

CAYMAN ISLANDS



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**A BILL FOR A LAW TO PRESERVE AND PROMOTE THE INTEGRITY OF  
PUBLIC OFFICIALS AND INSTITUTIONS; AND FOR INCIDENTAL AND  
CONNECTED PURPOSES**



**THE STANDARDS IN PUBLIC LIFE BILL, 2013**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill seeks to repeal the Register of Interests Law, 1996 (Law 13 of 1996) and replace it with this legislation, under which a Commission for Standards in Public Life will be established.

The Register of Interests Law, Schedule 1, requires the following persons to register their interests: (1) elected Members of the Legislative Assembly; (2) the Speaker; (3) the Chief Secretary (now Deputy Governor); (4) the Attorney General; (5) the Financial Secretary; (6) the Registrar of Interests; and (7) candidates nominated for election to the Assembly. Persons acting in positions (2) to (6) are also required to make declarations.

Section 117 of the Constitution of the Cayman Islands Constitution Order 2009, UK SI No. 1379 of that year, provides for the establishment of the Commission for Standards in Public Life. Its functions are also stipulated in that section. One of these is the duty to supervise the operation of the Register of Interests referred to in section 121(1) and to investigate breaches of established standards in public life. This Bill seeks to implement the Constitution in that respect. Significantly, this Bill extends the scope of public officers to whom the disclosure provisions will apply. The full list is in Schedule 1 to the Bill.

Clause 4 makes further provision for the Commission for Standards in Public Life, which is established pursuant to section 117 of the Constitution. Under clause 4, the Commission is appointed by the Governor after consulting with the Premier and Leader of the Opposition. Clause 5(2)(a) provides that the Commission shall not be under the control of any other person or authority.

Clause 9 (as read with Schedule 2) prescribes standards that are required to be met. These are in addition to the Public Service Values and the Public Servant's Code of Conduct contained in the Public Service Management Law (2011 Revision). That clause also provides for the power of Chief Officers to develop Codes of Conduct.

Clause 10 provides for the details of how disclosures relating to conflict of interests are to be made by persons in public life. These ensure that a person who has an interest in a matter not only discloses it but also does not directly or indirectly participate in the decision-making process in relation to that matter.

Clause 11(1) requires persons in public life (set out in Schedule 1) to declare their property of all kinds to the Commission within ninety days of assuming office. Thereafter, supplementary declarations shall be made in June of every succeeding

year. Subsection (2) allows for extensions of time at the discretion of the Commission. The contents of the declaration are in clause 12(1). Section 12(4) has the effect of ensuring that persons who serve in a capacity described in section 11(4)(h)(ii) are required to disclose only those interests that conflict, are likely to conflict, or may be perceived to conflict, with their functions on the entities to which they are appointed.

Clause 13 provides for the Commission's duty to maintain the Register of Interests, in which all matters that are required to be registered must be entered. Clause 14 provides for the inspection of the declarations by members of the public. Clause 15 requires the Commission to retain records for at least three years. Clause 16 makes it an offence to make a false declaration, but no prosecution can be instituted except with the written consent of the Director of Public Prosecutions.

Clause 17 provides for members of the public to file written complaints alleging that a person in public life has breached the law as prescribed in this Bill. It is an offence to file a complaint that the complainant knows to be false.

Clause 18 confers on the Commission power to investigate and to assist with in carrying out its functions it may appoint investigating officers under clause 19. Under clause 21, the Commission cannot make final conclusions as to whether any person has committed a breach of the Law until that person is given the opportunity of being heard on any allegation. If it appears that an offence has been committed, clause 22 provides that the matter must be reported to the police and the Director of Public Prosecutions.

Clause 23 protects whistleblowers. It is derived from the Freedom of Information Law.

Clause 24 stipulates that the Commission is not to disclose any information obtained in the course of its work. There are exceptions with respect to disclosures made to the police or the Director of Public Prosecutions, which must be made if there is suspicion of commission of an offence.

Part 6 makes provisions for the appointment of persons to boards of public authorities. These provisions will apply to all public authorities.

Part 7 makes provision for certain matters in relation specifically to Members of the Legislative Assembly.

Part 8 has a number of miscellaneous provisions.

