

No. of 2024

VIRGIN ISLANDS
PARLIAMENTARY COMMISSION FOR STANDARDS BILL, 2024
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No. of 2024

Parliamentary Commission for Standards
Bill, 2024

Virgin
Islands

I ASSENT

Governor.
, 2024

VIRGIN ISLANDS

No. of 2024

A BILL FOR

AN ACT TO ESTABLISH A PARLIAMENTARY COMMISSION FOR STANDARDS TO PROMOTE, ENCOURAGE AND SAFEGUARD HIGH STANDARDS OF CONDUCT IN THE PUBLIC OFFICE OF MEMBERS OF THE HOUSE OF ASSEMBLY AND FOR RELATED MATTERS.

[Gazetted , 2024]

ENACTED by the Legislature of the Virgin Islands as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Parliamentary Commission for Standards Act, 2024.

(2) This Act shall come into force on a date appointed by the Minister by Notice published in the *Gazette*.

Interpretation

2. In this Act unless the context otherwise requires,

“Clerk” means the Clerk of the House of Assembly;

“Code of Conduct” means the Code of Conduct for members of the House of Assembly made under the Standing Orders of the House of Assembly;

“Commission” means the Parliamentary Commission for Standards established by section 3;

“Commissioner” means a Parliamentary Commissioner for Standards appointed under section 5;

“Committee” means the Standing Select Committee of the House of Assembly charged for the time being with the consideration of matters relating to Standards;

“excluded complaint” means any complaint which falls within a class of complaint which is excluded from the jurisdiction of the Commission by any provision in the Standing Orders or in the Code of Conduct; and any such complaint is referred to in this Act as an “excluded complaint”;

“financial year” means the year commencing on [1 January and ending on 31 December];

“Member” means a member of the House of Assembly and includes a former member of the House of Assembly whose term of office falls within the period for which the member held the office of Member and the commencement of an investigation under this Act;

“Minister” means the Minister to whom responsibility for the subject of this Act is assigned;

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

“relevant provision” means

- (a) any provision of the Registrar of Interests Act, No. 5 of 2006;
- (b) any provision of the Standing Orders;
- (c) any resolution of the House of Assembly relating to the financial or other interests of Members;
- (d) the Code of Conduct and Guide to the Code of Conduct of the House of Assembly relating to standards of conduct of members;
- (e) any resolution of the House of Assembly relating to standards of conduct of members; and
- (f) any other provision of the Standing Orders or in any code of conduct made under the Standing Orders;

“Standing Orders” means the Standing Orders of the House of Assembly.

PART II

PARLIAMENTARY COMMISSION FOR STANDARDS

Establishment of the Parliamentary Commission for Standards

3. (1) There is established by this Act a Parliamentary Commission for Standards, hereafter referred to as the “Commission”.

(2) In the performance of its functions under the Act, the Commission shall not be subject to the direction or control of any person or authority.

Composition of the Commission

4. The Commission shall comprise of three Commissioners, one of whom shall be a retired judge or an attorney at law of at least 15 years standing, and who has practiced in the Virgin Islands or within the jurisdiction of the Organisation of the Eastern Caribbean States and who shall be the Chairperson of the Commission.

Appointment of the Commissioners

5. (1) The House of Assembly shall, on the recommendation of an interview panel appoint by resolution, the Commissioners referred to in section 4 on such terms and conditions as the House of Assembly may determine.

(2) The interview panel shall, in recommending Commissioners for appointment to the Commission under subsection (1), consider the following:

- (a) the person is a person of integrity;
- (b) the person is capable of exercising competence, due diligence and sound judgement;
- (c) the person is impartial in fulfilling his or her duties under the Act;
- (d) the person possesses the relevant knowledge, investigative skills and experience; and
- (e) the person possesses personal qualities and standing suitable to the office.

(3) The interview panel referred to in subsection (1) shall comprise of five members as follows:

- (a) the Chief Justice or a person designated by the Chief Justice being a resident Judge in the Virgin Islands;
- (b) the Speaker who shall be the Chairperson of the panel;
- (c) one person nominated by the Premier;
- (d) one person nominated by the Leader of Opposition; and
- (e) a senior Member of the Bar who has served in the Virgin Islands for at least 15 years.

(4) The House of Assembly shall ensure that a fair and open recruitment process is undertaken in the selection of the Commissioners.

(5) The House of Assembly may delegate to the Committee or any other person the duty of determining the terms and conditions of the Commissioners appointed under subsection (1).

Disqualification from appointment

6. (1) A person shall not be eligible for appointment as Commissioner if that person

- (a) is a member of the House of Assembly;
- (b) has been a member of the House of Assembly at any time during the period of four years prior to the date his or her appointment is to take effect;

- (c) is a member of staff of the House of Assembly, a public officer or employee assigned to the House of Assembly;
- (d) has been a member of the staff of the House of Assembly, a public officer or employee assigned to the House of Assembly at any time during the period of two years prior to the date his or her appointment is to take effect;
- (e) is a public officer or employee of the Government of the Virgin Islands;
- (f) has been a public officer or employee of the Government of the Virgin Islands at any time during the period of two years prior to the date his or her appointment is to take effect;
- (g) has been convicted of an offence within or outside the Virgin Islands;
- (h) is an undischarged bankrupt or has compounded with his or her creditors;
- (i) is not a Virgin Islander or believer as defined by sections 65(2) and 2(2) of the Virgin Islands Constitution Order 2007, U.K.S.I. 2007 No. 1678;
- (j) has been certified by a medical practitioner to be of unsound mind; or
- (k) has at any time during the five years immediately preceding the date of appointment, held office in a political party.

