

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5300 GIBRALTAR Friday 17th April 2026

B. 17/26

BILL

FOR

AN ACT to make provision for Standards in Public Life and other principles and rules to be applied by public officials in the performance of their functions, to make provision about the registration and declaration of interests by public officials, to make provision about acceptance of gifts and hospitality by public officials, to make provision about the conduct of public business, to make other provision about standards and conflicts of interest in public service, to provide for a statutory Ministerial Code, to provide for the appointment and functions of a Commissioner of Standards in Public Life, and for connected purposes.

ENACTED by the Legislature of Gibraltar.

PART 1

PRELIMINARY

Short title.

1. This Act may be cited as the Public Service (Standards and Conflict of Interests) Act 2026.

Commencement.

2. This Act comes into operation as specified by the Chief Minister by Notice in the Gazette; and a Notice may make different provision for different purposes.

Transitional provision.

3. The Chief Minister may by regulations make transitional provision in connection with the coming into operation of this Act in accordance with section 2.

Interpretation.

4. In this Act—

“act” includes omission;

“Commissioner” means the Commissioner of Standards in Public Life appointed in accordance with section 29;

“conflict of interest” has the meaning given by section 11;

“exercise”, in relation to a function, includes purported exercise and failure to exercise;

“function” includes power, duty and responsibility;

“government department” means a Department of His Majesty’s Government of Gibraltar;

“matter of public interest” has the meaning given by section 26(4);

“meeting” has the meaning given by section 26;

“Minister” means a Minister of His Majesty’s Government of Gibraltar;

“Ministerial Code” means the Code issued under section 36;

“official information” has the meaning given by section 9;

“official” (in relation to a meeting) has the meaning given by section 26(3);

“personal interest” has the meaning given by section 10;

“Procedural Protocol” has the meaning given by section 35(5);

“public body” has the meaning given by section 7;

“public official” has the meaning given by section 8;

“safe harbour advice” has the meaning given by section 39;

“staff” (of a public body) has the meaning given by section 8(2);

“Standards in Public Life” has the meaning given by section 6; and

“training” includes instruction.

Purpose.

5. The purpose of this Act is to make provision for ensuring that—
- (a) public business is transacted in a manner that is transparent, accountable, reasonable and fair;
 - (b) public officials act in accordance with the Standards in Public Life; and
 - (c) public business is transacted, and public officials act, in a manner that supports and enhances trust between the public and the public service.

PART 2

KEY CONCEPTS

Standards in Public Life.

6. For the purposes of this Act the Standards in Public Life are—
- (a) openness;
 - (b) accountability;
 - (c) honesty;
 - (d) integrity;
 - (e) objectivity;
 - (f) selflessness; and
 - (g) leadership.

Public bodies.

- 7.(1) For the purposes of this Act the following are, subject to subsections (2) to (4), public bodies —
- (a) a government department;
 - (b) any body established by, or that has functions under, an enactment (including Acts, subordinate legislation and Orders in Council); and
 - (c) any body specified, or which falls within a class specified, in regulations made by the Chief Minister for the purposes of this paragraph.

(2) Bodies established by or having functions under the following Acts are not public bodies for the purposes of this Act—

- (a) the Financial Services Act 2019;
- (b) the Legal Services Act 2017;
- (c) the Gibraltar Regulatory Authority Act 2000; and
- (d) the Gambling Act 2025.

(3) The Chief Minister may by regulations provide that a specified body is not to be treated as a public body for the purposes of this Act; and the Chief Minister may specify a body only if satisfied, having consulted the Commissioner, that the body operates arrangements that—

- (a) reflect the Standards in Public Life, and
- (b) make arrangements for the matters addressed in Parts 4 to 6 of this Act in a manner, and to an extent, that is appropriate for the body concerned having regard to the nature of its functions and all other relevant circumstances.

