

## **BILL**

AN ACT to amend the Integrity in Public Life Act, Chap. 22:01

Preamble	<p>WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:</p> <p style="padding-left: 40px;">And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:</p> <p style="padding-left: 40px;">And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:</p>
Enactment	<p>ENACTED by the Parliament of Trinidad and Tobago as follows:</p>
Short title	<p>1. This Act may be cited as the Integrity in Public Life (Amendment) Act, 2014.</p>
Act inconsistent with Constitution	<p>2. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.</p>
Interpretation Chap. 22:01	<p>3. In this Act, “Act” means the Integrity in Public Life Act.</p>
Section 2 amended	<p>4. Section 2 of the Act is amended by inserting in the appropriate alphabetical sequence the following definitions:</p> <p style="padding-left: 80px;">““authorized person” means a person authorized by the Commission to carry out any of its functions as specifically provided for under this Act; and</p> <p style="padding-left: 80px;">“corruption” involves the dishonest or preferential use of power or position which has the result of one person or organization advantaged over another;”.</p>
Section 3 amended	<p>5. Section 3 of the Act is amended-</p> <p style="padding-left: 40px;">(a) by renumbering section 3 as section 3(1); and</p>

(b) by inserting after section 3(1) as renumbered, the following new subsection:

“ (2) Nothing in this Act shall prejudice any claim to privilege which any person may have at common law in relation to any communication, document or other thing made or given to his Attorney-at-law.”.

Section 4 amended

**6. Section 4 of the Act is amended –**

(a) in subsection (2) –

- (i) by deleting the word “shall” and substituting the word “may”; and
- (ii) by deleting the word “of” and substituting the words “who shall have”;

(b) in subsection (3), by deleting the word “shall” and substituting the word “may”; and

(c) by inserting after subsection (3), the following new subsection:

“ (3A) Notwithstanding subsection (1), and the non-appointment of the full membership of the Commission, the Commission is properly constituted once the quorum under subsection (6) is met.”.

Section 5A inserted

**7. The Act is amended by inserting after section 5, the following new section:**

“Delegation of functions

5A. The Commission may delegate any of its functions under this Act to an authorized person.”.

Section 8A inserted

**8. The Act is amended by inserting after section 8, the following new section:**

“Documents

may be authenticated by signature of Registrar or other authorized person

8A. All documents and all decisions of the Commission may be signified under the hand of the Registrar or such other person authorized to do so by the Commission.”.

Section 11 amended

**9. Section 11 of the Act is amended-**

(a) in subsection (1), by deleting the word “ten” and substituting the word “twenty”;

- (b) in subsection (3), by deleting the words “may be accompanied, if the declarant so wishes,” and substituting the words “shall be accompanied”; and
- (c) in subsection (6), by inserting after the word “declaration” the words “and statement of net worth”.

Section 13  
amended

**10.** Section 13 of the Act is amended -

- (a) in subsection (1), by deleting the word “shall” and substituting the word “may”;

- (b) by inserting after subsection (1), the following new subsection:

“ (1A) Where the Commission receives a complaint under section 32 or is of the view that a declaration filed requires examination, it may examine the declaration filed relative to the complaint or to which it of its own volition determined required examination, to ensure it complies with the Act.”;

- (c) in subsection (2)(c) by inserting after the word “declaration” the words “or statement of registrable interests”;

- (d) in subsection (3), by deleting all the words after the words “Commission” and substituting the words -

“satisfied –

- (a) that a declaration has been fully made; and

- (b) as to the accuracy of the statement of registrable interests filed under section 14,

it shall forward to a person in public life, a Certificate of Compliance.”;

- (e) in subsection (4), by deleting the word “ten” and substituting the word “twenty”;

- (f) by inserting after subsection (4), the following new subsections:

“ (5) The Commission may request from a third party, any information or explanation relevant to a

declaration filed under this section which would assist in its examination of same.

(6) Where a third party fails to comply with a request made under subsection (5), he commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for ten years.”.

Section 14 amended

**11.** Section 14(3) of the Act is amended-

- (a) in paragraph (h), by deleting the word “and”; and
- (b) by inserting after paragraph (h), the following new paragraphs:
  - “(ha) particulars of any loan held;
  - (hb) particulars of any travel facilities he is entitled to and is in receipt of;
  - (hc) particulars of any entertainment facilities he is entitled to and is in receipt of; and
  - (hd) particulars of any living accommodation facilities he is entitled to and is in receipt of; and”.