Tenure and removal from office

7. (1) A Commissioner, other than the chairperson, shall be appointed for a period of four years and shall be eligible for reappointment for only one term whether consecutive or not.

(2) Notwithstanding subsection (1), the chairperson shall be appointed for a period of five years and may be reappointed for a further period of five years.

(3) A person who has been appointed as a Commissioner may

- (a) within six months, before the end of his or her term of office, resign by written notice to the Speaker, through the Clerk and in the case where the House of Assembly is dissolved, to the Clerk; or
- (b) be removed from office by the House of Assembly.

(4) A Commissioner may not be removed from office under subsection (2)(b) unless

- (a) the House of Assembly so resolves; and
- (b) if the resolution is passed on a vote, the number of votes cast in favour of the resolution is not less than two thirds of the total number of votes cast.

(5) The appointment of a person as Commissioner ceases if that person

- (a) declares his or her candidacy to be a member of the House of Assembly; or

- (b) is appointed as a member of the staff of the House of Assembly or a public officer or employee assigned to the House of Assembly or the Government of the Virgin Islands.

Acting Commissioner

8. (1) When the office of a Commissioner is vacant or the Commissioner is, for any reason, unable to perform the functions of his or her office, the House of Assembly may appoint a person as Acting Commissioner, to discharge the functions of that office, either generally or in relation to such case or class of cases, and until such time, as may be specified by the terms and conditions of the appointment.

(2) A person who is not eligible to be appointed as the Commissioner is not eligible to be appointed as Acting Commissioner.

(3) A person appointed as Acting Commissioner

- (a) shall hold office on such terms and conditions as the House of Assembly may determine;
- (b) while holding that office, shall be treated for all purposes as the Commissioner;
- (c) may at any time resign by notice in writing to the Speaker, through the Clerk;
- (d) may at any time be removed from office by the House of Assembly; and
- (e) shall cease to hold office in the circumstances specified in section 7(4)(a) or (b).

Remuneration

9. A Commissioner shall be paid such remuneration as the Minister may with the approval of the Cabinet determine and the payment shall be made out of the funds of the Commission.

Secretary of the Commission

10. (1) The Commission shall appoint a Secretary to the Commission on such terms and conditions as the Commission may determine.

(2) The functions of the Secretary shall include the following:

- (a) attend the proceedings of the Commission;
- (b) record the minutes of the proceedings of the Commission;
- (c) record the testimony of persons summoned to appear before the Commission;
- (d) perform such other duties as the Commission may determine.

(3) The Secretary appointed under subsection (1) shall hold office for a period not exceeding four years.

Staff of the Commission

11. The Commission may, to the extent and on the conditions it considers necessary to carry out its functions,

- (a) employ staff, whether full or part time; and
- (b) engage on contract, professional, technical or other assistance.

Proceedings of the Commission

12. The Commission shall hold its proceedings at such times as may be expedient for the Commission and the proceedings may be held in person or virtually.

Immunity from suit

13. No action shall be brought against the Commission, a Commissioner or a person acting under the direction of the Commission for an act done or omitted to be done in the execution of the functions of the Commission or Commissioners under this Act, unless it is shown that the act was done in bad faith.

Publication of Appointment in *Gazette*

14. The Clerk shall cause the appointment, removal or resignation of the Commissioners to be published by Notice in the *Gazette*.

PART III

RESPONSIBILITY AND FUNCTIONS OF THE COMMISSION

Responsibility of Commission

15. The Commission shall in the exercise of its functions under this Act be responsible for promoting, encouraging and safeguarding high standards of conduct in the public office by members of the House of Assembly.

Functions of the Commission

16. The functions of the Commission are

- (a) to receive any complaint that the conduct of a member amounts to a failure to comply with a relevant provision;
- (b) to investigate any complaint received in accordance with this section;
- (c) to investigate, on its own initiative, a failure to comply with a relevant provision;
- (d) to advise the members of the House of Assembly and members of the public on the procedures for making and investigating complaints to which paragraph (a) applies; and
- (e) to prepare reports on investigations conducted by the Commission for submission to the House of Assembly.

Power to impose fines

17. (1) The Commission shall, in the performance of its functions under this Act impose on any member who breaches any provision of this Act a fine not exceeding \$5,000.

(2) The fine referred to in subsection (1) imposed by the Commission shall be issued by the Chairperson.

Directions on procedures of the House of Assembly

18. (1) The Commission shall, in carrying out its functions, comply with any directions on procedures of the House of Assembly given by the Committee.

(2) The directions referred to in subsection (1) shall exclude directions relating to excluded complaints.

