

INDEPENDENT COMMISSION OF INVESTIGATIONS BILL, 2024

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INDEPENDENT COMMISSION OF INVESTIGATIONS BILL, 2024

A BILL FOR AN ACT TO CONSTITUTE AN INDEPENDENT COMMISSION TO CONDUCT INVESTIGATIONS INTO ALLEGATIONS OF SERIOUS CRIMINAL ACTIVITY BY MEMBERS OF THE SECURITY FORCES AND SPECIFIED PUBLIC OFFICIALS; TO PROVIDE FOR THE FUNCTIONS, POWERS, ORGANIZATION AND MANAGEMENT OF THE COMMISSION, AND FOR CONNECTED MATTERS .

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title.

- (1) This Act shall be cited as the Independent Commission of Investigations Act, 2024.
- (2) This Act shall come into operation on such date appointed by the Minister by notice published in the *Gazette*.

2. Interpretation.

In this Act, unless the context otherwise requires —

“**Commission**” means the Independent Commission of Investigations constituted under section 5;

“**Commissioner**” means a person appointed under section 5 as a Commissioner;

“complaint” means an allegation or accusation of involvement in an incident;

“concerned officer” means a member of any rank of a Security Force who is the subject of a complaint;

“concerned specified official” means a specified official, who is the subject of a complaint;

“Court” means the Supreme Court;

“Director of Complaints” means a person appointed under section 8 as the Director of Investigations of the Commission;

“document” means –

- (a) written information or an oral complaint of an incident;
- (b) a record generated in any manner, including any record generated by an automated recording device or programme for the retrieval of information in usable form;

“incident” means an occurrence involving an allegation of misconduct by a member of the Security Forces or by a specified official resulting in —

- (a) murder and manslaughter under the Penal Code (*Ch.84*) not including the death of a person in custody over which the coroner has jurisdiction under the Coroners Act (*Ch.56*);
- (b) armed robbery, robbery, and other crimes of violence under the Penal Code (*Ch.84*);
- (c) obstruction and perversion of justice under the Penal Code (*Ch.84*);
- (d) treason and crimes against the safety of the state under the Penal Code (*Ch.84*);
- (e) bribery under the Prevention of Bribery Act (*Ch.88*);
- (f) drug trafficking under the Dangerous Drugs Act (*Ch.228*);
- (g) money laundering under the Proceeds Of Crime Act, 2018 (*No.4 of 2018*);
- (h) acts of terrorism under the Anti Terrorism Act, 2018 (*No.27 of 2018*);
- (i) trafficking under the Trafficking in Persons (Prevention and Suppression) Act (*Ch. 106*);
- (j) unlawful possession of firearms and ammunition under the Firearms Act (*Ch. 213*);
- (k) rape and sexual assault under the Sexual Offences Act (*Ch. 99*);

- (l) an abuse of the rights of another resulting in the death of, or injury to, the person or that was intended or likely to result in the death of, or injury to, a person;
- (m) the abuse of the constitutional rights of a citizen;
- (n) an act of reprisal, discrimination and intimidation against any person;
- (o) the concealment of a crime or criminal activity;
- (p) dereliction of duty as an officer of the Security Forces to protect and defend the citizens of The Bahamas;
- (q) fraudulent practices,
- (r) physical or mental abuse of prisoners by a member of the Security Forces;
- (s) failure to investigate a crime or any criminal activity;
- (t) membership of a gang or participation in any activities of a gang in contravention of the Anti-Gang Act (*No.8 of 2024*);
- (u) concealing a crime, being an accessory after the fact;
- (v) the unlawful damage to property or the taking of money or property; and
- (w) acts of fraud and corrupt practices.

“investigation” means an inquiry into an incident by the Commission under this Act;

“investigator” means an employee of the Commission or other person assigned duties to investigate an incident on behalf of the Commission;

“law enforcement agency” means a force or agency with responsibility for law enforcement;

“law enforcement” means the –

- (a) maintenance of law and order;
- (b) preservation of peace;
- (c) prevention, detection and apprehension of offenders;
- (d) enforcement of the laws of The Bahamas;
- (e) defence of The Bahamas;
- (f) protection of the territorial integrity of The Bahamas;
- (g) maintenance of order in conjunction with other agencies;
- (h) import of goods into, and export out of, The Bahamas;
- (i) confinement and supervision of persons in legal custody;
- (j) supervision and control of persons entering The Bahamas, and of the residence and occupation in The Bahamas of persons who are not citizens of The Bahamas;

“Minister” means the Attorney-General;

“premises” includes any office, land, place, vehicle or aircraft or any other asset belonging to the Security Forces;

“public body” means-

- (a) a Ministry, department or agency of Government;
- (b) a town committee or District Council established under the Local Government Act (*Ch. 37*);
- (c) a statutory body or authority;
- (d) a company registered under the Companies Act, being a company in which the Government or agency of Government, whether by the holding of shares or by financial obligation, is in a position to influence the policy of the company;

“public office” has the meaning assigned by Article 137 of the Constitution;

“public officer” has the meaning assigned by Article 137 of the Constitution;

