

ARRANGEMENT OF CLAUSES

1. Short title
2. Interpretation

PART II**OFFENCES AND PENALITIES WITH RESPECT TO CORRUPTION RELATING
TO PUBLIC OFFICERS**

3. Accepting offering or soliciting gratification
4. Offence in relation to corrupt activities relating to public officers
5. Offences in relation to corrupt activities regarding contracts
6. Offences in relation to corrupt activities regarding foreign public officials
7. Offences in relation to corrupt activities relating to tenders
8. Offence in relation to acquisition of private interest in contract, agreement or investment of public body
9. Bribery of Member of Parliament
10. When penalty to be imposed in addition to other punishment
11. Powers of investigation
12. Application for order to obtain information

PART III**PROTECTING DISCLOSURE MADE BY PUBLIC OFFICIALS**

13. Interpretation
14. Application
15. Protected disclosure to attorney-at-law
16. Public officer making disclosure not to be subjected to occupational detriment
17. Remedies
18. Findings of the Commission

PART IV

MISCELLANEOUS PROVISIONS

- 19. Obstruction of member or employer of Commission
- 20. Making of Regulations
- 21. Consequential amendments



GRENADA

ACT NO. 15 OF 2007

I assent,



DANIEL CHARLES WILLIAMS

10th May, 2007.

Governor-General.

AN ACT to make provision for the prevention of corrupt practices by public officers in the performance of public functions, to give effect to the provisions of the OAS Inter-American Convention Against Corruption and for matters connected thereto and for purposes connected therewith.

[18th May, 2007].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advise and consent of the Senate and House of Representatives of Grenada, and by the authority of the same as follows:—

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the

PREVENTION OF CORRUPTION ACT, 2007.

Interpretation.

2. In this Act —

“assets” means all property beneficially held whether in or out of Grenada;

“attorney-at-law” means a person admitted to practice law in Grenada;

“Commission” means the Integrity Commission established pursuant to section 4 of the Integrity in Public Life Act;

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

“corruption” means an act committed by a person that is inconsistent with his or her lawful duties and the rights of others, by unlawfully and wrongfully using his or her influence, office or character to procure some gratification for himself or herself or for another person and includes bribery, fraud and other related offences; and the term “corrupt” shall have a corresponding meaning;

“foreign public official” means any person—

- (a) exercising a public function for a foreign State;
- (b) holding an administrative, executive, judicial or legislative office of a foreign State, regardless of whether that foreign public official is appointed or elected;

“foreign State” means any State other than the State of Grenada;

“Government company” means a company registered pursuant to the provisions of the Companies Act, being a company whose policies the Government

or an agency of the Government, whether by holding shares or by financial input, is in a position to influence;

“gratification” includes—

- (a) any money, whether in cash or otherwise;
- (b) any donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether moveable or immovable or any other similar advantage;
- (c) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage;
- (d) any office, status, honour, employment, contract of employment or services or any agreement to render services in any capacity;
- (e) residential and hotel accommodation;
- (f) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (g) any forbearance to demand any money or money’s worth or valuable thing;
- (h) any other service, favour or advantage of any description, 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, and includes the exercise of any right or official power or duty;

- (i) any right or privilege;
- (j) any real or pretended aid, vote, consent, influence or abstention from voting; or
- (k) any valuable consideration or benefit of any kind, including any discount, commission, rebate, bonus, deduction or percentage;

“income” includes—

- (a) money derived from whatever source or acquired in or out of Grenada;
- (b) all receipts by way of salary, fees, wages, requisitions, profits, grants, emoluments, rents, interests, commissions, bonus, pensions or annuity and all income derived pursuant to the provisions of the Income Tax Act;

“induce” includes to persuade, encourage, coerce, intimidate, threaten or cause a person to perform an act; and the term “inducement” shall have a corresponding meaning;