There are other incidental provisions.

**THE STANDARDS IN PUBLIC LIFE BILL, 2013**

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CAYMAN ISLANDS

**A BILL FOR A LAW TO PRESERVE AND PROMOTE THE INTEGRITY OF  
PUBLIC OFFICIALS AND INSTITUTIONS; AND FOR INCIDENTAL AND  
CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

**PART 1 - PRELIMINARY**

1. (1) This Law may be cited as the Standards in Public Life Law, 2013.

Short title and  
commencement

(2) This Law shall come into force on such date as may be appointed by Order made by Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters.

2. In this Law -

Interpretation

“assets” means -

- (a) property, including money, beneficially held, whether in or outside the Islands; and
- (b) rights and benefits, whether deriving from or outside the Islands, enjoyed on a continuing basis;

“board member”, where used in relation to a public authority, includes a member of a body that is created by statute whether or not that body is conferred corporate status;

“Caymanian” has the meaning assigned to that word in the Immigration Law (2013 Revision);

“Chairman” means the Chairman of the Commission, referred to in section 4;

“civil servant” means a person employed by the Government, including an Official Member, who is a public officer for purposes of the Constitution and, for the avoidance of doubt, does not include a Member of the Legislative Assembly;

“civil service entity” means -

- (a) a ministry, a portfolio, department, section or unit; or
- (b) the Office of the Auditor General, the Cabinet Office, the Office of the Director of Public Prosecutions, the Judicial Administration, the Office of the Complaints Commissioner or the Office of the Information Commissioner;

(UK SI No. 1379 of 2009)

“Commission” means the Commission for Standards in Public Life referred to in section 117 of the Constitution;

“conflict of interest” means a situation where a person has a private interest which may improperly influence or be seen to improperly influence his public duties and responsibilities, or that of a connected person, in circumstances suggesting that the person concerned knew or ought reasonably to have known of the connection or possible connection, direct or indirect, between his duties and responsibilities and his private interest;

“connected person” means a person who acts on behalf of, or for the benefit of, the declarant, with the declarant’s actual or implied authority, and includes -

- (a) a person who is a nominee or employee of that person;
- (b) a person who manages the affairs of that person;
- (c) a firm of which that person, or a nominee of his, is a partner or a person in charge or in control of its business or affairs;
- (d) a company within the meaning of section 2 of the Companies Law (2012 Revision) of which that person, or a nominee of his, is a director or is in charge or in control of its business or affairs, or in which that person, alone or together with a nominee of his, has or have a controlling interest, or shares to the total value of not less than thirty per cent of the total issued capital of the corporation; or
- (e) the trustee of any trust, where -
  - (i) the trust has been created by that person; or
  - (ii) the total value of the assets contributed by that person to the trust at any time, whether before or after the creation of the trust, at any time, amounts to not less than twenty per cent of the total value of the assets of the trust;

(2012 Revision)

“Constitution” means Schedule 2 of the Cayman Islands Constitution Order 2009;

“emolument” means salary, wage, fee, stipend or allowance;

“government company” means a company in which the Government has a controlling interest and all subsidiary entities of such company;

“income” means -

- (a) money received or receivable as salary, director’s fees, consultancy fees, commission, bonus, dividend, professional fee, rental income, gift or reward in kind or cash; and
- (b) any other receipts or transfers of material value;

“investigating officer” means an investigating officer appointed under section 19;

“liability” includes an obligation to pay or transfer money or the equivalent material value to another person to a place in or outside of the Islands;

“member” means a member of the Commission;

“Official Member” means the Deputy Governor or the Attorney General;

“person in public life” means a person referred to in Schedule 1;

(Schedule 1)

“public authority” means -

- (a) a civil service entity;
- (b) a statutory body or authority, whether incorporated or not;
- (c) a government company; or
- (d) any body or person exercising public functions;

“public function” includes anything done in exercise or purported exercise of a function conferred upon a person in public life;

“public office” has the same meaning as in section 124 of the Constitution;

“public officer” means the holder of any public office, and includes a person appointed to act in any public office;

“public servant” means a person employed by a civil service entity or an employee of a statutory authority or government company; and

“statutory authority” means an entity established by a law to carry out functions which are capable, under that law, of being funded, partly or entirely, by money provided by

the Government, and for which the Governor, the Cabinet or the Government has the power to appoint or dismiss the majority of the board or other governing body.