“public service” has the meaning assigned by Article 137 of the Constitution;

“relevant Security Force” means a Security Force about which a complaint is made, or an investigation is being carried out in relation to an involvement in an incident;

“relevant public body” means the public body about which a complaint is made, or an investigation is being carried out in relation to an involvement in an incident;

“responsible head” means the head of a relevant Security Force;

“responsible officer” means the officer in charge of a relevant public body;

“Security Force” means any of the following —

- (a) The Royal Bahamas Police Force;
- (b) The Royal Bahamas Defence Force;
- (c) The Bahamas Department of Corrections;
- (d) The Bahamas Customs and Excise Department;
- (e) The Bahamas Immigration Department;
- (f) any of the following enforcement agency established by Parliament;

“specified official” means a public officer as the Governor-General may by order specify, being a person upon whom is conferred power, authority and privilege conferred by law.

3. Application of Act.

This Act shall apply to the Security Forces of The Bahamas and specified officials.

4. Objective of Act.

The objective of this Act is to establish an independent body for the purpose of investigating allegations from whatever source, against members of Security Forces or specified officials, of participation in an incident.

PART II- THE INDEPENDENT COMMISSION OF INVESTIGATIONS, FUNCTIONS AND POWERS.

5. The Independent Commission of Investigations.

- (1) For the purposes of this Act, there is hereby constituted a Commission of Parliament to be known as the Independent Commission of Investigations.
- (2) The Commission shall, in carrying out the objective of this Act —
 - (a) promote integrity and accountability among the members of the Commission;
 - (b) ensure confidentiality in the Commission in the investigation of incidents;
 - (c) strictly adhere to the Constitution and the written law of The Bahamas in performing the functions of the Commission prescribed by this Act;
 - (d) detect and prevent incidents by members of the Security Forces and specified officials; and
 - (e) do all such things as are incidental, or conducive, to carrying out the objective of this Act.
- (3) The Commission shall consist of three Commissioners, who shall be appointed by the Governor-General by instrument under the Public Seal, after consultation with the Prime Minister and the Leader of the Opposition, from persons of high integrity, who possess the qualifications to hold high judicial office, or from persons who have held high judicial office.
- (4) The Governor-General shall appoint a President and Vice President of the Commission; and if the President is absent, the Vice President shall have all the powers, rights and privileges of the President.
- (5) A quorum of the Commission shall be two, and all the powers of the Commission may be exercised by a quorum of the Commission.

- (6) If the Commission is equally divided on any matter arising during the proceedings, the president or Vice President presiding at the meeting shall have a second or casting vote.
- (7) The provisions of the *First Schedule* shall have effect as to the constitution of the Commission, and otherwise in relation thereto.

6. Functions of Commission.

- (1) Subject to the provisions of this Act, the functions of the Commission shall be to —
 - (a) conduct investigations of incidents alleged against a concerned officer or concerned specified official;
 - (b) carry out in furtherance of investigations, and as the Commission considers necessary or desirable—
 - (i) inspection of records, weapons, buildings, premises or other places the Commission deems necessary, for the better conduct of an investigation;
 - (ii) interview all relevant witnesses and other persons who may have information of an incident under investigation;
 - (iii) review the disciplinary procedures presently applicable to the relevant Security Force or the relevant public body;
 - (c) take such steps as are necessary to ensure the responsible heads, and other responsible officers, of the relevant Security Force or relevant public body, submit to the Commission, all reports of incidents and complaints concerning the conduct of a concerned officer or a concerned specified official.
- (2) The Commission shall, in the exercise of its functions under subsection (1), have authority to—
 - (a) take copies of reports, documents or other information regarding an incident and any relevant physical evidence, including weapons, photographs, and any forensic evidence;
 - (b) require the relevant Security Force or relevant public body to furnish information relating to any matter specified in the Commission's request;
 - (c) take charge of, and preserve, the scene of an incident;
 - (d) gather the evidence of the incident from the scene and from wherever there is evidence of the incident;
 - (e) summon, and examine witnesses on oath;
 - (f) submit the evidence gathered by the Commission, the Commission's assessment of the evidence and the Commission's recommendations to the Director of Public Prosecutions for the

- prosecution of any concerned officer or concerned specified official, or any other action the Director of Public Prosecutions deems necessary;
- (g) certify to the Court, any offence of contempt against any person, allegedly committed in any process before the Commission;
 - (h) make such recommendations as the Commission considers necessary or desirable for—
 - (i) the review and reform of any relevant written laws and procedures;
 - (ii) the protection of complainants against reprisal, discrimination and intimidation;
 - (iii) ensuring the system by which complaints are made, is accessible to members of the public, the Security Forces and specified officials.
- (3) For the purpose of the discharge of its functions under this Act, the Commission shall, subject to the provisions of this Act, be entitled —
- (a) upon the authority of a warrant issued in that behalf by a Magistrate —
 - (i) to have access to all records, documents or other information relevant to any complaint or other matter being investigated by the Commission under this Act;
 - (ii) to have access to any premises or other location where the Commission has reason to believe there may be found any records, documents or other information referred to in subparagraph (i) of any property relevant to an investigation under this Act; and
 - (iii) to enter any premises occupied by any person named in the warrant, and to make such enquiries or to inspect documents, records, information or property as the Commission considers necessary for the purpose of investigating a complaint under this Act; and
 - (b) to retain any records, documents or other property if, and for so long as the retention is reasonably necessary for the purposes of this Act.