“property” means any money or other movable, immovable, corporeal or incorporeal thing, whether situated in Grenada or elsewhere and includes any rights, privileges, claims, securities and any interest therein and all proceeds thereof;

“public body” means—

- (a) a corporation established by an Act of Parliament for the purpose of providing a public function and any subsidiary company thereof registered pursuant to the provisions of the Companies Act;
- (b) a Department or Ministry of the Government;
- (c) any authority, board, commission, committee or other similar body providing a public function;
- (d) the Government; or
- (e) the House of Representatives and the Senate;

“public function” means any activity performed a single time or continually, whether or not payment is received for it, and which is carried out by-

- (a) a person, for or on behalf of or under the direction of a Ministry, Department of Government, a statutory body, local government authority or a government company;
- (b) a body, whether public or private providing public utilities including the provision of water, electricity or communications; or
- (c) a member of the House of Representatives or the Senate in that capacity;

“public officer” means—

- (a) a public officer appointed pursuant to section 84 of the Constitution; or
- (b) a person who is a member of a public body.

PART II

OFFENCES AND PENALTIES WITH RESPECT TO CORRUPTION RELATING TO PUBLIC OFFICERS

Accepting
offering or
soliciting
gratification.

3. For the purposes of this Part, a person—

- (a) accepts a gratification where he or she, or any person acting on his or her behalf, directly or indirectly—
 - (i) agrees to obtain, receive or take; or
 - (ii) obtains, receives or takes;

any gratification for himself or herself or for any other person;

- (b) offers a gratification where he or she, or any person acting on his or her behalf, directly or indirectly—
 - (i) agrees to give;
 - (ii) gives or holds out;

any gratification to or in trust for any other person; or

- (c) solicits a gratification where he or she or any person acting on his or her behalf, directly or indirectly—

- (i) asks for, demands or invites; or
- (ii) indicate a willingness to receive;

any gratification whether for himself or herself or for any other person.

Offence in
relation to
corrupt
activities
relating to
public officers.

4.—(1) A person shall not, without any lawful authority, by himself or in conjunction with any other person, offer from another any gratification to a public officer as an inducement or reward for himself or herself, or any other person in order that the public officer or any other person—

- (a) abstains from performing or performs any act in his or her official capacity;
- (b) assists, hinders or delays any other person in the transaction of any business with a public body; or
- (c) expedites or prevents the performance of an act whether by himself or herself or through any other public officer.

(2) A public officer shall not, without any lawful authority, accept or solicit, any gratification from any person for himself or herself, or for any other person as an inducement or reward in order to—

- (a) abstain from performing or perform any act in his or her capacity as a public officer;
- (b) assist, hinder, or delay any other person in the transaction of any business with a public body; or

- (c) expedite or prevent the performance of an act whether by himself or herself or through any other public officer.

(3) A person who contravenes the provisions of subsection (1), or a public officer who contravenes the provisions of subsection (2), commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding three years.

(4) A public officer in addition to the penalty imposed on him or her pursuant to subsection (3), shall be disqualified from holding any public office for a period of seven years from the date of conviction of the offence.

Offence in
relation to
corrupt
activities
regarding
contracts.

5.—(1) A person shall not, without any lawful authority, offer any gratification to a public officer, as an inducement or reward for the public officer to assist or to use his or her real or apparent influence in relation to—

- (a) the payment of the price or the consideration in respect of any contract or sub-contract as referred to in paragraph (b); or
- (b) the procurement, promotion or execution of any contract or sub-contract with a public body for the—
 - (i) doing of anything;
 - (ii) performance of any work;
 - (iii) provision of any service; or
 - (iv) supply of any article, material or substance.

(2) A public officer shall not, without any lawful authority, accept or solicit from any person, any gratification, as an inducement or reward for giving assistance or using his or her real or apparent influence with respect to the—

- (a) payment of the price or other consideration of any contract or sub-contract; or
- (b) procuring, promoting or executing of any contract or sub-contract.