Application  
(Schedule 1)

3. (1) This Law applies to all persons in public life listed in Schedule 1.

(Schedule 2)

(2) Without limiting the obligations of public servants in general, it is declared that the persons listed in Schedule 1 shall comply with the principles set out in Schedule 2.

(3) Cabinet may by Order amend Schedules 1 and Schedule 2.

## **PART 2 - ESTABLISHMENT, POWERS AND FUNCTIONS OF COMMISSION FOR STANDARDS IN PUBLIC LIFE**

Commission for  
Standards in Public Life

4. (1) As prescribed in the Constitution, the Governor shall, after consulting the Premier and the Leader of the Opposition, appoint, from among persons of high integrity and with experience in the public or private sector, the Commission for Standards in Public Life comprising -

- (a) a Chairman;
- (b) a chartered or certified accountant with at least ten years' experience;
- (c) a legal practitioner who has practised in the Commonwealth for at least ten years; and
- (d) not more than two other members.

(2) A person shall not be appointed as a member if -

- (a) he is a member of the Legislative Assembly;
- (b) he holds, or has at any time during the preceding three years held, a public office;
- (c) he has, at any time during the preceding five years, held office in a political party; or
- (d) he is not a Caymanian.

(3) The office of a member shall become vacant -

- (a) at the expiration of four years from the date of his appointment;
- (b) if the member is absent from three consecutive meetings of the Commission, unless the absence is approved by the Governor;
- (c) if the member resigns his office by writing under his hand addressed to the Governor;
- (d) if the member is removed from office by the Governor for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour; or

- (e) if the member with his consent is nominated for election to the Legislative Assembly or is appointed to any public office.

(4) If the office of a member is vacant or a member is for any reason unable to perform the functions of his office, the Governor, acting in accordance with subsection (2) as he would for an original appointment, may appoint a person who is qualified for appointment as a member to act as a member, and a person so appointed shall continue so to act until the expiration of his term of office.

5. (1) The functions of the Commission, as prescribed in the Constitution, are - Functions of Commission

- (a) to assist in the setting of the highest standards of integrity and competence in public life in order to ensure the prevention of corruption or conflicts of interest;
- (b) to monitor standards of ethical conduct in the Legislative Assembly, the Cabinet, and on the part of public authorities and public officers;
- (c) to supervise the operation of the Register of Interests and to investigate breaches of established standards;
- (d) to review and establish procedures for awarding public contracts;
- (e) to review and establish procedures for appointing members to public authorities, and the terms of their appointment;
- (f) to recommend codes of conduct to prevent any Minister, public authority or public officer employing their power for any personal benefit or advantage, and to recommend legislation to provide appropriate sanctions;
- (g) to report to the Legislative Assembly at regular intervals, and at least every six months; and
- (h) to exercise such other functions as may be prescribed by this or any other Law enacted by the Legislature.

(2) In the exercise of its powers and performance of its functions under this Law and the Constitution, the Commission -

- (a) shall not be subject to the direction or control of any other person or authority;
- (b) may in cases where it considers it appropriate to do so, make use of any external advisors;
- (c) shall have the same powers as those of the Grand Court to summon witnesses, require the production of reports, documents, other relevant information; and
- (d) may do all such things as are necessary or expedient for the purpose of carrying out its functions.

(3) A report, statement, communication or document which the Commission makes in exercise of its functions or which a member makes in the performance of his

duties shall not be used in legal proceedings if the Governor certifies in writing that such production is not in the public interest.

Gazettal of appointments and vacation of office

6. The appointment of members of the Commission and the termination of their appointments whether by death, resignation or otherwise shall be notified in the Gazette.

Remuneration and staff

7. (1) The allowances of members of the Commission shall be determined by the Governor.

(2) The Government shall provide the Commission with adequate staff for the prompt and efficient discharge of its functions under this Law.

(3) Expenses incurred by the Commission, members and the staff for the purposes of this Law shall be paid out of the revenues of the Islands.