PART IV

INVESTIGATIONS

General provisions relating to an investigation into a complaint

19. (1) A person who wishes to make a complaint about the conduct of a member shall submit the complaint, in the form prescribed in Schedule 1, to the Commission.

(2) The Commission shall undertake investigations into a complaint in accordance with the following two possible stages:

- (a) Stage 1 which shall consist of investigating and determining whether a complaint is admissible;
- (b) if the complaint is admissible, Stage 2 which shall consist of further investigating the complaint and reporting upon it to the House of Assembly; and
- (c) reference in this Act to “the stage of an investigation” or to “Stage 1” or “Stage 2” shall be construed accordingly.

(3) Each stage of an investigation into a complaint shall be conducted in private.

(4) The Commission may at any time make a report to the House of Assembly as to the progress of an investigation into a complaint.

(5) The Commission shall, subject to the provisions of this Act, decide when and how to carry out any investigation at each stage.

Stage 1: Admissibility of complaints

20. (1) At Stage 1, the Commission shall investigate and determine whether a complaint is admissible.

(2) A complaint is admissible if it appears to the Commission that the following three tests are satisfied

- (a) that the complaint is relevant;

- (b) that the complaint meets all the requirements specified in subsection (5) (“the specified requirements”) or that the House of Assembly has, as under section 21(7)(b), directed the Commission to treat the complaint as if it had met all of those requirements; and
 - (c) that the complaint warrants further investigation.
- (3) The three tests mentioned in paragraphs (a), (b) and (c) of subsection (2) are referred to as the first, second and third tests respectively.
- (4) For the purposes of the first test, a complaint is relevant if
- (a) it is about the conduct of a member of the House of Assembly;
 - (b) it is not an excluded complaint or, if it is, that the Commission has been directed in accordance with section 18 to investigate it; and
 - (c) it appears at first sight that, if all or part of the conduct complained about is established to have been committed by that member, it might amount to a breach of a relevant provision or provisions identified by the Commission.
- (5) For the purposes of the second test, the specified requirements are that the complaint
- (a) is made in writing in the prescribed form to the Commission;
 - (b) is made by an individual person and states that person’s name and address;
 - (c) names the member of the House of Assembly concerned; and
 - (d) sets out the facts relevant to the conduct complained about and is accompanied by any supporting evidence which the complainer wishes to submit;
- (6) For the purposes of the third test, a complaint warrants further investigation if it appears after an initial investigation that the evidence is sufficient to suggest that the conduct complained about may have taken place.

Procedures at Stage 1

21. (1) When the Commission receives a complaint about the conduct of a member of the House of Assembly, the Commission shall

- (a) notify that member that a complaint has been made;
- (b) inform that member of the nature of the complaint; and
- (c) except where the Commission considers that it would be inappropriate to do so, inform that member of the name of the complainer.

(2) If the Commission considers that the complaint is admissible, the Commission shall proceed to Stage 2 of the investigation into the complaint and shall

- (a) make a report to the House of Assembly informing it of that fact and of the relevant provision or provisions identified by the Commission for the purposes of the first test; and
- (b) inform the complainer and the member concerned accordingly.

(3) If the Commission considers that the complaint is inadmissible for failing to satisfy the first or the third test, the Commission shall dismiss the complaint and shall inform the complainer and the member concerned accordingly, together with the reasons for that view.

(4) Subject to subsection (6), where the Commission considers that a complaint satisfies the first test but fails to meet one or more of the specified requirements, the Commission shall not dismiss the complaint as inadmissible for failing to satisfy the second test without making a report upon the matter to the House of Assembly and receiving a direction under subsection (7)(a).

(5) The report under subsection (4) shall set out

- (a) the reasons as to why the Commission considers that the complaint fails to meet one or more of the specified requirements;
- (b) the reasons (if known) for that failure;
- (c) any other matters which the Commission considers relevant; and
- (d) the recommendation of the Commission as to whether, having regard to all the circumstances of the case, the complaint should be dismissed as inadmissible for failing to satisfy the second test or should be treated as if it had met all of those requirements.

(6) Except in the case of a complaint falling within such class or classes of cases as may be specified in any direction by the House of Assembly under this section, the Commission shall, before making the report to the House of Assembly under subsection (4), investigate whether the complaint satisfies the third test and, if it does, the report shall contain a statement to that effect; but, if the Commission considers that the complaint fails to satisfy that test, the Commission shall dismiss the complaint accordingly and no report requires to be made under that subsection.

(7) After receiving a report under subsection (4), the House of Assembly shall give the Commission a direction under this section either

- (a) to dismiss the complaint as inadmissible for failing to satisfy the second test; or
- (b) to treat the complaint as if it had met all of the specified requirements.

(8) Where the Commission is directed by the House of Assembly to dismiss the complaint under subsection (7)(a), the Commission shall dismiss the complaint and shall inform the complainer and the member of the House of Assembly concerned accordingly.

(9) In any case where the member of the House of Assembly concerned has not been named in the complaint or the complainer is anonymous, subsections (1), (2), (3) and (8) shall apply only to the extent that they are capable of applying.

(10) The Commission may make a report to the House of Assembly informing it of any complaint which the Commission has dismissed as being inadmissible and of the reasons for the dismissal.