7. Independence of Commission.

- (1) Subject to the provisions of the Constitution, the Commission shall, in the exercise of the powers conferred by this Act, not be subject to the direction or control of any person or authority.
- (2) Nothing in subsection (1) shall be construed as preventing the assignment to a Minister of responsibility for such aspects of the administration of this

Act as are necessary or desirable to facilitate liaison between Parliament and the Commission.

8. Appointment of Director of Complaints.

- (1) There shall be three Directors of Complaints appointed by the Minister on the recommendation of the Commission, each of whom shall be responsible for preparing and setting up the schemes of management and functioning of regions of The Bahamas as set forth in the *Second Schedule*.
- (2) Directors shall be appointed at such remuneration, and on such terms and conditions, as may be approved by the Minister and the Commission and stated in their letters of appointment.
- (3) A reference in this Act to the Director of Complaints in relation to an investigation of an incident, shall unless the context otherwise requires, be construed as a Director of Complaints for the relevant region.
- (4) The Minister may by order amend the *Second Schedule*.

9. Appointment of employees of Commission.

- (1) The Minister shall appoint and employ for the purposes of this Act, at such remuneration and on such terms and conditions as may be approved by the Commission, such other employees and agents as are necessary for the proper functioning of the Commission.
- (2) The Governor-General may, subject to such conditions as he may impose, approve the transfer of any officer in the service of the Government to the Commission.
- (3) The Commission shall ensure that in appointing employees, due regard is had to the ability of such employees to function in an independent, impartial and objective manner, and without unduly close associations or relations with the Security Forces, specified officials or public bodies, who might be subjects of investigation by the Commission under this Act.

10. Oath of secrecy.

Every member of the Commission, and every person appointed to the staff of the Commission shall, before performing any function assigned by this Act, take and subscribe an oath in the form set out in the *Third Schedule*, to be administered—

- (a) in the case of the Commissioners, by the Governor-General;
- (b) in the case of all other appointees or employees of the Commission, by a Commissioner.

PART III - COMPLAINTS

11. Complaints by persons to the Commission or to a Director of Complaints.

- (1) Subject to section 12, a complaint of an incident may be made in the prescribed manner to the Commission or to a Director of Complaints by a person who alleges that the conduct of a member of the Security Forces or a concerned specified official, is an incident for investigation under this Act.
- (2) On receipt of a complaint under subsection (1) by the Commission, and the Commission is of the opinion that the conduct complained of constitutes an incident to which this Act applies, the Commission shall investigate the complaint under this Act and shall forward a copy of its report to the Director of Public Prosecutions.
- (3) Where a Director of Complaints receives a complaint under subsection (1) the Director of Complaints shall cause a preliminary investigation into the complaint to be made and shall forward the results of his preliminary investigation to the Commission.
- (4) Where in the opinion of the Commission, the conduct complained of and preliminarily investigated by a Director of Complaints under subsection (3), may constitute an incident to which this Act applies, the Commission shall investigate the complaint under this Act and shall forward a copy of its report to the Director of Public Prosecutions.
- (5) Where the Commission finds, any conduct complained of subsection (1) does not constitute an incident to which this Act applies, the Commission shall so advise the complainant.

12. Complaints to the Commission by Attorney-General and responsible heads and responsible officers.

- (1) The Attorney-General may make a complaint to the Commission for an investigation into any incident involving a member of a Security Force or a specified official.
- (2) Where the responsible head or the responsible officer becomes aware of an incident involving an officer of a relevant Security Force or a specified official of a relevant public body, he shall make a report to the Commission of the incident—
 - (a) forthwith, where the incident involves conduct that resulted in the death of, or injury to, any person; and
 - (b) not later than twenty-four hours, in any other case; and

- (c) take such steps as are necessary to ensure measures are implemented to enable reports to be duly made of the incidents to the Commission.
- (3) A member of the Security Forces, or a specified official, who in the course of his duties becomes aware of, or is involved in, an incident, the member or specified official shall report the facts of the incident to the responsible head or responsible officer to ensure the report is made to the Commission in accordance with the provisions of subsection (1).

13. Report required where public confidence affected.

Where the Commission is satisfied that an incident is of such an exceptional nature and likely to have a significant impact on public confidence in the Security Force or a public body, the Commission shall require the relevant Security Force or the relevant public body to make a report of the incident to the Commission, containing such particulars as the Commission may specify.

14. Commission may institute investigation.

An investigation under this Act may be undertaken by the Commission on its own initiative on information received.