Reports and media releases

8. (1) Reports to the Legislative Assembly referred to in section 5(1)(g) shall be submitted electronically and in hard copy to the Speaker for corresponding dissemination to all Members of the Legislative Assembly within a reasonable time and, within seventy-two hours of electronic conveyance to the Speaker, shall be deemed to be in the public domain.

(2) The Commission may at its own discretion issue such reports and releases to the public as it sees fit and any such release shall be sent by the Commission directly to the Speaker and to each Member of the Legislative Assembly not less than forty-eight hours before release, unless it is not reasonably practicable to do so, in which case it shall be sent as soon as possible.

### **PART 3 - STANDARDS IN PUBLIC LIFE**

Principles and Codes of Conduct

9. (1) Persons in public life shall observe -

- (a) the standards set out in Schedule 2; and
- (b) Codes of Conduct developed under subsection (3).

(Schedule 2)

(2) A person in public life who breaches anything referred to or issued under subsection (3) shall be liable to such disciplinary measures as are applicable to him under the relevant law or employment contract.

(3) Chief Officers, observing -

- (a) the standards referred to in subsection (1)(a);
- (b) the Public Service Values and the Public Servant's Code of Conduct contained respectively in sections 4 and 5 of the Public Service Management Law (2011 Revision); and
- (c) any instructions the Deputy Governor may issue,

(2011 Revision)

may develop Codes of Conduct with a view to regulating the conduct of their staff.

10. (1) Where a person in public life has a conflict of interest with respect to any matter that comes up for discussion, he shall disclose his interest and -

Conflict of interest:  
person in public life

- (a) shall, as soon as the matter comes up on the agenda, immediately leave the place in which the deliberations are taking place and shall not participate, directly or indirectly, in the deliberations touching such matter and shall not return while the matter is under discussion until a decision has been taken by the body concerned; and
- (b) shall otherwise comply with such regulations as Cabinet may make with regard to conflict of interest.

(2) A declaration of interest made under this section and the absence of the member concerned shall be recorded in the minutes of the meeting.

(3) Where conflict of interest arises in a matter where the person in public life has power to take a decision on his own, he shall recuse himself at the earliest opportunity and shall not express any opinion on the matter.

#### **PART 4 - REGISTER OF INTERESTS**

11. (1) A person in public life -

Duty to furnish  
declarations

- (a) shall, within ninety days of assuming the functions of his office, or, in the case of a candidate for election to the Legislative Assembly, before filing his nomination papers, make a declaration to the Commission of his income, assets and liabilities in respect of the previous year in such form as may be prescribed by regulations; and
- (b) thereafter no later than thirty days after 30 June in each succeeding year that he is a person in public life, he shall file further declarations of his income, assets and liabilities for that year ending 30 June.

(2) Notwithstanding subsection (1), the Commission may, in any particular case where a request is made before the date on which the filing is required has passed, for good cause, extend the time for the furnishing of a declaration for a specified period but not exceeding sixty days.

(3) Where any change occurs in relation to the matters which a person in public life has previously declared, he shall, within thirty days of the change occurring make a new declaration or an amendment to the declaration.

(4) Where a person fails to file a declaration or amendment to a declaration in accordance with this section the Commission shall -

- (a) in the case of the Speaker, inform the Governor;
- (b) in the case of the elected members of the Legislative Assembly, inform the Speaker of the Legislative Assembly;
- (c) in the case of Official Members, the Auditor General, the Complaints Commissioner, the Commissioner of Police, the Deputy Commissioner of Police, the Information Commissioner, the Director of Public Prosecutions, the Cabinet Secretary, the Financial Secretary or the Assistant Commissioner of Police, inform the Governor;
- (d) in the case of a Chief Officer of a ministry or portfolio, inform the Deputy Governor;
- (e) in the case of a head of a department, unit or section, inform the Chief Officer;
- (f) in the case of any other staff of a civil service entity, inform the head of department, unit or section and the Chief Officer;
- (g) in the case of a public servant employed by a statutory authority, body or government company, inform the chief executive officer of that entity; and
- (h) in the case of -
  - (i) a chief executive of a statutory authority or statutory body or government company; and
  - (ii) a board member of a statutory authority, public authority, commission or government company;inform the Governor, Minister or Official Member responsible for that entity.