New section 14A inserted

**12.** The Act is amended by inserting after section 14, the following new section:

“Commission to issue acknowledgement letter

14A. Upon receipt of a declaration under section 11 or a statement of registrable interests under section 14, the Commission shall acknowledge receipt thereof and such acknowledgement shall include a statement indicating that the declaration and statement of registrable interest may be subject to examination.”.

Section 20 amended

**13.** Section 20 of the Act is amended –

- (a) in subsection (1), by inserting after the words “Control Act” the words “, the Proceeds of Crime Act, the Larceny Act”; an
- (b) in subsection (5), by deleting the words “shall be guilty of an offence and be” and substituting the words “commits an offence and is”.

**14.** Section 21 of the Act is amended -

(a) in subsection (1), by deleting the words “is guilty of” and substituting the word “commits”;

(b) by deleting subsection (2) and substituting the following new subsections:

“ (2) A person who fails to furnish particulars as required under subsection (1)(a) commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for a term of ten years.

(2A) Where a person in public life who -

(a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or

(b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments,

and he deliberately omitted to disclose such information in the declaration filed with the Commission, he shall be liable on summary conviction to a fine of two hundred and fifty thousand dollars and imprisonment for a term of five years.

(2B) Where an offence under subsection (2A) involves the deliberate non-disclosure of property, the Court may, in addition to where the property involved is situated -

(a) in Trinidad and Tobago, declare that it be forfeited to the State; or

(b) outside of Trinidad and Tobago, 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 person in public life to the State.”; and

(c) in subsection (4), by deleting the words “(2)” and substituting the words “(2A)”.

Section 21A  
inserted

**15.** The Act is amended by inserting after section 21, the following new section:

“Unjust  
enrichment

21A. (1) Where a person in public life-

- (a) maintains a standard of living above that which is commensurate with his present or past official emoluments or any lawfully acquired assets; or
- (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments or any lawfully acquired assets,

he commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for ten years.

(2) Where a court is satisfied in proceedings for an offence under subsection (1)(b), that, having regard to the closeness of the relationship of a person to the accused and to other circumstances, there is reason to believe that such person was holding pecuniary resources in trust for, or otherwise on behalf of the accused or acquired the resources or property as a gift from the accused, such resources or property shall, in the absence of evidence to the contrary, be presumed to have been in the control of the accused.

(3) In any proceedings against a person for an offence under this section, a certificate purporting-

(a) to certify-

- (i) the rate of and the total amount of official emoluments and allowances paid to a person in public life in relation to the

discharge by him of his duties as a person in public life;

(ii) that any person was or was not serving at any specified time or during any specified period as a person in public life or ceased to be a person in public life at, or before any specified time; or

(iii) that a person in public life held or did not hold at any specified time any office as a person in public life; and

(b) to be signed by the Chief Personnel Officer,

shall be admitted in such proceedings by any court on its production without further proof.

(4) On the production of a certificate under subsection (3) the Court shall, unless the contrary is proved, presume that -

(a) the facts stated therein are true; and

(b) the certificate was signed by the Chief Personnel Officer.

(5) For the purposes of this section, “official emolument” includes a pension or gratuity payable under any written law relating to pensions maintained by the State.”.

Section 22  
amended

**16.** Section 22 of the Act is amended by inserting after subsection (8), the following new subsections:

“ (9) Where the assets of a person in public life have been placed in a blind trust, the income derived from the management of the assets shall not be distributed to him until the blind trust is extinguished.

(10) Where a person in public life fails to comply with an Order under subsection (1) to place his assets or a part thereof in a blind trust, he commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for ten years.”.

Section 31 A  
inserted

**17.** The Act is amended by inserting after section 31, the following new section:

“ Commission may  
make public  
statement

31A. Where a breach of Part IV occurs  
the Commission may make such public statement  
as it thinks fit in respect of the breach.

Section 32  
amended

**18.** Section 32 of the Act is amended by inserting after subsection (1), the following new subsections:

“ (1A) Notwithstanding any duty of secrecy imposed by any written law, where a person exercising public functions reasonably suspects that a person in public life has breached this Act or the Prevention of Corruption Act, he shall report his suspicion to the Integrity Commission or the Commissioner of Police.