(3) A person who contravenes the provisions of subsection (1), or a public officer who contravenes the provisions of subsection (2), commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding three years.

(4) A public officer in addition to the penalty imposed on him or her pursuant to subsection (3), shall be disqualified from holding any public office for a period of seven years from the date of conviction of the offence.

Offence in
relation to
corrupt
activities
regarding
foreign public
officials.

6.—(1) A public officer shall not, without any lawful authority, give, offer or promise directly or indirectly, to a foreign public official, any gratification for himself or herself or for any other person, in order that the foreign public official acts or refrains from acting in the exercise of his or her official duties so that the person may obtain or retain any gratification in the conduct of any business.

(2) A foreign public official shall not, without any lawful authority, accept or solicit directly or indirectly, any gratification for himself or herself, or for any other person, in order that he or she acts or refrain from acting in the exercise of his or her official duties.

(3) A foreign public official who contravenes the provisions of subsection (1), or a public officer who contravenes the provisions of subsection (2), commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding three years.

(4) A public officer in addition to the penalty imposed on him or her pursuant to subsection (3), shall be disqualified from holding any public office for a period of seven years from the date of conviction of the offence.

Offence in
relation to
corrupt
activities
relating to
tenders.

7.—(1) A person shall not, with the intent of being awarded a tender from a public body for a contract to perform any work, provide any service, do anything, or supply any article, material or substance, offer to a public officer without any lawful authority, whether directly or indirectly, for himself or herself or for any other person, any gratification, as an inducement or reward for obtaining a tender in relation to a contract to perform any work, provide any service, do anything, or supply any article material or substance in relation to a public body.

(2) A public officer shall not—

- (a) solicit or accept, whether for himself or herself or for any other person, directly or indirectly, any gratification, from a person as an inducement to act or to influence another public officer so to act or award a tender in relation to a contract to perform any work, provide any service, do anything, or supply any article material or substance in relation to a public body;

- (b) give to any person, any confidential information in order to enable that person or any other person to tender or not to tender in a particular manner so as to obtain an unfair advantage in tendering.

(3) A person who contravenes the provisions of subsection (1), or a public officer who contravenes the provisions of subsection (2), commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding three years.

(4) A public officer in addition to the penalty imposed on him or her pursuant to subsection (3), shall be disqualified from holding any public office for a period of seven years from the date of conviction of the offence.

Offence in relation to acquisition of private interest in contract, agreement or investment of public body.

8.—(1) Subject to subsection (2), a public officer shall not acquire or hold a private interest in any contract, agreement or investment emanating from or connected with any public body with which he or she is employed or which is made on account of that public body.

(2) Subsection (1) shall not apply to—

- (a) a public officer who acquires or holds such interest as a shareholder of a government company;
- (b) a public officer whose conditions of employment do not prohibit him or her from acquiring or holding such an interest; or

- (c) a public officer who acquires a contract, an agreement or an investment through a tender process and whose conditions of employment does not prohibit him or her from acquiring or holding such interest and who acquires or holds such interest through an independent tender process.

Bribery of
Member of
Parliament.

9.—(1) A person shall not offer any gratification to a Member of Parliament as an inducement or reward for the Member doing or forbearing to do any act in his or her capacity as a Member.

(2) A Member of Parliament shall not solicit or accept, any gratification as an inducement or a reward for his or her doing or forbearing to do any act in his or her capacity as a Member.

(3) A person who contravenes the provisions of subsection (1), or a Member of Parliament who contravenes the provisions of subsection (2), commits an offence and is liable on conviction on indictment to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding five years or to both such fine and imprisonment.

When penalty to
be imposed in
addition to other
punishment.