15. Conduct of investigation.

- (1) The Commission shall, for the purpose of deciding the most appropriate method of investigation, make an assessment, of—
 - (a) the seriousness of the incident;
 - (b) the national importance of the investigation of the incident;
 - (c) the public interest considerations;
 - (d) the circumstances in which the incident occurred.
- (2) Where before the commencement of this Act, there is an investigation ongoing by the Security Forces or public body, the Security Force or public body shall notify the Commission of the details of the investigation, and the Commission shall take over the management, supervision, direction and control of the investigation.
- (3) Where the Commission acts under subsection (2), the Commission shall notify the head of the Security Force or the responsible officer, and direct that no action be taken until the Commission has completed the investigation.

16. Informal resolution of complaints.

- (1) Where the Commission is satisfied that a complaint relates to conduct which, even if proven, would not justify a criminal charge, the Commission shall resolve the complaint informally.
- (2) For the purposes of subsection (1), where a complaint is resolved informally —
 - (a) a record shall be made of the manner in which it was resolved;
 - (b) the complainant and the concerned officer or concerned specified official shall each signify his agreement in writing to the resolution;
 - (c) a copy of the record shall be —
 - (i) furnished forthwith to the complainant and the concerned officer or concerned specified official;
 - (ii) included in a report under section 17(6)(a)(d)(e) and (f); and
- (3) An answer or statement made in disposing of the complaint informally shall not be used or received in any criminal or civil proceedings, except with the consent of the complainant, the concerned officer or concerned specified official.
- (4) Notwithstanding subsection (2), where the informal resolution was obtained by misunderstanding, threat or other improper pressure, the Commission may order the investigation of the complaint to continue and give reasons in writing to the concerned officer, or the concerned specified official.

17. Formal handling of complaints.

- (1) Where a complaint is not resolved informally, the Commission shall investigate the complaint forthwith.
- (2) The Commission is not required to investigate a complaint where the Commission is satisfied that the complaint may be justly and adequately resolved otherwise than by an investigation.
- (3) The Commission —
 - (a) unless satisfied, of the necessity for confidentiality, —
 - (i) may issue a press release at the commencement of the investigation into an incident;
 - (ii) shall issue a press release at the completion of the investigation of an incident;
 - (b) shall submit a report to Parliament on the completion of the investigation.
- (4) The Commission may make rules for its guidance, and the conduct and management of investigations, including the hours and times and places

for sittings, and may adjourn for such time and to such place within or outside The Bahamas as the Commission may think fit.

- (5) On the completion of the investigation, the Commission shall assess the evidence gathered during the investigation, form its opinion on the matter under investigation, and shall prepare a report containing its recommendations and submit the report to the Director of Public Prosecutions.
- (6) The Commission shall furnish a copy of the report in any case to—
 - (a) Parliament;
 - (b) the complainant;
 - (c) the concerned officer or the concerned specified official’
 - (d) the Police Service Commission where the incident involves the misconduct of a member of the Royal Bahamas Police Force);
 - (e) the Public Service Commission where the incident involves the misconduct of a specified official; and
 - (f) the Commander of the Defence Force , where the incident involves the misconduct of a member of the Defence Force,and shall give guidance on measures which may be taken in relation to recruitment, discipline and other matters to improve the conditions of service of members of the relevant Security Force or relevant public body.
- (7) The Commission shall, on application, grant such access to the Commission’s report if the Commission is satisfied there are no compelling reasons for denying access to the report.

18. Hearings.

- (1) The Commission may, where it considers appropriate in the circumstances, hold hearings during the course of an investigation.
- (2) A hearing may be held in public or in private or partly in public and partly in private.
- (3) Where the Commission proposes to hold hearings in public or partly in public, it shall not do so except after consultation with the Director of Public Prosecutions and such other public authority as the Commission considers appropriate.

19. Commission’s powers to summon and examine witnesses.

Subject to this Act, the Commission shall have the powers of a Justice of the Court to —

- (a) summon and compel the attendance of witnesses;

- (b) call for the production of documents or other exhibits, including the power to retain and examine the same;
- (c) examine persons on oath;
- (d) subject to the Supreme Court Civil Procedures Rules (S.I. 76 of 2022), issue a commission or a request to examine witnesses abroad.

20. Immunity of witnesses and persons assisting the Commission.

- (1) No Commissioner or person assisting the Commission in the conduct of an investigation shall be liable to any action, suit or proceedings for any thing done in the due execution or carrying out of the functions of the Commission.
- (2) No person attending before the Commission shall be excused from answering questions or producing a document or other exhibit by reason that the answer or the production of the document or other exhibit, would be self-incriminating.
- (3) Notwithstanding any other law to the contrary, no answer given, or the fact of the production of a document or other exhibit, shall be used or be admissible as evidence against the person in any proceedings except in criminal proceedings in which the person may be charged with having given false evidence before the Commission, or having conspired with or procured others to do so.

21. Appearance of Counsel and Attorney.

- (1) Any person whose conduct is the subject of investigation under the Act, or who is in any way implicated or concerned in the matter under investigation, shall be entitled to be represented by a Counsel and Attorney, and any other person who may consider it desirable that he should be represented, may with leave of the Commission, be represented by a Counsel and Attorney.
- (2) Any witness who gives false evidence in a hearing before the Commission shall be guilty of perjury and be liable to a penalty under section 82 of the Penal Code (*Ch. 84*).