(11) If the Commission has not completed the investigation and determined the admissibility of a complaint within two months of the complaint being received, the Commission shall, as soon as possible thereafter, make a report to

the House of Assembly upon the progress of any investigation into the complaint at Stage 1.

Stage 2: Investigation of an admissible complaint

22. (1) At Stage 2, the Commission shall investigate an admissible complaint with a view to

- (a) making findings of fact in relation to whether the member concerned (whether or not named in the complaint) has committed the conduct complained about; and
- (b) reaching a conclusion as to whether that member has, as a result of that conduct, breached the relevant provision or provisions identified by the Commission for the purposes of the first test.

(2) The Commission may make a finding of fact if satisfied on a balance of probabilities that the fact is established.

(3) If the Commission has not completed the investigation under this section within the period of six months beginning with the date on which the Commission found that complaint to be admissible, the Commission shall, as soon as possible thereafter, make a report to the House of Assembly upon the progress of any such investigation.

Report

23. (1) At the conclusion of an investigation into a complaint at Stage 2, the Commission shall make a report to the House of Assembly on the outcome of the investigation.

(2) The report shall include

- (a) details of the complaint;
- (b) details of the investigation carried out by the Commission;
- (c) the facts found by the Commission in relation to whether the member concerned (whether or not named in the complaint) has committed the conduct complained about;
- (d) the conclusion reached by the Commission as to whether that member has, as a result of that conduct, breached the relevant provision or provisions identified by the Commission for the purposes of the first test and the reasons for that view,

but shall not express any view upon what sanction would be appropriate for any breach.

(3) No report concluding that a member of the House of Assembly, who is named in the report, has breached a relevant provision shall be made to the House of Assembly unless the member concerned has been given a copy of the draft report and an opportunity to make representations on the alleged breach and on the draft report; and there shall be annexed to the report made to the House of Assembly any representations made by that member which are not given effect to in that report.

Restriction on investigations

24. The Commission shall not investigate
- (a) conduct of a member in the Chamber of the House of Assembly;
 - (c) allegations relating solely to a member's private and personal life;
or
 - (d) the funding of political parties and the acceptability of donations.

Power to obtain evidence

25. (1) The Commission may by notice in writing require any person
- (a) to attend before the Commission in person or virtually for the purpose of giving evidence; or
 - (b) to produce to the Commission documents in the possession or under the control of the person, concerning any matter relevant to an investigation which the Commission is undertaking under this Act;
 - (c) to verify by affidavit any document submitted to the Commission.
- (2) For the purposes of this section
- (a) a person will be taken to comply with a requirement to produce a document if that person produces a copy of the document or an extract of the relevant part of the document;
 - (b) "document" means anything in which information is recorded in any form; and
 - (c) references to producing a document are to producing the information recorded in it in a visible and legible form.

Requirements of notice to appear and to supply documents

26. (1) The notice referred to under section 25(1) shall specify
- (a) the time and place at which the person is to attend and the particular subject concerning which the person is required to give evidence;
 - (b) the documents, or types of documents, which the person is required to produce, the date by which and the person to whom the documents or types of documents are to be produced and the particular subjects concerning which they are required.
- (2) The notice shall be given
- (a) in the case of an individual, by sending it in accordance with subsection (3), addressed to the person at the person's usual or last known address or, where the person has given an address for service of the notice, at that address; or
 - (b) in any other case, by sending it addressed to the person at the person's registered or principal office, but may only be given if the address is in the Virgin Islands.
- (3) A notice is sent in accordance with this section if it is sent

- (a) by a registered post service;
- (b) personal service; or
- (c) by electronic means.

Administration of oaths and affirmations by the Commissioner

27. The Commission may

- (a) administer an oath or affirmation to any person giving evidence to the Commission; and
- (b) require that person to take an oath or make an affirmation.

Privilege and public interest immunity

28. (1) A person is not obliged by any requirement imposed under section 26 (1) to

- (a) provide any document that is privileged material; or
- (b) answer any question or to produce any document which that person would be entitled to refuse to answer or produce in proceedings in a court in the Virgin Islands.

(2) A person acting as prosecutor in criminal proceedings is not obliged under section 26(1) to answer any question or to produce any document concerning the operation of the system of criminal prosecution in any particular case if that person considers that answering the question or producing the document might prejudice criminal proceedings in the case or would otherwise be contrary to the public interest.

(3) For the purposes of this section, “privileged material” means

- (a) communications between a legal practitioner and his client or any person representing his client made in connection with the giving of legal advice to the client;
- (b) communications between a legal practitioner and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; or
- (c) material enclosed with or referred to in communications under paragraph (a) or (b) and made
 - (i) in connection with the giving of legal advice; or
 - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings, when they are in the possession of a person who is entitled to possession of them.

Report on investigation

29. (1) On completion of an investigation, the Commission shall make a report to the House of Assembly on the outcome of the investigation.

(2) The report shall include

- (a) details of the complaint;
- (b) the facts found by the Commission in relation to whether the member concerned, whether named or not in the complaint, committed the conduct complained about;
- (c) the conclusion reached by the Commission as to whether the member has, as a result of that conduct, breached the relevant provision or provisions identified by the Commission but the Commission shall not express any view upon what sanction would be appropriate for any breach.