10. Where a court convicts any person of an offence committed by the acceptance of any gratification in contravention of any provisions of this Act, then, if that gratification is a sum of money, or if the value of that gratification can be assessed, the court shall, in addition to imposing on that person any other punishment, order him or her to pay as a penalty, within such time as may be specified in the order, a sum which is equal to the amount of that gratification or is, in the opinion of the court, the value of that gratification, and any such penalty shall be recoverable as a fine.

Powers of
investigation.

11. Where based on information received pursuant to the provisions of this Act, the Director of Public Prosecutions is satisfied that there are reasonable grounds for suspecting that an offence has been committed pursuant to the provisions of this Act, he or she may issue a report of his or her findings to the Commissioner of Police requesting that the matter be investigated.

(2) Pursuant to subsection (1), the Commissioner shall only authorize a police officer of or above the rank of an assistant superintendent to investigate any matter referred to him or her by the Director of Public Prosecutions.

Application for
order to obtain
information.

12.—(1) Where in the course of conducting an investigation into an alleged offence committed pursuant to the provisions of this Act, the Commissioner of Police has reasonable grounds to believe that further investigation in relation to the assets of a public officer under investigation is necessary, he or she may request the Director of Public Prosecutions to make an application in writing, on his or her behalf, in the prescribed manner, before a Judge in Chambers for an order requesting—

- (a) the public officer under investigation to furnish a sworn statement in writing, enumerating all property belonging to or in possession of that person or his or her spouse and children and specifying the date on which each of the property enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise;
- (b) the public officer under investigation to furnish a sworn statement in writing of any property sent out of Grenada by him or her, his or her spouse or children during such person as may be specified in the order;

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- (c) any other person to furnish a sworn statement in writing enumerating all property belonging to or in possession of that person, where the Director of Public Prosecutions has reasonable grounds to believe that such information may assist the investigation;
 - (d) the Comptroller of Inland Revenue to furnish, as specified in the order, all information available to him or her relating to the affairs of that person under investigation or his or her spouse or children, and to produce or furnish, as specified in the order, any document or a certified copy of any document relating to the public officer under investigation, his or her spouse or children which is in the possession of the Comptroller;
 - (e) a person in charge of a public body to produce or furnish as specified in the order, any document relating to the public officer under investigation, his or her spouse or children, which is in the possession or control of that person;
 - (f) the manager of a bank to give copies of the accounts of the public officer under investigation, his or her spouse or children.

(2) An application referred to in subsection (1) shall be made *ex parte*.

(3) A Judge may issue an order pursuant to the provisions of this section, only if he or she is satisfied that, based on the information received by him or her in the application, such an order is the only means of obtaining such information requested pursuant to the provisions of

subsection (1) and that this information is necessary to assist the Commissioner of Police in conducting the said investigation.

(4) An order issued pursuant to subsection (3) may specify conditions of restrictions relating to the gathering of such information requested pursuant to subsection (1).

(5) A person who fails to comply with an order issued pursuant to the provisions of this section commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

(6) For the purposes of this Part, “spouse” shall have the meaning assigned to it pursuant to section 2 of the Integrity in Public Life Act.

PART III

PROTECTING DISCLOSURE MADE BY PUBLIC OFFICERS

Interpretation.

13. For the purposes of this Part—

“appropriate commission” means the commission, body or authority responsible for the employment of a public officer who alleges that he or she has suffered occupational detriment;

“disclosure” means any disclosure of information made by a public officer in relation to an offence committed or about to be committed under this Act, but does not include the disclosure of any information which is specifically—

(a) designated as secret in the interest of national security; or

(b) prohibited by law;

“impropriety” means any conduct in relation to an offence committed pursuant to the provisions of this Act;

“occupational detriment” in relation to the working environment of a public officer means-

(a) being subjected to any disciplinary action as a consequence of any disclosure made by him or her;

(b) being dismissed, suspended, demoted, harassed or intimidated as a consequence of any disclosure made by him or her;

(c) being transferred against his or her will as a consequence of any disclosure made by him or her;