22. Duty of summoned witnesses.

- (1) Where any person —
 - (a) on being summoned as a witness before the Commission fails to attend; or
 - (b) being in attendance as a witness on being required by the Commission to do so, refuses to take the oath or to affirm, or to produce a document in his power, or control, or to answer any

question to which the Commission may legally require an answer;
or

- (c) does any other thing which would, if the Commission had been a justice of the Court having power to commit for contempt, have been a contempt of court,

the Commissioner presiding, may certify the contempt of that person to the Court and the Court may thereupon inquire into the alleged offence and after hearing the witnesses who may be produced against, or on behalf of, the person charged with the offence, and after hearing any statement offered in defence, punish that person as if he had been guilty of contempt before the Court.

- (2) A witness before the Commission shall be entitled, subject to section 20(2) to the same immunities and privileges as a witness in civil proceedings before the Court.

23. Evidence.

- (1) Subject to subsection (4), the Commission may at any time require, a member of the Security Forces, a specified official or other person who, in the opinion of the Commission, is able to assist in an investigation under this Act, to furnish a statement of such information and produce any document or other exhibit in connection with the investigation in the possession of, or under the control of, the member, specified official, or other person.
- (2) The statements furnished under subsection (1), shall be signed and sworn before a notary public.
- (3) Subject to subsection (4), the Commission may summon before it and examine—
 - (a) a complainant; or
 - (b) a member of the Security Forces, a specified official or any other person who, in the opinion of the Commission, can furnish information relating to the investigation.
- (4) A person shall not, for the purpose of an investigation, be compelled to give evidence or produce documents or things which he could not be compelled to give or produce in proceedings before the Court.
- (5) The rule against hearsay in section 38 of the Evidence Act (*Ch. 65*) shall not apply to the examination of witnesses in an investigation under this Act.

24. Duty to preserve evidence.

- (1) Notwithstanding anything to the contrary in any other written law, the Commission shall have responsibility for the preservation of the scene of

an incident or alleged incident and may issue directions to the responsible head or any other authority for the purpose of this section.

- (2) The Commissioner of Police shall implement measures in accordance with directions issued by the Commission under subsection (1), to ensure that members of the Royal Bahamas Police Force shall, as soon as practicable after being notified of an incident, attend at the scene of the incident to ensure preservation of the scene until the arrival of an investigator assigned to that scene by the Commission and thereafter, each member shall be under a duty, until the investigator is satisfied that it is no longer necessary to do so, to continue to take steps for the purposes of preserving the scene.
- (3) A member of the Security Forces, who is at the scene of an incident, or in any case where there is more than one such member, the member senior in rank and command, or the police officer in charge of the police division in which the incident occurred, shall take such steps in accordance with directions issued by the Commission under subsection (1), for obtaining or preserving the evidence and facilitating the making of a report of the incident to the Commission.

25. Obligation to comply with recommendations.

- (1) Subject to subsection (2), where a Commission report contains recommendations for action to be carried out by the relevant Security Force or relevant public body, the recommendations shall be complied with, in the manner and within the time specified (if any), and the responsible head or responsible officer, shall report to the Commission on the compliance with the recommendations, within such period, as the Commission may notify to the relevant Security Force or relevant public body.
- (2) Where the recommendations relate to—
 - (a) disciplinary proceedings or the production of documents by the relevant Security Force or relevant public body, the responsible head, or responsible officer shall take such steps as are lawful and necessary to ensure compliance with the Commission's recommendations; or
 - (b) any other matters, and the responsible head or responsible officer fails to comply with the recommendations of the Commission, they shall communicate to the Commission the reasons for the failure to comply.
- (3) Where the relevant Security Force or relevant public body, does not accept the recommendations of the Commission and fails to comply with the Commission, the relevant Security Force or relevant public body shall communicate to the Commission the reasons for the failure to comply.

- (4) Where the relevant Security Force or public body does not comply with the Commission's recommendations, the Commission shall cause a report to be laid on the table of each House of Parliament.

26. Duty of investigators to provide support.

An investigator shall, on a request by the Director of Public Prosecutions, in relation to a prosecution arising out of an incident, attend Court and provide such other support as the Director of Public Prosecutions may require, about the proceedings instituted against the concerned member, or the concerned specified official under this Act.

PART IV- GENERAL

27. Privileges.

- (1) Except in proceedings for an offence under section 33(c), no proceedings shall lie against the Commission, any Commissioners or any other person concerned with the administration of this Act, for anything done or said, in the performance of the functions under this Act.
- (2) Anything said or any information supplied, or document or other exhibit produced by any person for, or during an investigation under this Act, shall be absolutely privileged under section 320(1)(e) of the Penal Code (*Ch.84*).