(4) The Chief Minister may by regulations make provision for a body to which section 7(2) applies and its members, office holders and employees in respect of arrangements in relation to the matters to which subsections (3)(a) and (b) refer with such exclusions, additions and other modifications as the Chief Minister may consider appropriate having regard to the nature of the body, its functions and the existing provisions of other legislation to which it is subject.

(5) Regulations under subsection (4) shall be made only after consultation with the Commissioner and the body or bodies to which they relate.

Public officials.

8.(1) In this Act “public official” means (subject to subsection (4))—

- (a) a Minister;
- (b) a person elected or appointed to hold an office or to occupy a position under or in accordance with an enactment other than in a body to which section 7(1) does not apply (including a Member of Parliament);
- (c) a member of a public body (within the meaning of section 7);
- (d) a member of staff of a public body (within the meaning of section 7);
- (e) a civil servant; and

(f) any person specified, or who falls within a class specified, in regulations made by the Chief Minister.

(2) For the purposes of this Act a reference to staff of a public body includes—

- (a) employees of the public body;
- (b) any person engaged to carry out activities for or on behalf of the public body (under a contract for services or otherwise); and
- (c) any person working for a person falling within paragraph (b).

(3) In respect of a court or tribunal—

- (a) administrative staff are staff of a public body for the purposes of this Act, in relation to their administrative functions, but
- (b) judicial officers are not public officials, or staff of a public body, for the purposes of this Act.

(4) The Chief Minister may by regulations provide that a specified class of person is not to be treated as a public official for the purposes of this Act; and the Chief Minister may specify a class of person only if satisfied, having consulted the Commissioner, that in the exercise of any functions of a public nature the person is subject to arrangements that—

- (a) reflect the Standards in Public Life, and
- (b) make arrangements for the matters addressed in Parts 4 to 6 of this Act in a manner, and to an extent, that is appropriate having regard to the nature of the person's functions and all other relevant circumstances.

Official information.

9.(1) In this Act “official information” means information acquired by a public body or public official—

- (a) in the course of exercising a function, or
- (b) by reason of being a public body or public official.

(2) Information can be official information within the meaning of subsection (1) whether or not it has any kind of confidentiality marking or security classification.

(3) Information is not official information for the purposes of this Act if it is readily available to the public (otherwise than following unauthorised disclosure by a public body or public official); and subsections (1) and (2) are subject to this subsection.

Personal interest.

10.(1) In this Act, “personal interest” of a person means a financial or other interest that—

- (a) relates to the person’s private or personal life, and
- (b) does not directly derive from or solely relate to the person’s official functions, and
- (c) might reasonably be thought by others to influence the person’s exercise of official functions.

(2) In this Act a reference to a personal interest includes a reference to an interest whether direct or indirect; for which purpose a reference to indirect interests of a person includes a reference to interests of—

- (a) members of their family, and
- (b) their business or personal associates.

(3) In this Act a reference to a personal interest includes a reference to an interest whether actual, contingent or potential.

(4) The Chief Minister may by regulations provide that a specified class of interest is not to be treated as a personal interest for the purposes of this Act.

Conflict of interest.

11.(1) In this Act “conflict of interest” means a conflict between—

- (a) a person’s personal interests, and
- (b) the public interests for which the person is responsible, or in respect of which the person has functions, as a public official.

(2) In this Act a reference to a conflict of interest includes (except where the context otherwise requires) a reference to—

- (a) a future, potential or conditional conflict, and
- (b) a perceived conflict.

(3) In subsection (2)—

- (a) “potential conflict” means a conflict that is reasonably likely to arise, even if it cannot be foretold precisely what form it is likely to take;

- (b) “conditional conflict” means a conflict the existence of which depends on certain conditions being satisfied; and
- (c) “perceived conflict” means a conflict which might reasonably be thought by others to exist or to be likely to arise.

(4) The Chief Minister may by regulations provide that a specified situation or matter is not to be treated as a conflict of interest for the purposes of this Act.

PART 3

GENERAL DUTIES

Duty to act in public interest.