(d) being refused transfer or promotion as a consequence of any disclosure made by him or her;

(e) being subjected to a term or condition of employment or retirement which is altered or kept altered to his or her disadvantage as a consequence of any disclosure made by him or her;

- (f) being refused a reference or being provided with an adverse reference as a consequence of any disclosure made by him or her;
- (g) being threatened with any of the actions referred to in paragraphs (a) to (f); or
- (h) being otherwise adversely affected in respect of his or her employment, profession or office, including employment opportunities and job security;

“protected disclosure” means a disclosure made by a public officer—

- (a) to an attorney-at-law in accordance with section 15;
- (b) to the Commission pursuant to the provisions of this Act or the Integrity in Public Life Act;
- (c) to a superior public officer in compliance with any established rules or principles established for the making of a disclosure; and
- (d) in good faith to either persons mentioned in paragraphs (a) to (c);

but does not include a disclosure—

-
- (e) in respect of which the public officer concerned commits an offence by making that disclosure; or
 - (f) made by an attorney-at-law to whom the information concerned was disclosed in the course of obtaining legal advice pursuant to section 15.

Application.

14.—(1) This Part shall apply to any protected disclosure made after the date on which this Act comes into operation, irrespective of whether or not the impropriety concerned occurred before or after the said date.

(2) A provision in a contract of employment or any agreement in relation to a public officer shall be void in so far as it—

- (a) purports to exclude any provision of this Part, including an agreement to refrain from instituting or continuing any proceedings under this Part or any proceedings for breach of contract; or
- (b) purports to preclude the public officer or has the effect of discouraging the public officer from making a protected disclosure.

Protected disclosure to attorney-at-law.

15. Any disclosure made—

- (a) to an attorney-at-law, and;
- (b) with the object of and in the course of obtaining legal advice;

is a protected disclosure.

Public officer making disclosure not to be subjected to occupational detriment.

Remedies.

16. A public officer shall not be subjected to any occupational detriment by his or her superiors on account, or partly on account, of having made a protected disclosure.

17.—(1) A public officer who has been subjected, is subjected to an occupational detriment in breach of section 16, may make an application to the Commission in the prescribed manner requesting the Commission to conduct an inquiry into the matter.

(2) The provisions of section 36 and section 37 of the Integrity in Public Life Act shall apply *mutatis mutandis* to the provisions of this section in relation to the conduct of an inquiry by the Commission.

(2) The sitting of the Commission to hear arguments or to take evidence in the course of an inquiry pursuant to subsection (1), shall be held in private.

(3) Where the Commission declines to conduct an inquiry in relation to a request submitted to it pursuant to subsection (1), the Commission shall provide written notification to the person seeking assistance and shall give—

- (a) reasons for its decisions; and
- (b) referral instructions for any other available avenues for relief.

Findings of the Commission.

18.—(1) Where the Commission finds evidence of occupational detriment it shall issue a report of its findings for appropriate action to the appropriate commission.

(2) A report issued pursuant to subsection (1) shall include recommendations for relief including corrective action to—

- (a) end the occupational detriment; and

-
- (b) neutralize any direct or indirect prejudicial consequences suffered by the public officer.

PART IV

MISCELLANEOUS PROVISIONS

Obstruction of
member or
employer of
Commission.

19. A person who attempts to obstruct or obstruct a member or an employee of the Commission in the performance of his or her functions pursuant to the provisions of this Act, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding one year.

Making of
Regulations.

20. The Minister may make Regulations for the purposes of giving effect to the provisions of this Act.

Consequential
amendments.

21. Section 405 and Section 406 of the Criminal Code, Cap. 1 is hereby repealed.

Passed in the House of Representatives the 23rd day of March, 2007.

ADRIAN C. A. HAYES
Clerk to the House of Representatives.

Passed in the Senate the 5th day of April, 2007.

ADRIAN C. A. HAYES
Clerk to the Senate.

GRENADA

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