend before the Corruption Tribunal in obedience to summons issued under this Act, or fails or refuses to produce any paper, book, record or document which he was required by such summons to produce;
- (b) being a witness, leaves a meeting or hearing of the Corruption Tribunal without the permission of the Tribunal; or
- (c) being a witness, refuses without sufficient cause, to answer any question put to him by or with the permission of the Tribunal; or

(d) wilfully obstructs or interrupts the proceedings of the Tribunal, 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

70.—(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.

71.—(1) Where the Office 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.

Scope of
Production
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.

72. Where a book, record or document is produced or made powers available to an authorized officer pursuant to an order under section 71, 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.

73.—(1) Where a book, record or document is produced or made available by a person pursuant to an order under section 71, 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 71.

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

Application
for restraint
order.

Restraint Orders

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

- (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 Office 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. Restraint order.

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

- (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 Office applies to the Court pursuant to section 81 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—

- Undertakings by crown.
- (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 74(1); and
 - (c) enabling the person to carry on any trade, business, profession or occupation.

76.—(1) Before making an order under section 75 (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.

- Notice of application for restraint order.
- (2) For the purposes of this section, the Office 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.

Service of restraint order.

77. 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.

Contravention of restraint order.

78. 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.

79.—(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 Office 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 Office 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.

Notice and duration of restraint order.

80.—(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 Office to join in the proceedings.

(2) A restraint order remains in force until—

- (a) it ceases to be in force under section 75; or
- (b) it is varied or discharged by a Judge pursuant to an application made under subsection (1).

Extension of restraint order.

81. The court may, on an inter partes application by the Office—

- (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.

Monitoring order.

Account Monitoring Orders

82.—(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.

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

- (a) there are reasonable grounds for suspecting that the person

- (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.

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

Monitoring orders not to be disclosed.

- (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 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 section 83(1).

(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

84. 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

85.—(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 71 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) 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:

Provided that if the Office has reasonable grounds for believing that the book, record, document or information—

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

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

(10) 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.

85A. 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.

86. 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.

87.—(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.

88.—(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 Fourth Schedule;
- (c) prescribing the period within which any information required by the Office should be furnished;
- (d) regulating the levying of fees by the Office;

Fourth Schedule.

- (e) prescribing rules governing the communication of information to the press;
- (f) prescribing the manner in which enquiries may be instituted before the Corruption Tribunal 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.

89. 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

90. 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.

91. 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.

92.—(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

(Section 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 45)

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-five 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.

Rate of pension.

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.

Special provisions where Special Prosecutor retires before attaining age sixty-five.

4. Where in accordance with paragraph 2(3) a person retires in pensionable circumstances before he attains the age of sixty-five years—

- (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 contracted 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.

Pensions, etc.
not to be
assigned.

8. A pension or gratuity payable under this Act shall not be assignable or transferable except for the purpose of satisfying—

- (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.

Family
benefits
pensions.

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.

(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 47)

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 (Sections 59(1) and 88(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.

FORM B

(Section 88(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.

THE CORRUPTION PREVENTION (SPECIAL PROSECUTOR) ACT

SUMMONS TO WITNESS

You are hereby summoned to appear before the Corruption Tribunal

Corruption Tribunal this day of 19

FIFTH SCHEDULE

(Section 64(2))

The Corruption Tribunal

Constitution of Tribunal.	<p>1.—(1) The Tribunal shall, subject to sub-paragraphs (2) and (3), consist of seven members appointed by the Governor-General after consultation with the Prime Minister and the Leader of the Opposition.</p> <p>(2) A member of the Tribunal may be appointed as a full-time or part-time member.</p> <p>(3) The persons appointed as members of the Tribunal shall have together knowledge and understanding of law, criminal investigation, law enforcement, banking and forensic accounting.</p>
Members to sit in panel of three but may sit alone.	<p>2. For the hearing of any appeal under this Act, the Tribunal shall ordinarily sit in a panel of three members but a panel may consist of one member sitting alone if the public official or parliamentarian agrees.</p>
Tenure of office.	<p>3. The members of the Tribunal shall subject to the provisions of this Schedule hold office for a period of five years and shall be eligible for re-appointment.</p>
Chairman.	<p>4. The Governor-General shall appoint one of the members of the Tribunal appointed under paragraph 1 to be chairman thereof.</p>
Acting Appointment.	<p>5. The Governor-General, after consultation with the Prime Minister and the Leader of the Opposition, may appoint any person to act in the place of the chairman or any other member of the Tribunal in the case of the absence or inability to act of the chairman or other member.</p>
Resignation.	<p>6.—(1) Any member of the Tribunal other than the chairman may, at any time, resign his office by instrument in writing addressed to the Governor-General and transmitted through the chairman, and from the date of the receipt by the Governor-General of such instrument that member shall cease to be a member of the Tribunal.</p> <p>(2) The chairman may, at any time, resign his office by instrument in writing addressed to the Governor-General and such resignation shall take effect as from the date of receipt by the Governor-General of that instrument.</p>
Revocation of appointment.	<p>7. The Governor-General, after consultation with the Prime Minister and the Leader of the Opposition may terminate the appointment of any member of the Tribunal who—</p> <p>(a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;</p>

- (b) becomes bankrupt or compounds with or suspends payments to his creditors;
- (c) is convicted and sentenced to a term of imprisonment or to death;
- (d) is convicted of any offence involving dishonesty;
- (e) fails to carry out the functions conferred or imposed on him by this Act.

Filling of Vacancies. 8. If any vacancy occurs in the membership of the Tribunal such vacancy shall be filled by the appointment of another member.

Publication of membership. 9. The names of all members of the Tribunal as first constituted and every change in the membership thereof shall be published in the Gazette.