(1B) A person who fails to make a report under subsection (1A) commits an offence and is liable on summary conviction to a fine of two hundred and fifty thousand dollars and to imprisonment for ten years.”.

Section 34  
amended

**19.** Section 34 of the Act is amended -

(a) by repealing subsection (1) and substituting the following new subsections:

“ (1) For the purpose of the performance of its functions and subject to this Act, the Commission has the powers of a commission of enquiry established under the Commissions of Enquiry Act as if it were a commission of

enquiry for the purpose of that Act.

(1A) Notwithstanding subsection (1), the Commission, in carrying out its functions under section 33 may-

- (a) authorize an investigating officer to conduct an enquiry into any alleged or suspected offence in accordance with this Act;
- (b) cause any witness to attend and be examined upon oath by an authorized person or an investigating officer; or
- (c) cause any person to attend for the purpose of having his handwriting and voice sample taken.

(1B) The Commission, an authorized person or an investigating officer may –

- (a) by written notice require-
  - (i) any person to produce, within a specified time, all books, records, accounts, reports, data stored electronically or otherwise, or any certified copy thereof, or any other article which the Commission or the authorized person determines may assist in an investigation;
  - (ii) any person, within a specified time, to provide any information or to answer any question which the Commission or the authorized person considers necessary in connection with any enquiry or investigation which the Commission is empowered to conduct under this Act; or
  - (iii) that any facts, matters or

documents relating to allegations or breaches be verified or otherwise ascertained by oral examination of the person making the complaint; and

(b) examine upon oath any person so required to be examined.”;

(b) by inserting after subsection (7), the following new subsections:

“ (8) Where the Commission requires the attendance of any person under subsection (1A), the person shall-

- (a) attend in accordance with the terms of the notice to be examined and shall continue to attend from day to day, where so directed, until the examination is completed; and
- (b) during the examination, disclose all information which is within his knowledge, or which is available to him, in respect of the matter in relation to which he is being examined, and answer any question put to him truthfully and to the best of his knowledge and belief.

(9) Where a person who is required to attend for the purpose of examination under this section fails to answer any question posed to him which is within his knowledge, or which is available to him in respect of the matter in relation to which he is being examined, as required by subsection (8), he commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for ten years.

(10) Where a person is required to produce anything under subsection (1B)(a)(i), he shall not conceal, destroy, alter, remove from Trinidad and Tobago, or deal

with, expend or dispose of, any book, document, record, account or data stored electronically or otherwise or article specified in the notice, or alter or deface any entry in such book, document, record, account or data stored electronically or otherwise or cause such acts to be done.

(11) Where a person has been given a written notice under subsection (1B)(a)(ii), he shall in providing the information, disclose truthfully all information required under the notice which is within his knowledge or which is available to him.

(12) Where the Commission, an authorized person or investigating officer examines the person under subsection (1A)(b) or (1B)(b), his statement shall be taken in writing and read to him and signed-

- (a) by him as reflecting the truth of the contents of the statement; and
- (b) by the person recording such a statement.

(13) A statement under subsection (12), which signed by the person making the statement and the person recording the statement, is admissible in evidence in any proceedings before the Court for any offence in this Act.

(14) A person who-

- (a) contravenes subsections (8) to (10); and
- (b) makes any statement to the Commission, an authorized person or investigating officer which is not consistent with any statement previously made by him to that officer or any officer of the Commission,

he commits an offence and is liable on summary

conviction to a fine of five hundred thousand dollars and imprisonment for a term of ten years.”.

Sections 34B,  
34C, 34D and  
34E  
inserted

**20.** The Act is amended by inserting after section 34A, the following new sections:

“Warrants for  
search and  
seizure

34B. (1) Where the Commission, an authorized person or investigating officer believes that there is in a building, vehicle, boat, plane or thing an asset or information in respect of an investigation under this Act, it may apply to a Magistrate or Justice of the Peace for a warrant to enter into and search the building, vehicle, boat, plane or thing for the purpose to ascertain whether the asset or information is therein.

(2) A warrant under subsection (1) may authorize the Commission, an authorized person or an investigating officer to seize and detain any asset or thing in, or upon which information is contained or stored, other than items subject to legal privilege.