(3) A report concluding that a member, who is named in the report, has breached a relevant provision shall not be made to the House of Assembly unless the member concerned has been given a copy of the draft report and an opportunity to make representations on the alleged breach and on the draft report and there shall be annexed to the report made to the House of Assembly any representations made by that member which are not given effect to in that report.

(4) If the Commission has not completed the investigation under this section within the period of six months beginning with the date on which the Commission found that the complaint was within the remit of the Commission, the Commission shall as soon as possible thereafter, make a report to the House of Assembly upon the progress of any such investigation.

Action on report

30. (1) The House of Assembly is not bound by the facts found, or the conclusions reached, by the Commission in a report made under section 29.

(2) The House of Assembly may direct the Commission to carry out further investigations as may be specified and report on the outcome of these investigations to the House of Assembly.

(3) Subject to the direction of the House of Assembly, the provisions of this Act relating to investigations shall apply with the necessary modifications to a direction of the House of Assembly to the Commission to conduct further investigations.

Appeals against decisions of the Commission

31. A person who is aggrieved by a decision of the Commission made under this Act may appeal to a court of competent jurisdiction.

Withdrawal of a complaint

32. (1) At any time after a complaint has been made to the Commission and before a report is made to the House of Assembly under section 29, the complaint may be withdrawn by the complainer by notice in writing to the Commission

(2) When a complaint has been withdrawn as mentioned in subsection (1) during Stage 1, the Commission shall

- (a) cease to investigate that complaint; and
- (b) inform the member concerned that the complaint has been withdrawn, that the investigation into the complaint has ceased and

of the reasons given by the complainer for withdrawing the complaint.

(3) When a complaint has been withdrawn as mentioned in subsection (1) during Stage 2, the Commission shall

- (a) inform the member concerned that the complaint has been withdrawn and of the reasons given by the complainer for withdrawing the complaint;
- (b) invite that member to give the Commission any views upon whether the investigation should nevertheless continue; and
- (c) after taking into account any relevant information, including any reasons given by the complainer for withdrawing the complaint and any views expressed by that member, determine whether to recommend to the House of Assembly that the investigation into the complaint should nevertheless continue.

(4) If the Commission determines not to make any such recommendation as is mentioned in subsection (3), the Commission shall

- (a) cease to investigate that complaint;
- (b) inform the complainer and the member concerned that the investigation into the complaint has ceased; and
- (c) report to the House of Assembly that the complaint has been withdrawn, that the investigation into the complaint has ceased and the reasons given by the complainer for withdrawing the complaint.

(5) If the Commission determines to make any such recommendation as is mentioned in subsection (3), the Commission shall report to the House of Assembly

- (a) that the complaint has been withdrawn, the reasons given by the complainer for withdrawing the complaint and the views, if any, expressed by the member concerned as mentioned in subsection (3)(b); and
- (b) that the Commission recommends that the complaint should nevertheless continue to be investigated, together with the reasons for that view.

(6) After receiving a report under subsection (5), the House of Assembly shall give the Commission a direction under this section either to continue the investigation into the complaint or to cease that investigation; and the Commission shall comply with that direction and inform the member concerned and the complainer accordingly.

(7) Where the Commission is required under this section to inform the member concerned of, or to report to the House of Assembly, the reasons given by the complainer for withdrawing the complaint, the Commission may do so by providing a summary of those reasons.

(8) In any case where the member concerned has not been named in the complaint or the complainer has not given any reasons for withdrawing the complaint, subsections (2) to (7) shall apply only to the extent that they are capable of applying.

Referral of matters

33. (1) Where the Commission receives a complaint that appears, on the face of it, to be of a criminal nature, or is satisfied, on investigation of a complaint, that an offence appears to have been committed, the Commission shall

- (a) immediately refer the matter to the Director of Public Prosecutions together with the complaint or report of the findings; and
- (b) inform the complainant, the relevant member, and the Committee of the referral under paragraph (a).

(2) Where the Commission determines that the subject matter of a complaint or investigation is

- (a) under investigation by the police or that a charge has been laid; or
- (b) the subject matter of any proceedings in any court,

the Commission shall hold its investigation in abeyance, pending the final disposition of the investigation by the police and the proceedings in the court.

PART V

CODE OF CONDUCT

Code of Conduct

34. (1) A member of the House shall observe, abide and conduct himself or herself in accordance with the Code of Conduct established by the House of Assembly and such other code of conduct as may be prescribed in relation to the code of conduct of members of the House of Assembly.

(2) A member of the House of Assembly shall, within the prescribed period of taking office, sign a copy of the Code of Conduct and the Commission shall keep the signed copy of the said Code of Conduct.

PART VI

FINANCIAL PROVISIONS

Funds of the Commission

35. The funds of the Commission shall consist of funds appropriated by the House of Assembly and other moneys as may be lawfully received or made available to the Commission for the purposes of this Act.

Estimates of the Commission

36. The Commission shall, on or before 30 September of each year, submit to the Minister of Finance through the Clerk for his or her approval, its estimates of expenditure in respect of the next financial year.