(5) If the information required in subsection (1) or (2) is not received within one month, a person in public life may be liable to a penalty not exceeding one hundred dollars for each day in default and, if not paid, shall be recovered, as a civil debt, in a court of law by the Attorney General on behalf of the Government of the Islands.

Contents of declarations

12. (1) A declaration required under section 11(1) shall include, in relation to a person in public life and any connected person, details relating to -

- (a) shareholdings and directorships held in any company or other corporate body;
- (b) any contract made with any public entity;

- (c) any company, partnership or association in which money is invested;
- (d) any trust;
- (e) any beneficial interest held in land;
- (f) any investment fund in which an interest is held;
- (g) any political, trade, professional, fraternal or charitable association or organisation to which there is a connection;
- (h) sources of income other than a salary or money from other perquisites of office;
- (i) other substantial interest whether of a pecuniary nature or not, which raise or may appear to raise a material conflict of interest;
- (j) where a person in public life holds property in trust for any connected person, he shall so state in his declaration but shall not be required to disclose the terms of the trust;
- (k) the income, assets and liabilities of a person in public life include the income, assets and liabilities acquired, held or incurred by any other person as his agent or on his behalf, whether or not that person is a connected person; and
- (l) such other details as Cabinet may prescribe in regulations.

(2) For the purposes of subsection (1), Cabinet may by regulation prescribe forms.

(3) Nothing in this section shall be taken to require disclosure of the actual amount or extent of any financial benefit, contribution or interests.

(4) A person referred to in section 11(4)(h)(ii) or paragraphs 6, 7 or 8 of Schedule 1 shall not be required to include in a declaration any interest referred to in or prescribed under subsection (1) unless such interest conflicts, is likely to conflict, or may be perceived to conflict, with his functions on the entity to which he is appointed.

(5) To avoid doubt, any question regarding compliance with subsection (4) shall be determined by the Commission.

13. (1) The Commission shall maintain the Register of Interests referred to in section 121 (1) of the Constitution, in which all matters that are required to be registered under the Constitution and this Law shall be entered.

Maintenance of the  
Register of Interests  
(US SI 1379 of 2009)

(2) The Commission shall enter into the Register of Interests the details of every declaration of interest made in accordance with the Constitution and this Law.

14. The Commission shall, at the request of any member of the public, permit the inspection of declaration during normal working hours.

Inspection of  
declarations

Retention of records 15. The Commission shall keep every declaration for a period of at least three years.

Offences relating to declarations 16. (1) A person in public life who -  
(a) fails, without reasonable cause, to furnish to the Commission a declaration, or further particulars which he is required to furnish in accordance with the provisions of this Law;  
(b) knowingly makes a declaration that is false;  
(c) fails, without reasonable cause, to give such information or explanation as the Commission or a tribunal established under a Law or regulations may require; or  
(d) fails, without reasonable cause to attend an enquiry being conducted or knowingly gives false information in such enquiry, having been required to attend or give evidence pursuant to an order given under the relevant Law or regulations establishing the tribunal,

commits an offence, and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of two years, or to both.

(2) No prosecution of an offence under this Law may be instituted without the written consent of the Director of Public Prosecutions

Complaints 17. (1) A member of the public who wishes to allege or make a complaint concerning a person in public life or any connected person has complied with or sufficiently complied with this Law shall report the matter to the Commission in writing -

- (a) stating the facts in support of the allegation; and
- (b) providing -
  - (i) documentary evidence, where available;
  - (ii) any other evidence; and
  - (iii) such other particulars as may be prescribed by regulations made by Cabinet.

(2) A person who knowingly makes a false or misleading statement to the Commission commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars or imprisonment for two years, or to both.

#### **PART 5 - POWER OF INVESTIGATION**

Power of Commission to investigate 18. Where the Commission reasonably suspects that a person in public life has committed a breach of this Law it -

- (a) may, on its own initiative; or
- (b) shall, upon the complaint of any member of the public,

conduct an investigation.

19. In carrying out its function under this Law, the Commission may appoint an investigating officer to conduct an enquiry into any alleged or suspected breaches of standards under this Law and wherever in this Law a provision is expressed as allowing the Commission to do anything, that provision shall be construed as allowing an investigating officer to do it.