(3) The person executing a search warrant issued under this section shall furnish a report in writing to the Magistrate or Justice of the Peace who issued the warrant, stating the manner in which the warrant was executed and a brief description of anything seized.

(4) A report with respect to a search warrant shall be made within ten days after the execution of the warrant or the expiry of the

warrant, whichever first occurs and if the Magistrate or Justice of the Peace, who issued the search warrant died, has ceased to be a Magistrate or Justice of the Peace or is absent, the report shall be forwarded to the Chief Magistrate.

Freezing Order

34C. (1) Where the Commission commences an investigation under this Part, the High Court may by Order (hereinafter referred to as a “freezing order”), prohibit any person from dealing with the assets relevant to the investigation to which the order refers.

(2) Without prejudice to the generality of subsection (1), a freezing order may make such provision as the Court thinks fit for living and legal expenses.

(3) An application for a freezing order shall be supported by an affidavit which may contain, unless the Court otherwise directs, statements of information or belief with the source and grounds thereof.

(4) A freezing order -

- (a) may be made only on an application by the Commission;
- (b) may be made on an ex parte application before a Judge; and
- (c) shall provide for notice of the order to be given to all persons affected by the order.

(5) A freezing order -

(a) may be discharged or varied in relation to any asset on application of the person subject to the order; and

(b) shall be discharged on the conclusion of the proceedings or application in question.

(6) An application for the variation of a freezing order may be made by a person affected by it.

(7) Where the High Court has made a freezing order, the Court may at any time appoint a receiver -

(a) to take possession of any asset or thing in or upon which information may be stored or held; and

(b) in accordance with the Court's directions to manage or otherwise deal with any assets in respect of which he is appointed,

subject to such exceptions and conditions as may be specified by the Court, and may require any person having possession of assets in respect of which a receiver is appointed under this section to give possession of it to the receiver.

(8) For the purpose of subsection (7)(b) and without prejudice to the generality of the expression, dealing with assets held by any person includes-

(a) where a debt is owed by that person, making a payment to any other person in reduction

of the amount of the debt; and

(b) removing the asset from Trinidad and Tobago.

(9) Where the High Court has made a freezing order, a police officer may, for the purposes of preventing any asset being removed from Trinidad and Tobago, seize the asset.

(10) An asset seized under subsection (9) shall be dealt with in accordance with the directions of the Court.

(11) The Remedies of Creditors Act shall apply in relation to forfeiture orders as they apply in relation to orders issued or made for the purpose of enforcing judgments and registering a memorandum of *lis pendens*.

(12) For the purpose of this section, “asset” means anything used or obtained in the commission of the offence as well as anything derived therefrom.

Interception of  
Communication  
Chap. 15:08

34D. (1) Notwithstanding the Interception of Communications Act, where the Commission determines that a communication is likely to contain information which is relevant for the purposes of an investigation into an offence under this Act, it may apply to a Judge *ex parte* for a warrant authorising the person named in the warrant—

(a) to intercept, detain and open any postal article in the course of transmission by post;

(b) to intercept any message in the course

of their transmission by means of a public or private telecommunications network, such communications as are described in the warrant; and

- (c) to intercept, listen to and record any conversation by any telecommunication, and listen to the recording of the intercepted communication.

(2) Where a person is charged with an offence under this Act, any information obtained by an officer of the Commission in pursuance of subsection (1), whether before or after such person is charged, is admissible as evidence.

(3) For the purpose of obtaining a warrant under subsection (1), the Judge must be satisfied of the same matters set out in section 8(2) of the Interception of Communications Act and subsections (3) to (5) of that section shall apply to the application under this Act as if the application was made under that Act.

Obstruction of investigation and search

34E. Where a person –

- (a) refuses to allow an authorized person or investigating officer access to any premises to execute a warrant under section 34B;
- (b) assaults, obstructs, hinders or delays an authorized person or investigating officer in the execution of his duties under this Act;
- (c) fails to comply with a lawful demand, notice or requirement of an officer of the Commission in the execution of his duties under this Act;
- (d) omits, refuses or neglects to give an officer of the Commission any information which may reasonably be required of him and which he is empowered to give;

- (e) fails to produce or conceals from an officer of the Commission in the execution of a warrant any book, document or article;
- (f) rescues or causes to be rescued anything seized under this Act;
- (g) destroys anything to prevent its seizure under this Act; or
- (h) interferes with, puts fear into, threatens or abducts any person involved in an investigation under this Act,

he commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for a term of ten years.”.