Goods and services for the Commission

37. (1) The Commission may, on such terms as the Commission determines, secure the provision of goods or services as the Commission considers necessary for the exercise of its functions.

(2) The Commission may enter into arrangements with any public body upon such terms as the Commission and such public body may agree, for the provision by that public body of services as the Commission considers necessary for assisting in the exercise of the functions of the Commissioner.

(3) The Commission shall, when exercising powers under subsections (1) and (2) have regard to the responsibilities of the Clerk, as principal accounting officer of the House of Assembly.

(4) The Commission shall, in relation to any liability which the Commission may incur under this section, consult the Clerk before incurring the liability in question.

(5) The Commission must have regard to any representations which the Clerk may make when consulted under subsection (4).

(6) The duty of the Commission to consult the Clerk under subsection (4) may be discharged in relation to a particular liability either

(a) by providing the Clerk with particulars of the liability in question;
or

(b) by notifying the Clerk that liabilities of a specified description up to a specified total amount may be incurred,

(7) Where the Commission provides notification under subsection (6)(b), the particular liability in question shall fall within the description notified and shall not, when taken together with any other liabilities to which that notification relates, exceed the total amount notified.

Accounts and audit

38. (1) The Commission shall keep proper accounts of receipts, payments, assets and liabilities and the accounts shall be audited annually by the Auditor General or another auditor appointed by the Auditor General for that purpose.

(2) The Commission shall, at the request of the House of Assembly, provide the House of Assembly with such information on the financial affairs of the Commission and transactions as the House of Assembly may reasonably require.

Annual report

39. (1) The Commission shall, as soon as possible after the end of each financial year, prepare and submit to the Minister a report of its activities during the previous financial year.

(2) The report referred to under subsection (1) shall contain a statement of the accounts audited in accordance with section 38 and a statement of information relating to the financial affairs of the Commission in the performance of its functions during that year.

(3) The Minister shall lay a copy of the report under subsection (1) before the House of Assembly.

(4) The Commission shall, subject to subsection (5), comply with any direction by the Committee

(a) to attend before the Committee; and

(b) to provide the Committee with such information as it may reasonably require in relation to any matter contained in a report which has been laid before the House of Assembly under subsection (3) or which was required to be contained in such a report.

(5) The Commission is not required to comply with a direction under subsection (4)

(a) if it is not reasonably practicable to do so; and

(b) except in the case of a requirement under subsection (4)(b) which is made orally to the Commission at a meeting of the Committee on Standards of Conduct, unless the requirement is in writing.

PART VII

MISCELLANEOUS PROVISIONS

Obligations of members

40. (1) Each member shall, where their interest in any Government contract goes beyond a mere investigative nature inform the Commission in writing and the Commission shall take the necessary action.

(2) Where a member is a party to, or a partner in a firm or a director, manager, trustee or majority shareholder of a company which is a party to, any contract with the Government of the Virgin Islands for or on account of the public service, the Member shall lodge a copy of such executed contract with the Commission within fourteen days after execution of such contract and otherwise inform the Commission in writing of any other contractual relationship that the Member has with the Government of the Virgin Islands

Seal of the Commission

41. (1) The Commission shall have a seal and the seal shall be kept in the custody of the Chairperson of the Commission or any person authorised by the Commission for that purpose.

(2) The application of the seal of the Commission shall be authenticated by the signature of

(a) the Chairperson of the Commission; or

(b) any person authorised by the Chairperson for that purpose.

(3) A document purporting to be duly executed under the seal of the Commission or to be signed on the Chairperson of the Commission's behalf may be received in evidence and, unless the contrary is proved, is to be taken to be so executed or signed.

Restriction on disclosure of information

42. (1) The Commission and a member of staff appointed by the Commission under this Act shall, subject to subsections (2) and (3), not disclose any information

- (a) contained in a complaint;
- (b) which is furnished to or obtained by them in the course of, or for the purposes of, an investigation into a complaint; or
- (c) which otherwise comes to the knowledge of the Commission or member of staff of the Commission in the exercise of their functions.

(2) Subsection (1) shall not apply so as to prevent the Commission or any member of staff appointed by the Commission from

- (a) discharging any functions imposed or conferred on them by virtue of this Act;
- (b) reporting evidence of any crime to the appropriate authority as they consider appropriate;
- (c) disclosing in the course of investigation of a complaint or an offence under this Act, any matter relevant to those proceedings;
- (d) disclosing to a person any information which, in the opinion of the Commission or the member of staff of the Commission is necessary to be disclosed to that person for the purposes of investigating a complaint or deciding whether an investigation should be undertaken, continued or discontinued; or
- (e) complying with any duty imposed on the Commission by or under any other enactment.

(3) The Commission may disclose in any report made by the Commission under this Act such matters as in its opinion ought to be disclosed in order to establish grounds for its conclusions and recommendations.

(4) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to

- (a) a fine not exceeding \$2,000;
- (b) imprisonment for a term not exceeding six months; or
- (c) or both the fine and imprisonment.

Oath or affirmation of Commissioners and staff

43. (1) Before commencing the duties of their office, a Commissioner or a member of staff appointed by the Commission shall take an oath or affirmation in the form set out in the Schedule 2, that he will not, except in accordance with this Act, disclose any information received by him or her as Commissioner or a member of staff of the Commission.