Investigating officers

20. (1) The Commission may -

Powers of investigation

- (a) require that the person in public life and any other connected person produce, within a specified time, all books, records, accounts, reports, data, stored electronically or otherwise, or any other documents relating to the functions of any public or private body;
- (b) require that the person in public life and any other person connected with him, within a specified time, provide any information or answer any question which the Commission considers necessary in connection with any enquiry or investigation which the Commission is empowered to conduct under this Law;
- (c) require that the person in public life or his duly appointed agent attend at the offices of the Commission in order to verify his declaration;
- (d) require that any facts, matters or documents relating to the allegations or breach, be verified or otherwise ascertained by oral examination of the person making the complaint; and
- (e) cause any witness to be summoned and examined upon oath.

(2) Where, in the course of any enquiry the Commission is satisfied that there is a need to further expedite its investigations, it may exercise the following powers -

- (a) require any person to furnish a statement in writing -
  - (i) enumerating all movable or immovable property belonging to or possessed by him in the Islands or elsewhere, or held in trust for him, and specifying the date on which each such property was acquired and the consideration paid therefor, and explaining whether it was acquired by way of purchase, gift, inheritance or other stated means; and
  - (ii) specifying any monies or other property acquired in the Islands or elsewhere or sent out of the Islands by him or on his behalf during a specified period;
- (b) require any person to furnish, notwithstanding the provisions of any other Law to the contrary, all information in his possession relating to the affairs of a person in public life who is being investigated under this Law and to produce or furnish any document or true copy of any

document relating to the person under investigation and which is in the possession or under the control of the person required to furnish the information; and

- (c) require the manager of any bank or financial institution, in addition to furnishing information specified in subsection (2)(b), to furnish any information or certified copies of the accounts or the statement of accounts at the bank or financial institution of any person being investigated,

unless such information is subject to legal professional privilege.

(3) Before the entry into force of this Law, Cabinet may cause to be compiled all provisions in Laws and regulations that restrict disclosure of information that is subject to disclosure under this section so as to ensure the Laws are amended or repealed in order to make this section effective.

(4) A person who fails or refuses to comply with a requirement made under subsection (1) or (2) or gives false or misleading information commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years, or to both.

Right to be heard

21. The Commission shall not conclude that a person in public life has contravened this Part until reasonable notice has been given to the person concerned and that person has been allowed full opportunity to make representations in person or by an attorney at law.

Matters to be referred to the police

22. (1) Where the Commission is satisfied, on the basis of an enquiry conducted under this Part that -

- (a) a breach of any of the provisions of this Part has been committed; or
- (b) an offence has been committed,

it shall forthwith refer the matter to the Royal Cayman Islands Police Service and the Director of Public Prosecutions together with a certified copy of the declaration in question and a report of its findings.

(2) In any case where the Commission determines that the subject matter of an enquiry under this Part is -

- (a) already under investigation by the police whether or not charges have been preferred; or
- (b) already the subject matter of proceedings in a court of law,

the Commission shall hold its own enquiry in abeyance, pending final disposition of that investigation and those proceedings.

(3) Where following proceedings under subsection (2) there is a conviction, the Commission shall close its inquiry but where there is an acquittal, the Commission may hold an inquiry for purposes of determining whether there was a breach of the principles set out in Schedule 2 and make a decision accordingly.

23. (1) No person may be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment-related obligation, for releasing information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment, as long as he acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.

Whistleblowers

(2) For the purposes of subsection (1), “wrongdoing” includes -

- (a) the commission of a criminal offence;
- (b) failure to comply with a legal obligation;
- (c) miscarriage of justice; or
- (d) corruption, dishonesty, or serious maladministration.

24. (1) The Commission shall not divulge to any person or authority information or any document disclosed to it under section 11 except -

Protection of information

- (a) where the Commission is satisfied that there are reasonable grounds for suspecting that an offence has been committed where it shall report the matter to the Royal Cayman Islands Police Service and the Director of Public Prosecutions;
- (b) where a court has ordered the Commission to produce a particular declaration or record; or
- (c) to a commission appointed under the Commissions of Enquiry Law (1997 Revision).