Section 35 amended

**21.** Section 35(2) of the Act is amended by deleting the words “Any member” and substituting the words “Subject to section 39, any member”.

Sections 35A, 35B and 35C inserted

**22.** The Act is amended by inserting after section 35 the following new sections:

“Tipping off

35A. Where a person –

- (a) knows or suspects the Commission is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted into any breach of the provisions of this Act; and
- (b) discloses to any other person information or any other matter which is likely to prejudice the investigation or proposed investigation at paragraph (a),

he commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for a term of ten years.

Public body shall comply

35B. (1) Where the Commission wishes to

with request for examination examine the practices and procedures of a public body in order to facilitate the discovery of corrupt practices, the public body shall, where so requested by the Commission, comply with such examination.

(2) Where a public body fails to comply with a request of the Commission under subsection (1), the Commission may apply to the Court for an Order to compel the public body to so comply.

Commission may instruct public body 35C. The Commission may upon examining a public body's practices and procedures under section 35B(1)-

- (a) instruct;
- (b) advise; and
- (c) assist,

the public body in respect of changes which may be necessary to reduce the occurrence of corrupt practices.”.

Section 39 amended

**23.** Section 39 of the Act is amended-

- (a) by renumbering section 39 as section 39(1); and
- (b) by inserting after section 39(1) as renumbered, the following new subsection:

“ (2) An officer or member of staff of the Commission or any other person authorized to perform any function under this Act, shall not be personally liable for any act done or omitted to be done by him in good faith in the discharge of his functions.”.

Section 42 amended

**24.** Section 42 of the Act is amended by inserting after the word “declaration” the words “or statement of net worth”.

Sections 42B and 42C inserted

**25.** The Act is amended by inserting after section 42A, the following new sections:

“Protection for  
whistleblowers

42B. (1) Where the Commission is of  
the view that-

(a) the safety of a person may  
be prejudiced; or  
(b) a person may be subject to  
intimidation or harassment,  
due to his assisting the Commission in an  
investigation, the Commission may request  
that the Commissioner of Police make  
arrangements for the security of the person  
as he deems necessary.

(2) In this section, a reference to a  
person who is assisting the Commission is a  
reference to a person who-

- (a) has appeared, is appearing or  
is to appear before the  
Commission to give  
evidence or produce a  
document or thing in  
relation to any matter under  
investigation;
- (b) has produced or proposes to  
produce a document or thing  
to the Commission under  
this Act; or
- (c) has assisted, is assisting or is  
to assist the Commission in  
some other manner.

Sharing of  
information

Chap. 22:04

42C. Notwithstanding any written law  
requiring the confidentiality of information  
including the Data Protection Act, the  
Commission may share relevant information  
in its possession with the Board of Inland  
Revenue, the Customs and Excise Division  
of the Ministry of Finance, the  
Commissioner of Police and the Financial  
Intelligence Unit of Trinidad and Tobago.”.

Schedule amended

**26.** The Schedule to the Act is amended by deleting items 8, 9 and 10 and substituting the following new items:

- “8. Permanent Secretaries and any other persons appointed as accounting officers under the Exchequer and Audit Act, Chap.69:01.
9. Chief Legal Officers referred to in the Judicial and Legal Services Act, 6:01.
10. Chief Technical Officers.
11. Chairman and Members of all Service Commissions.
12. Transport Commissioner.
13. Commissioner of Police.
14. Chief Immigration Officer.
15. Chairman of the Board of Inland Revenue.
16. Comptroller of Customs.
17. Chief Executives and Members of the Boards of all Statutory Bodies, Municipal Corporations, State Enterprises, and Enterprises whether or not they are partially or wholly funded by the State.
18. Special and Technical Advisers to Ministers.”.

Passed by the House of Representatives this                      day of                      , 2014.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, by the votes of \_\_\_\_\_ members of the House.

Clerk of the House

I confirm the above.

Speaker

Passed by the Senate this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes \_\_\_\_\_ of \_\_\_\_\_ Senators.

Clerk of the Senate

I confirm the above.

President of the Senate