28. Secrecy.

- (1) Each Commissioner and every person concerned with the administration of this Act, shall hold secret and confidential, all documents, information and disclosures to them in the execution of the provisions of this Act, except that no disclosure—
 - (a) made by a Commissioner or any such person in proceedings for an offence under section 33(c) of this Act or for perjury under section 21(2) of this Act;
 - (b) which a Commissioner thinks necessary in the discharge of the functions of the Commission, and which does not prejudice the security, defence or international relations of The Bahamas,shall be deemed inconsistent with a duty imposed by this section.
- (2) No Commissioner or any person specified in this section shall be called upon to give evidence in respect of any document, information or thing in any proceedings or produce any such document, information or thing in proceedings other than proceedings under this Act.

29. Accounts.

- (1) The accounts and financial transactions of the Commission shall be audited annually by the Auditor-General and a statement of accounts so audited shall form part of the annual report under section 30.
- (2) The Commission shall, at any time within each year as the Minister may direct —
 - (a) submit to the Minister, a statement of the accounts of the Commission audited in accordance with the subsection (1);
 - (b) submit to the Minister for approval, the estimates of revenue and expenditure for the financial year commencing 1st day of July next following.
- (3) In this section “Minister” means the Minister responsible for finance.

30. Reports.

- (1) The Commission shall submit to Parliament an annual report on the execution of the functions of the Commission.
- (2) Reports under this section shall be submitted to the President of the Senate and the Speaker of the House of Assembly, who shall as soon as possible, have the reports laid before each House of Parliament.
- (3) The Commission may, in the public interest, publish in such manner as it thinks fit, reports laid under subsection (1), but no such report shall be published under this subsection, until after it has been laid under subsection (2).
- (4) The Commission shall not in any report furnished under this section, disclose or act upon any communication—
 - (a) between a medical practitioner and his patient concerning the patient’s physical or mental health;
 - (b) between a minister of religion and a person consulting him in that capacity about his religious or other beliefs;
 - (c) between a counsel and attorney and his client in their professional relationship about the client’s legal history,where the communication came to the Commission’s knowledge during an investigation under this Act.

31. Power to initiate or continue investigation despite legal proceedings.

The Commission may initiate or continue any investigation and report thereon under this Act notwithstanding any civil proceedings relating to the subject matter of the investigation.

32. Register.

- (1) The Commission shall, in respect of every investigation completed, record in a register kept for the purpose—
 - (a) the subject matter and date of the complaint;
 - (b) on the conclusion of the investigation, the Commission's decision and recommendation on the investigation; and
 - (c) the disposition of the matter.
- (2) A person may, on payment of the fee, inspect the register during the hours and on the business days of the Commission, as may be prescribed.

33. Offences.

Every person who—

- (a) willfully makes a false statement to the Commission, an investigator or any other person executing functions under this Act;
- (b) without lawful justification or excuse—
 - (i) obstructs, hinders or resists the Commission or other person exercising functions under this Act; or
 - (ii) fails to comply with any lawful requirement of the Commission or other person executing functions under this Act;
 - (iii) willfully refuses or neglects to carry out any duty required to be performed by him, under this Act;
- (c) deals with documents, information or things mentioned in section 28 in a manner inconsistent with the provisions of that section,

commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars, or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

34. Remedies under other provisions of law, unaffected.

Nothing in this Act shall be construed to limit or affect a remedy or right of appeal, objection or procedure, afforded to any person by any other provision of any written law.

35. Rules.

The Commission may make Rules for giving effect to this Act, prescribing —

- (a) the practice and procedure to be adopted for investigation of complaints by the Commission;
- (b) the practice and procedure to be adopted for hearings before the Commission;

- (c) the procedure for informal resolution of complaints before the Commission;
- (d) the form of recommendation of the Commission to the Director of Public Prosecutions following an investigation under the Act;
- (e) the form in which records are to be kept by the Commission, and the form of returns to be made under the Act;
- (f) the form of the Commission's final report on an investigation for submission to Parliament;
- (g) such other matters as may be required by the Act, to be prescribed.

FIRST SCHEDULE

(Section 5)

PART 1

Tenure of Office etc.

1. Tenure of Office.

- (1) Subject to this Act, a person appointed as a Commissioner shall hold office for five years, on such terms as may be specified in the instrument of appointment and may be reappointed for a further term of five years.
- (2) A Commissioner may by instrument in writing addressed to the Governor-General, resign his office.
- (3) A Commissioner shall, subject paragraph 3(6), vacate office on attaining the age of seventy-five years.
- (4) Notwithstanding the Commissioner has attained the age at which he is required by or under the provisions of this paragraph to vacate his office, the Commissioner may continue in office for such period after attaining that age as the Governor-General, after consultation with the Prime Minister and Leader of the Opposition, may specify, in order to enable the Commissioner to give his decision or to do any other thing in relation to any investigation in which he was involved before he attained that age.
- (5) Nothing done by a Commissioner shall be invalid by reason only that he has attained the age at which he is required by this paragraph to vacate his office.