12.(1) Public officials shall at all times base their official conduct on considerations of the public interest alone.

- (2) In particular, a public official must not—
- (a) in the exercise of a function, afford favourable treatment to or in respect of a person by reason of a personal interest of the public official;
 - (b) use official information, otherwise than in the exercise of an official function, for the purposes of, or in connection with, a matter in respect of which the public official has a personal interest;
 - (c) use or attempt to use the public official’s official position to influence or attempt to influence any person in relation to a matter in respect of which the public official has a personal interest.

- (3) For the purposes of subsection (2)(c) use of a position includes—
- (a) drawing attention to the position in a way that might appear to a reasonable person to be intended to influence the outcome of a transaction or negotiation;
 - (b) taking advantage of any facility or service made available to a person by reason of the person’s position.

Avoiding conflicts of interest.

13.(1) Public officials shall take all reasonable steps to avoid conflicts of interest.

- (2) For the purposes of subsection (1) reasonable steps include—
- (a) taking advice from a compliance officer or other colleagues;

- (b) recusal from decision-making;
 - (c) abstention from voting;
 - (d) recusal from participation in discussions about cases or policy;
 - (e) the appointment of independent persons to advise on or assist with the exercise of functions; and
 - (f) making and preserving a clear audit trail of the process by which, and the basis on which, decisions have been made.
- (3) The Chief Minister and the Attorney General may issue guidance—
- (a) to public bodies, as to the maintenance of arrangements for the avoidance of conflict of interests by public officials;
 - (b) to public officials, as to avoidance, and compliance with arrangements for avoidance, of conflicts of interest.
- (4) Public bodies and public officials shall have regard to guidance under subsection (3).

Managing conflicts of interest.

14.(1) Public officials shall take all reasonable steps to resolve any conflict of interest that arises, in accordance with the provisions of this Act.

(2) Conflicts between public and private interests must be resolved in favour of the public interest.

(3) In cases of doubt, a public official shall adopt the solution which provides greatest protection to the public interest.

- (4) For the purposes of subsection (1) reasonable steps include—
- (a) taking advice from a compliance officer or other colleagues;
 - (b) recusal from decision-making;
 - (c) abstention from voting;
 - (d) recusal from participation in discussions about cases or policy;
 - (e) the appointment of independent persons to advise on or assist with the exercise of functions;

- (f) making and preserving a clear audit trail of the process by which, and the basis on which, decisions have been made.

Functions under this Act.

15. A person exercising functions under this Act shall have regard to the importance of the Standards in Public Life—

- (a) in regulating the behaviour of public officials in accordance with this Act, and
- (b) in creating and maintaining trust between—
 - (i) members of the public, and
 - (ii) public officials and public bodies.

Human Resources General Orders, &c.

16.(1) The Chief Secretary may—

- (a) publish material relating to the provisions of this Act; and
- (b) provide advice to Ministers, the Commissioner, or any other person in connection with the provisions of this Act.

(2) Any rules, arrangements, guidance or advice required or permitted to be made or issued under this Act may—

- (a) operate wholly or partly by application or replication, with or without modifications, of any General Order, Bulletin or other document published by the Government;
- (b) adopt wholly or partly, with or without modifications, any General Order, Bulletin or other document published by the Government.

(3) The Chief Secretary may consult the Commissioner on any matter.

(4) A Minister or public body exercising any function under this Act shall have regard to any relevant General Order, Bulletin or other document published by the Government.

Capacities.

17.(1) This section applies to an individual who holds more than one office or position by reference to which the individual is a public official for the purposes of this Act.

(2) In relation to any act done the individual shall take all reasonable steps to clarify and record in which capacity the individual is acting.

(3) In particular, when attending a meeting the individual shall take all reasonable steps to clarify and record—

- (a) in which capacity or capacities the individual is attending; and
- (b) the capacity in which the individual is acting in respect of any speech or other act of the individual at the meeting.