Remuneration of members. 10. There shall be paid to the chairman and other members of the Tribunal, in respect of each appeal, such remuneration, whether by way of honorarium, salary or fees, and such allowances as may be determined by the Minister responsible for the public service.

Voting. 11. Subject to paragraph 2, the decision of the Tribunal shall be by a majority of votes of the members, and in addition to an original vote, the chairman shall have a casting vote in any case in which the voting is equal.

Tribunal not subject to control in making determinations. 12.—(1) The Tribunal is not subject to the control or direction of the Office in respect of the contents of any determination or recommendation of the Tribunal, but in other respects is subject to the control and direction of the Office.

(2) Except as provided in any Act, the Tribunal shall not be subject to the control or direction of any other person or body in respect of any function conferred or imposed on the Tribunal by or under this or any other Act.

Arrangements with other entities. 13.—(1) The Tribunal may enter into arrangements with any government agency, or other body or person (whether in the public or private sector)—

- (a) for the provision of assistance to the Tribunal in connection with investigations under this Act or the exercise of other functions of the Tribunal (whether under this or any other Act); or

(b) for the provision of assistance by the Tribunal to the agency or other body or person by means of the provision of services that are within the Tribunal's field of expertise and relevant to its functions.

(2) The Tribunal shall not enter into an arrangement for the provision of services by the Tribunal unless the Minister has approved of the arrangement.

(3) In entering into an arrangement for the provision of services by the Tribunal, the Tribunal has a duty to ensure that giving effect to the arrangement will not interfere with the ability of the Tribunal to exercise its functions.

(4) The Tribunal may engage consultants to assist it in the exercise of its functions.

Power to regulate own proceedings.

14. Subject to the provisions of the Act, the Tribunal shall regulate its own proceedings.

Hearings in investigations.

15.—(1) The Tribunal shall hold at least one hearing for the purposes of each investigation and may hold further hearings if it considers that it is necessary to do so.

(2) The Tribunal may also hold public seminars, conduct workshops and establish working groups and task forces for the purposes of an investigation.

(3) Before the Tribunal begins to hold hearings for the purposes of an investigation, it shall give reasonable notice, by advertisement published in a newspaper circulating in the Island, of its intention to hold the hearings, the subject of the hearings and the time and place at which the first of the hearings is to begin.

(4) The Tribunal may call for written submissions to be made before the hearings commence, and may specify a time and date by which those submissions shall be made

(5) The Tribunal may extend the time for the making of submissions.

(6) A hearing shall be held in public, however, if the Tribunal is satisfied that it is desirable to do so because of the confidential nature of any evidence or matter or for any other reason, it may—

(a) direct that a hearing or a part of a hearing is to take place in private and give directions as to the persons who may be present; or

- (b) give directions prohibiting or restricting the publication of evidence given before the hearing or of matters contained in documents given to the Tribunal.

(7) A person who contravenes a direction given under sub-paragraph (4) (b) commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred thousand dollars.

Offences.

16.—(1) A person shall not, without reasonable excuse—

- (a) refuse or fail to comply with a notice served under this Act; or
- (b) refuse or fail to answer a question that the person is required to answer by the Chairman at any hearing held under this Act.

(2) It is a reasonable excuse for the purposes of subsection (1) that to comply with the notice or to answer the question might tend to incriminate the person or make the person liable to any forfeiture or penalty.

(3) A person shall not—

- (a) give to the Tribunal, whether orally or in writing, information that the person knows to be false or misleading in a material particular (unless the person informs the Tribunal of that fact); or
- (b) at a hearing before the Tribunal, give evidence that the person knows to be false or misleading in a material particular.

(4) A person shall not hinder, obstruct or interfere with the Chairman or any other member of the Tribunal in the exercise of functions as Chairman or other member.

(5) A person shall not take any action that detrimentally affects the employment of another person, or threaten to do so, because that other person has assisted the Tribunal in any investigation.

(6) A person who contravenes a provision of this section commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred thousand dollars.

Service of documents on Tribunal.

17.—(1) A document may be served on the Tribunal by leaving it at, or by sending it by post to—

- (a) the office of the Tribunal; or
- (b) if it has more than one office—any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorizing a document to be served on the Tribunal in any other manner.

Appeals
from
Tribunal.

18.—(1) An appeal on any point of law arising from a decision of the Corruption Tribunal lies to the Supreme Court.

(2) The Minister may make regulations limiting the time within which an appeal may be brought.

Office of
chairman or
member of
Tribunal
not public
office.

19. The office of chairman or member of the Tribunal shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

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 Corruption (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 the Office of the Special Prosecutor for Corruption as a commission of Parliament with a specific mandate to receive the statutory declaration of parliamentarians, public officials and other persons of their assets and liabilities and income, promote the reporting of corrupt conduct and to conduct the necessary investigations and prosecutions.

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

- (a) the qualifications required for the appointment of a person of integrity as the Special Prosecutor;
- (b) the obligation of members of the Security Forces and certain other public officials to notify the Office of any evidence of corrupt conduct uncovered by them in the execution of their official duties;

- (c) other functions of the Office, 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, public officials and other persons 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.

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

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

ABILL

ENTITLED

AN ACT to Promote and Strengthen Measures to Prevent and Combat Corrupt Conduct More Efficiently and Effectively; to provide for the offence of corrupt conduct and offences relating to corrupt conduct; to provide for the establishment of a commission of Parliament to be known as the Office of the Special Prosecutor for Corruption with special responsibility for the investigation and prosecution of corrupt conduct; to repeal the Corruption (Prevention) Act and the Parliament (Integrity of Members) Act; and for connected matters.

As introduced by the Honourable Minister of
Justice.

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