(2) The oath or affirmation under subsection (1) shall be taken before a Judge of the High Court.

Protection from defamation or other proceedings

44. (1) Any statement made

- (a) by a Commissioner or a member of staff appointed by the Commission; or
- (b) to the Commissioner or a member of staff appointed by the Commission,

in the course of an investigation or otherwise in pursuance of the purposes of this Act is not admissible in evidence against a person in any proceedings for defamation in any court and no evidence in respect of proceedings before the Commission shall be given against any person in any court.

(2) No action shall be brought against the Commission or a member of staff appointed by the Commission for an act done or omitted to be done in the performance of the functions of the Commission under this Act, unless it is shown that the Commission or a member of staff of the Commission acted in bad faith.

Offences

45. (1) A person to whom a notice has been given under section 27(1) commits an offence if that person

- (a) refuses or fails without reasonable excuse to attend before the Commission as required by the notice;
- (b) refuses or fails without reasonable excuse, when attending before the Commission as required by the notice, to answer any question concerning the subjects specified in the notice;
- (c) refuses or fails without reasonable excuse to produce any document required to be produced by the notice; or
- (d) intentionally alters, suppresses, conceals or destroys any document required to be produced by the notice.

(2) A person who, without reasonable excuse, refuses to take an oath or make an affirmation when required to do so under section 44 commits an offence.

(3) If a person charged with an offence under subsection (1)(a), (b) or (c) or under subsection (2) adduces evidence of a reasonable excuse for the refusal or failure, it is for the prosecution to prove that the person did not have a reasonable excuse.

(4) A person who commits an offence under this section is liable on summary conviction to

- (a) a fine not exceeding \$1,000;
- (b) imprisonment for a period not exceeding three months; or
- (c) both the fine and imprisonment.

Power to amend Schedule

46. The Minister may amend Schedule 1 by Order published in the *Gazette*.

Regulations

47. (1) The Minister may make regulations, not inconsistent with this Act, to give effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), regulations may provide for the following:

- (a) access, publication and destruction of the information relating to the deliberations, proceeding and the records of the Commission;
- (b) forms to be used under this Act;
- (c) fines to be paid under this Act;
- (c) prescribing anything that is required to be prescribed by this Act.

(3) Regulations made under this Act shall be subjective to a negative resolution of the House of Assembly.

SCHEDULE 1

[Section 19]

**COMPLAINT FORM
PARLIAMENTARY COMMISSION FOR STANDARDS ACT
(NO. ... OF 2024)**

COMPLAINT

A, B, (Complainant)

C, D, (name of member alleged to be in breach of this Act or the Code of Conduct)

Statement of breach of the Act and Code of Conduct of the House of Assembly

.....
.....

Particulars of the breach

.....
.....

Dated this day of 20

Chairperson of the Parliamentary Commission for Standards

SCHEDULE 2

[Section 43]

Oath of Commissioner/Member of Staff

I, *(name of person)*, being the *(name of post)* do swear that I will keep confidential all information which has come to my knowledge in my capacity as *(name of post)* and all information received or obtained by me in the pursuance of the purposes of the Parliamentary Commission for Standards Act and I shall not disclose such information except as authorised by the Parliamentary Commission for Standards Act.

So help me God.

SWORN at)	
<i>(Address)</i>)	
Tortola, British Virgin Islands)	_____
this day of 20)	<i>(Name of person)</i>

Before me:

Judge of the High Court

Affirmation of Commissioner/ Member of Staff

I, *(name of person)*, being the *(name of post)* do solemnly and sincerely affirm and declare that I will keep confidential all information which has come to my knowledge in my capacity as *(name of post)* and all information received or obtained by me in the pursuance of the purposes of the Parliamentary Commission for Standards Act and I shall not disclose such information except as authorised by the Parliamentary Commission for Standards Act.

Affirmed at)
(Address))
Tortola, British Virgin Islands) _____
this day of 20) (Name of person)

Before me:

Judge of the High Court

Passed by the House of Assembly this day of , 2024.

Speaker.

Clerk of the House of Assembly.

OBJECTS AND REASONS

The Parliamentary Commission for Standards Bill, 2024 is a result of the approved Integrity Framework for the Cabinet, House of Assembly, public officers and statutory boards by the Cabinet. The Bill therefore seeks to regulate the conduct of members of the House of Assembly.

The purpose of the Bill is, as stipulated in the Long Title, to establish a Parliamentary Commission for Standards and to promote, encourage and safeguard the high standards of conduct in the public office of the members of the House of Assembly.

The Bill contains seven Parts and two Schedules. Part I of the Bill makes provision for preliminary matters namely, clause 1 which sets out the short title and clause 2 which provides for interpretation of words used in the Bill.