PART 4

REGISTRATION AND DECLARATION OF INTERESTS

Duty to comply with this Part.

18. Public officials shall comply with requirements under this Part as to the registration and declaration of—

- (a) personal interests; and
- (b) conflicts of interest.

Registers of personal interests.

19.(1) Each public body shall make arrangements to maintain and publish a register of personal interests.

(2) Each public body shall require its members and staff to disclose for entry on its register any personal interests in respect of which there is a conflict of interest (including future, potential, conditional and perceived conflicts, in accordance with section 11).

(3) The Chief Minister and the Attorney General shall issue rules about registers under this section; and the rules may, in particular, include provision about—

- (a) circumstances in which a person shall be taken to have, or not to have, a conflict of interest in respect of certain interests or classes of interest;
- (b) time periods within which entries must be made;
- (c) updating and removal of entries;
- (d) the form and content of entries;
- (e) method, timing and form of publication of registers.

(4) Rules under this section may include provision exempting interests from registration; and the rules may, in particular—

- (a) make provision for exemption where the value of an interest is below a threshold specified in the rules;
- (b) make provision for exemption where other conditions specified in the rules are satisfied;
- (c) make provision for an exemption to be withdrawn or disapplied where a series of interests accruing over time exceeds a value threshold or where other conditions specified in the rules are satisfied.

(5) Rules under this section may include provision about the redaction of information from a published register on grounds of public interest (by reference to security, commercial sensitivity, personal sensitivity, legal privilege or otherwise); and rules under this subsection must require each public body—

- (a) to publish its policy on redaction, including grounds and criteria for applying for, considering, granting and refusing redactions;
- (b) to indicate in the register where a redaction has been made and the grounds on which it was made.

(6) Rules under this section may include general exemptions from disclosure or publication (or both) of interests for specified classes of public official (by reference to responsibilities, status, grade or otherwise).

(7) A public body shall comply with rules under this section.

(8) The Chief Minister and the Attorney General shall issue guidance—

- (a) to public bodies, as to the maintenance of registers under this section;
- (b) to public officials, as to their compliance with requirements in respect of registers under this section.

(9) Public bodies and public officials shall have regard to guidance under subsection (8).

Declaration of personal interests.

20.(1) Each public body shall maintain and publish arrangements for—

- (a) the declaration by public officials of personal interests, or conflicts of interest, in connection with the exercise of their functions; and
- (b) the publication of declarations.

(2) Each public body shall require its members and staff to comply with arrangements for the declaration of personal interests and conflicts of interest under this section.

(3) The Chief Minister and the Attorney General shall issue rules about arrangements under this section; and the rules may, in particular, include provision about—

- (a) time periods within which declarations must be made;
- (b) renewal of declarations;
- (c) the form and content of declarations;
- (d) method, timing and form of publication of declarations;
- (e) retention of and access to declarations (for which purpose the Chief Minister and the Attorney General must have regard to public bodies' records policy and to the law relating to data protection).

(4) Rules under this section may include provision exempting interests from declaration; and the rules may in particular—

- (a) make provision for exemption where the value of an interest is below a threshold specified in the rules;
- (b) make provision for exemption where other conditions specified in the rules are satisfied;
- (c) make provision for an exemption to be withdrawn or disapplied where a series of interests accruing over time exceeds a value threshold or where other conditions specified in the rules are satisfied.

(5) Rules under this section may include provision about the redaction of information from a published declaration on grounds of public interest (by reference to security, commercial sensitivity, personal sensitivity, legal privilege or otherwise); and rules under this subsection must require each public body—

- (a) to publish its policy on redaction, including grounds and criteria for applying for, considering, granting and refusing redactions;
- (b) to indicate in the published declarations where a redaction has been made and the grounds on which it was made.

(6) A public body shall comply with rules under this section.

- (7) The Chief Minister and the Attorney General shall issue guidance—
- (a) to public bodies, as to the operation of arrangements under this section;
 - (b) to public officials, as to their compliance with arrangements under this section.
- (8) Public bodies and public officials shall have regard to guidance under subsection (7).