(1997 Revision)

(2) The records of the Commission and any information revealed by a witness orally or by the production of documents shall not be disclosed except in circumstances authorized by or under this Law.

25. The Commission may, on its own initiative, consider any matter with respect to the duty or obligation of a person under this part of the Law, where in its opinion it is in the public interest to do so.

Commission to act in public interest

## **PART 6 - APPOINTMENT, RESPONSIBILITIES AND COMPENSATION OF BOARDS OF GOVERNMENT COMPANIES, STATUTORY BOARDS AND AUTHORITIES AND PUBLIC AUTHORITIES**

26. (1) Notwithstanding the provisions of any other Law -

Appointment of board members

- (a) board members of a public authority shall be appointed by Cabinet; and
- (b) one of those board members shall be appointed to be the chairman by Cabinet.

(2) Notwithstanding the provisions of any other Law, prior to appointing any person to be a board member, Cabinet shall satisfy itself that -

- (a) the person has the skills, knowledge and integrity to carry out the duties required in a highly competent and politically neutral manner; and
- (b) the person will have no financial or other interest likely to affect in any way the exercise of his functions as a board member.

(3) Cabinet may require a person it proposes to appoint to give it such information as it considers necessary to establish that no conflict of interest exists.

(4) When appointing board members of a public authority, Cabinet shall ensure that, between them, the board members have adequate knowledge, experience and understanding of the following areas -

- (a) corporate governance;
- (b) strategic and financial management; and
- (c) the scope of business, outputs and operations of the public authority concerned.

(5) Before the entry into force of this Law, Cabinet may cause to be compiled all provisions in Laws and regulations that relate to appointments of boards so as to ensure the Laws are amended or repealed in order to make this section effective.

Terms of appointment

27. (1) Board members shall hold and vacate office in accordance with the terms of their appointment, subject to subsections (2) to (4), and the provisions of any other Law.

(2) Board members shall serve for a term not exceeding four years as determined by Cabinet at the time of appointment, and may be reappointed for further terms as determined by Cabinet.

(3) A board member may, at any time, by notice in writing addressed to the relevant minister or Official Member, resign his office.

(4) Notwithstanding subsection (2), Cabinet may terminate a person's appointment as a board member if it is satisfied that -

- (a) he is incapacitated by reason of physical or mental illness;

- (b) he has been absent from three consecutive meetings without the consent of the Chairman of the board;
- (c) he is otherwise unable or unfit to discharge his duties as a board member;
- (d) he is unsuitable to continue as a board member; or
- (e) a conflict of interest has arisen in which the member's appointment on the Board would bring disrepute to the Board.

28. Where a board member ceases to be a board member before the normal expiration of his office, Cabinet may appoint another person with the same skills, knowledge and integrity to hold that office until the time that the board member's term would have expired.

Appointment to fill  
board vacancy

29. (1) Where there is a possible or perceived conflict of interest with respect to any matter that comes up for discussion, a person in public life shall disclose his interest and -

Conflicts of interest;  
board members

- (a) shall, as soon as the matter comes up on the agenda, immediately leave the place in which the deliberations are taking place and shall not participate, directly or indirectly, in the deliberations touching such matter and shall not return while the matter is under discussion until a decision has been taken by the body concerned; and
- (b) shall otherwise comply with such regulations as Cabinet may make with regard to conflict of interest.

(2) A declaration of interest made under this section and the absence of the member concerned shall be recorded in the minutes of the meeting.

(3) Where conflict of interest arises in a matter where the person in public life has power to take a decision on his own, he shall recuse himself at the earliest opportunity and shall not express any opinion on the matter.

30. (1) Board members shall, at the discretion of Cabinet, be paid such remuneration, whether by salaries, fees or other benefits, and such reasonable allowances in respect of expenses properly incurred by them in the performance of their duties, as he shall from time to time determine.

Remuneration of board  
members

(2) Any remuneration or allowances paid to a board member shall be an expense of the public authority.