Part II of the Bill contains clauses 3 to 14 as follows:

Clause 3 provides for the establishment of the Parliamentary Commission for Standards and its independence from the direction or control of any person or authority. Clause 4 provides for the composition of the Commission to the effect that the Commission shall comprise of three persons one of whom shall be a retired judge and the Chairperson of the Commission. Clause 5 provides for the appointment of the Commissioners by the House of Assembly on the recommendation of an interview panel. Clause 6 provides for the disqualification from appointment as Commissioner on grounds that the person is a member of the House of Assembly or a staff member of the Commissioner, a public officer or an undischarged bankrupt among other disqualifying factors.

Clause 7 provides for the tenure and removal from office of Commissioners. The tenure of office is intended to be staggered. Clause 8 provides for the appointment of an acting Commissioner, in the likely event that a Commissioner is unable to perform his or her functions, to ensure continuity in the performance of the functions of the Commission.

Clause 9 provides for the remuneration of Commissioners for the services rendered.

Clause 10 provides for the appointment of a Secretary of the Commission to assist the Commission in the performance of its functions. Clause 11 provides for appointment of staff of the Commission to assist the Commission in the performance of its functions.

Clause 12 empowers the Commission to hold its proceedings in the manner that is convenient for the Commission, namely in person or virtually.

Clause 13 provides immunity from suit of the Commissioners of acts done or omitted to be done in good faith in the performance of its functions.

Clause 14 obliges the Clerk of the House of Assembly to publish appointments and removal of Commissioners in the *Gazette*

Part III of the Bill contains clauses 15 to 18 as follows:

Clause 15 provides for the responsibility of Commission which is among other things to safeguard high standards of conduct of in the public office of the House of Assembly.

Clause 16 provides for the functions of the Commission which include among other things to receive and investigate complaints of alleged misconduct by members of the House of Assembly.

Clause 17 provides for the power of the Commission to impose fines for the breach of a provision of the Act or Code of Conduct of the House of Assembly.

Clause 18 provides for the issuance of directions to the Commission on procedures of the House of Assembly by the Committee on Standards.

Part IV of the Bill contains clauses 19 to 33 as follows:

Clause 19 of the Bill provides for the general provisions relating to an investigation into a complaint. Clause 20 provides for Stage 1 of the investigation process which focuses on admissibility of complaints.

Clause 21 provides for the procedures at Stage 1 of the investigations. Clause 22 provides for Stage 2 of the investigations and focuses on investigation of an admissible complaint. Clause 23 makes provision for the report on the conclusion of an investigation by the Commission. Clause 24 provides for restriction on investigations by the Commission. For example, the Commission is restricted from conducting an investigation of a member in the Chamber of the House of Assembly.

Clause 25 empowers the Commission to issue notices to persons to attend the Commission, provide information or evidence relating to an investigation. Clause 26 provides for the specific requirements of notice to appear and to supply documents to the Commission.

Clause 27 provides for administration of oaths and affirmations by the Commissioners prior to commencement of their duties under the Act.

Clause 28 protects persons from providing documents that are privileged and protects the public interest.

Clause 29 obliges the Commission to make a report on the outcome of an investigation for submission to the House of Assembly. Clause 30 provides for what action the House of Assembly may take on the report of the Commission.

Clause 31 provides for the right to appeal any decision of the Commission to a court of competent jurisdiction.

Clause 32 makes provision for withdrawal of a complaint by a complainer from the Commission before the Commission makes a report on the investigations.

Clause 33 provides for referral of matters by the Commission to the Director of Public Prosecutions and the Police and to also cease investigating a matter that is under investigation by these entities.

Part V contains one provision, namely clause 34 which makes reference to the Code of Conduct of the House of Assembly.

Part VI contains clauses 35 to 39 as follows:

Clause 35 provides for the funds of the Commission. The funds as appropriated by the House of Assembly will be used to facilitate the activities of the Commission.

Clause 36 provides for the estimates of the Commission that the Commission must submit to the Minister of Finance within the specified period.

Clause 37 empowers the Commission to obtain goods and services for the purposes of the Commission and the power to obtain the goods and services must be approved by the Clerk who is the Accounting Officer of the House of Assembly.

Clause 38 obliges the Commission to keep proper accounts of receipts, payments, assets and liabilities and provides for the auditing of the accounts of the Commission to ensure that funds appropriated to the Commission are properly used by the Commission.

Clause 39 obliges the Commission to prepare an annual report on its activities during the financial year.

Part VII contains clauses 40 to 47 as follows

Clause 40 makes provision for obligations of members including informing the Commission of their interests in any Government contract.

Clause 41 provides for the seal of the Commission for the purposes of evidence of authenticity of any matter handled by the Commission.

Clause 42 provides for restriction on disclosure of information by the Commission and members of staff of the Commission to ensure confidentiality in the performance of functions of the Commission.

Clause 43 makes provision for the taking of the Oath or affirmation of Commissioners and staff before commencing their duties under the Act.

Clause 44 provides for the protection from defamation or other proceedings of statements made by persons during investigations by the Commission.

Clause 45 provides for the offence of noncompliance with a notice issued under the Act. A person who is noncompliant is liable to a fine or imprisonment or both.

Clause 46 empowers the Minister to amend the Schedules to the Act.

Clause 47 provides for the discretionary power of the Minister to make regulations under the Act including regulations relating to Forms to be used under the Act, access, publication and destruction of information relating to deliberations of the Commission.

Premier