2. Disqualification for appointment.

- (1) No person shall be qualified to be appointed a Commissioner who —
 - (a) is a member of the Senate or the House of Assembly;
 - (b) has been adjudged or otherwise declared bankrupt, and has not been discharged;
 - (c) has been convicted of an offence of dishonesty or moral turpitude;
 - (d) has served as a member of a Security Force; or
 - (e) is a party to, or a partner of a firm, or a director or manager of a company, which, to his knowledge, is a party to a contract with the Government of The Bahamas for or on account of the public service unless, prior to his appointment, he has disclosed to the Governor-General the nature of the contract and his interest, or the interest of his firm or company.
- (2) A Commissioner shall be deemed to vacate his office if he is disqualified for appointment under sub-paragraph (1).

3. Removal from office.

- (1) A Commissioner may be removed from office on the following grounds —
 - (a) inability to discharge the functions of office (whether arising from infirmity of body, or mind or any other cause);
 - (b) failure to competently discharge the functions of his office;
 - (c) misbehaviour;
 - (d) trading with the Government of The Bahamas contrary to sub-paragraph(2)
- (2) Subject to subparagraph (3), a Commissioner shall not, while holding office as a Commissioner become a party to, or a partner in a firm or a director or manager of a company which to his knowledge, is or becomes a party to a contract with the Government of The Bahamas for or on account of the public service.
- (3) Sub-paragraph (2) shall not apply where—
 - (a) a Commissioner before becoming a party to a contract in the circumstances referred to in sub-paragraph (2), disclosed to the Commission the nature of the contract and his interest therein; and
 - (b) the Commission determined that, in the circumstances, the Commissioner should not be liable to removal under this paragraph.

- (4) If the question of removal from office of a Commissioner is referred to a tribunal appointed under sub-paragraph (5) and the tribunal recommends to the Governor-General that the Commissioner ought to be removed from office, the Governor-General shall, by instrument under the Public Seal, remove the Commissioner from office.
- (5) If each House of Parliament by resolution decides that the question of removing a Commissioner from office ought to be investigated, then —
 - (a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Governor-General acting in accordance with the advice of the Chief Justice from among persons who hold or have held high judicial office;
 - (b) the tribunal shall enquire into the matter and report to the Governor-General and recommend whether the Commissioner ought to be removed from office on any ground in sub-paragraph(1).
- (6) Where the question of removing a Commissioner from office is referred to a tribunal appointed under sub-paragraph (5), the Governor-General, after consultation with the Chief Justice may suspend the Commissioner from performing the functions of office, and any suspension—
 - (a) may at any time be revoked by the Governor-General after consultation as aforesaid; and
 - (b) shall, in any case, cease to have effect if the tribunal advises the Governor-General that the Commissioner ought not to be removed from office.

4. Restriction on employment.

A person appointed as a Commissioner shall be a full-time officer and except with the approval of the Governor-General acting in his discretion, shall not be employed in any other capacity during the period in which he holds office as a Commissioner.

5. Filling of vacancy.

- (1) Where a vacancy arises in the office of Commissioner, the Governor-General may, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, designate a person being a person qualified under section 5(3), to act in the office of Commissioner during the vacancy until an appointment is made

- (2) Where, by reason of illness, absence from The Bahamas or other sufficient cause, a Commissioner is unable to perform his functions, the Governor-General may, after consultation with the Prime Minister and the Leader of the Opposition, appoint such person as he thinks fit, being a person qualified to perform the functions of the Commissioner, and the Commission may until the Commissioner is appointed perform its functions with the quorum of Commissioners prescribed in section 5(5).

6. Remuneration of Commissioner.

- (1) Subject to sub-paragraph (2), a Commissioner shall receive emoluments and be subject to the terms and conditions of service as prescribed by law or by a resolution of both Houses of Parliament, the emoluments being not less than the emoluments payable to a Justice of the Court.
- (2) The emoluments and terms and conditions of service of a Commissioner, other than allowances, shall not be altered to the disadvantage of a Commissioner during the period of appointment.
- (3) The emoluments payable to a Commissioner under this Act shall be a charge on the Consolidated Fund.

PART II

Pensions and Gratuities

7. Interpretation

In this Part, “pensionable emoluments” has the meaning designated in the Pensions Act (*Ch.43*).

8. Entitlement to pensions and gratuities in respect of service of Commissioners.

- (1) The office of Commissioner under this Act shall be a pensionable office for the purposes of the Pensions Act (*Ch.43*), and five years of pensionable service as a Commissioner shall entitle a Commissioner to retire with a pension.
- (2) A Commissioner shall be granted on retirement, a pension calculated on his pensionable service at the rate of pension paid to a person who retires from a judicial office in the Court (other than the office of Chief Justice) under the Judges Remuneration and Pensions Act (*Ch.45*).
- (3) A Commissioner may retire on the ground of ill health prior to retirement, if—

- (a) on medical evidence, the Governor-General is satisfied that he is incapable, by reason of infirmity of mind or body to discharge the duties of office, and the infirmity is likely to be permanent;
 - (b) he is removed from office under paragraph 3 for inability to perform his functions as Commissioner from infirmity of mind or body.
- (4) A pension payable under this paragraph shall be charged on, and payable from the Consolidated Fund.
- (5) A Commissioner to whom a pension is payable under this Act shall at his option exercisable in accordance with section 10 of the Judges' Remuneration and Pensions Act (*Ch. 45*) be paid instead of the pension under subparagraph (2), a pension and gratuity at the rate set forth therein.