31. Notwithstanding section 30(1) a board member who is a civil servant shall not be entitled to receive remuneration.

No board remuneration  
for civil servants

**PART 7 – MEMBERS OF THE LEGISLATIVE ASSEMBLY**

Preservation of immunities, powers and privileges of Assembly 32. Nothing in this Law shall be applied in such a way as to abrogate the immunities, powers and privileges of the Legislative Assembly.

Contempt of Assembly 33. (1) Where a member contravenes this Law, such contravention shall constitute a contempt of the Legislative Assembly for which the Assembly may order the Member's suspension from sitting and voting in the Assembly for such period as the Assembly may determine.

(2) In the event of the Member's contempt being purged to the satisfaction of the Assembly, the Assembly may lift the suspension in accordance with the procedure contained in the Legislative Assembly Standing Orders.

**PART 8 - MISCELLANEOUS PROVISIONS**

Exemption for liability 34. Neither the Commission nor any member shall be liable in damages for anything done or omitted in the discharge of their respective functions under this Law unless it is shown that the act or omission was in bad faith.

Regulations 35. Cabinet may make regulations for the better carrying out of the provisions of this Law.

Repeal and transitional provisions (Law 13 of 1996) 36. (1) The Register of Interests Law, 1996 is repealed but the repeal does not -  
(a) affect the previous operation of that Law or anything duly done or suffered under that Law;  
(b) affect any right, privilege, obligation or liability acquired, accrued or incurred under that Law;  
(c) affect any penalty, fine, forfeiture or punishment incurred in respect of any offence committed against that Law; or  
(d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, fine, forfeiture or punishment as aforesaid,

and any such investigation, legal proceedings or remedy may be instituted, continued or enforced, and any such penalty, fine, forfeiture or punishment may be imposed as if this Law had not been passed.

(2) Before the entry into force of this Law, the Registrar appointed under the Register of Interests Law, 1996 shall work with the Commission to transfer to the Commission all records that, at the commencement of this Law, shall fall under the

jurisdiction of the Commission and, upon receipt of all records, the Commission shall by letter inform all persons whose records have been so transferred.

(3) The date of the letter referred to in subsection (2) shall be deemed to be the date on which persons whose records are transferred made a declaration under section 11(1) and where that date is less than three months from 30 June, the declarant shall be exempted in that particular year from the need to file a return on 30 June.

(4) For the avoidance of doubt it is declared that section 11 shall apply except to the extent expressly varied by this section.

#### **SCHEDULE 1**

(Section 3)

#### **PERSONS IN PUBLIC LIFE**

1. Members of the Legislative Assembly, including the Speaker.
2. Chief Officers and Deputy Chief Officers.
3. Chief Financial Officers and Deputy Chief Financial Officers.
4. Heads of departments, sections or units and their deputies, as well as any other organised entity within a ministry or portfolio, statutory authority, statutory body, government company, department, section or unit and their deputies.
5. Chief executives of statutory authorities, government companies and their deputies.
6. Members of governing bodies of statutory authorities.
7. Members of governing bodies of government companies.
8. Members of all Commissions created by or under the Constitution.
9. A person holding a full-time or part-time position in a public authority who engages in an activity that is in conflict, is likely to conflict, or may be perceived to conflict with, his position in a public authority.
10. Any other person specified by regulations made by Cabinet.

#### **SCHEDULE 2**

(Section 9)

#### **PRINCIPLES TO BE ADHERED TO**

(1) **Selflessness:** Persons in public life shall act solely in terms of the public interest. They shall not do so in order to gain financial or other consideration for themselves, their family or their friends.

(2) **Integrity:** Persons in public life shall not place themselves under any financial or other obligation to individuals or organisations outside the relevant civil service entity that might seek to influence them in the performance of their official duties.

(3) **Objectivity:** In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, persons in public life shall make choices on merit.

(4) **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

(5) **Openness:** Persons in public life shall be as open as possible about all the decisions and actions that they take. They shall, as required by section 19 of the Constitution, give reasons for their decisions and restrict or withhold information only when the wider public interest clearly demands or where a Law allows for the withholding of information.

(6) **Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts of interest arising in a way that protects the public interest.

(7) **Leadership:** Persons in public life shall promote and support these principles by leadership and example.

Passed by the Legislative Assembly the                      day of                      , 2013.

Speaker.

Clerk of the Legislative Assembly.