9. Gratuity on death.

- (1) Where a Commissioner dies in office, there shall be paid to his legal representative, a gratuity equal to one year's pensionable emoluments or the gratuity referred to in section 10 of the Judges' Remuneration and Pensions Act (*Ch. 45*) on the assumption that the Commissioner retired in a pensionable office at the date of his death, whichever is the greater.
- (2) Where a person dies while in receipt of pension, and leaves a widow, the widow shall be paid a pension at the annual rate specified in section 13 of the Judges' Remuneration and Pensions Act (*Ch. 45*).
- (3) Where a Commissioner dies while holding office as a Commissioner, and leaves a widow, the widow shall be paid a gratuity and annual pension at the rate of and in the circumstances set forth in section 13 of the Judges' Remuneration and Pensions Act (*Ch. 45*).
- (4) A pension or gratuity payable to a Commissioner under this Act shall not be assignable or transferable except for the purpose of satisfying—
 - (a) a debt due to the Government;
 - (b) an order of any court for the periodical payment of money towards the payment of maintenance for a wife or former wife or minor child of the person to whom the pension, gratuity or other allowance has been granted,and shall not be liable to be attached, sequestered or levied upon, for, or in respect of any debt or claims whatever, except a debt due to the Government.

SECOND SCHEDULE

(Section 8)

Schemes for Management of regions.

The schemes shall—

- (a) provide for the establishment, management and functions of two regional offices for the Family Islands and one for New Providence;
- (b) define the islands or parts thereof which comprise the regions to be administered by a Director of Complaints;
- (c) establish the responsibilities of the Director of Complaints for the operation and management of each regional office;
- (d) provide for —
 - (i) the application of the funds allocated to each region;
 - (ii) the employment, duties and other terms and conditions of employment of the staff of each region;
 - (iii) such other matters as the Commission considers expedient for giving effect to the purposes of the Act.

THIRD SCHEDULE

(Section 10)

Oath to be taken by Commissioners and persons appointed to staff of Commission.

I.....do swear that I will faithfully perform the functions assigned to me under the Independent Commission of Investigations Act, and I will not, on any account, at any time whatsoever, except in so far as this Act authorizes, directly or indirectly reveal any information, or the nature or contents of any documents communicated to me in the performance of any functions assigned to me by this Act.

So help me God

Signature.....

Dated.....

OBJECTS AND REASONS

Clause 1 of the Bill contains the short title and commencement.

Clause 2 of the Bill contains interpretation of the Bill's provisions.

Clause 3 of the Bill provides for the application of the Bill to Security Forces identified in Clause 2 as the law enforcement agents of the Government of The Bahamas specified therein.

Clause 4 of the Bill sets out the objectives of the Bill which are to establish an independent body called the Independent Commission of Investigations who is empowered to receive complaints and investigate allegations against members of Security Forces and specified officials as defined in the Bill.

Clause 5 of the Bill provides for the constitution of the Commission and the authority of the Commission to investigate allegations. The clause provides for the appointment of three (3) Commissioners by the Governor-General after consultation with the Prime Minister and Leader of the Opposition and further provides for the qualifications of the Commissioners. The offices and functions of President and Vice President of the Commission are also established.

Clause 6 of the Bill outlines the functions of the Commission to conduct of investigations of alleged incidents by Security Forces and specified officials, and enumerates the powers of the Commission to gather evidence, summon, and examine witnesses under oath and determine whether a criminal charge ought to be recommended to the Director of Public Prosecutions.

Clause 7 of the Bill establishes the independence of the Commission and provides that the Commission is not to be subject to the direction or control of any person or authority.

Clause 8 of the Bill provides for the appointment of three Directors of Complaints by the Minister on the recommendation of the Commission. The Directors are responsible for ensuring preliminary investigations of complaints made to the Directors are carried out in accordance with directions of Commission.

Clauses 9 and 10 of the Bill enables the Commission to employ staff to carry out the functions of the Commission.

Part III of the Bill, namely clauses 11 through 26 generally deal with how complaints, including complaints by the Attorney-General, against Security Forces are received and handled by the Commission including the gathering of evidence, the summoning of witnesses, the duty and immunity of witnesses, the preservation of evidence, the preparation or reports containing recommendations to the Director of

Public Prosecution at the conclusion of an investigation and the duty to report to Parliament.

Part IV of the Bill, namely clauses 27 to 35 provide for the immunity of Commissioners, privilege from defamation of anything said, or information supplied, or in a document produced by any person in an investigation.

Part IV also provides for the keeping and audit of the accounts of the Commission, reports to Parliament, provides for the register of completed investigations. Offences, and rule making provisions are also contained in Part IV

The First Schedule provides for the tenure, qualifications, salary, pensions and gratuities, of Commissioners.

The Second Schedule provides for schemes of management of regions by Directors of complaints.

The Third Schedule sets out the oath to be taken by Commissioners and staff of the Commission.