Central registers of interests and declarations.

21.(1) The Chief Minister may make arrangements for the publication of central registers compiled from the arrangements made by public bodies under this Part.

- (2) A central register may reflect the arrangements made by—
- (a) all public bodies; or
 - (b) such public bodies as the Chief Minister may select for the purpose of the central register.
- (3) A public body shall comply with any requirements imposed by the Chief Minister for the purposes of the compilation and maintenance of a central register.

PART 5

GIFTS AND HOSPITALITY

Duty to comply with this Part.

22. Public officials shall comply with rules under this Part about the acceptance, registration and declaration of gifts and hospitality.

Rules about gifts and hospitality.

23.(1) Each public body shall maintain and publish rules about the acceptance of gifts and hospitality by public officials.

- (2) A public body shall require its members and staff to comply with rules under this section.
- (3) Rules under this section must include provision determining when public officials may or may not accept gifts and hospitality; and the rules may, in particular—
- (a) provide for acceptance of gifts and hospitality subject to compliance with conditions (including pre-conditions);
 - (b) make provision by reference to value or any other kind of threshold.

(4) Rules under this section must also include provision about the registration and declaration of gifts and hospitality; and the rules, in particular—

- (a) must require the publication of register entries and declarations;
- (b) may make provision about the timing of registration or declaration;
- (c) may make provision about the updating and removal of register entries or the renewal of declarations;
- (d) may make provision about the form and content of register entries or declarations;
- (e) may make provision about the method, timing and form of publication of register entries and declarations;
- (f) may make provision about retention of and access to declarations (for which purpose the Chief Minister and the Attorney General must have regard to public bodies' records policy and to the law relating to data protection).

(5) Rules under this section may include provision exempting gifts and hospitality from registration or declaration; and the rules may in particular—

- (a) make provision for exemption where the value of a gift or of hospitality is below a threshold specified in the rules;
- (b) make provision for exemption where other conditions specified in the rules are satisfied;
- (c) make provision for an exemption to be withdrawn or disapplied where a series of gifts or incidences of hospitality accruing over time exceeds a value threshold or where other conditions specified in the rules are satisfied;
- (d) include general exemptions (whether complete or partial) for specified classes of public official (by reference to responsibilities, status, grade or otherwise).

(6) Rules under this section may include provision about the redaction of information from a published registration or declaration on grounds of public interest (by reference to security, commercial sensitivity, personal sensitivity, legal privilege or otherwise); and rules under this subsection must provide for—

- (a) publication of a policy on redaction, including grounds and criteria for applying for, considering, granting and refusing redactions; and
- (b) indication in the published registration and declarations where a redaction has been made and the grounds on which it was made.

(7) The Chief Minister and the Attorney General shall issue model rules under this section; and—

- (a) a government department shall adopt model rules under this section to the extent that the rules are stated to apply to it; and
- (b) any other public body shall have regard to model rules under this section to the extent that the rules are stated to apply to it.

(8) The Chief Minister and the Attorney General shall issue guidance—

- (a) to public bodies, as to the operation of rules under this section;
- (b) to public officials, as to their compliance with rules under this section.

(9) Public bodies and public officials shall have regard to guidance under subsection (8).

Central registers of gifts and hospitality.

24.(1) The Chief Minister may make arrangements for the publication of central registers compiled from the arrangements made by public bodies under this Part.

(2) A central register may reflect the arrangements made by—

- (a) all public bodies; or
- (b) such public bodies as the Chief Minister may select for the purpose of the central register.

(3) A public body shall comply with any requirements imposed by the Chief Minister for the purposes of the compilation and maintenance of a central register.

PART 6

CONDUCT OF PUBLIC BUSINESS

Duty to comply with this Part.

25. Public officials shall comply with rules and requirements under this Part as to the conduct of public business.

Meetings.

26.(1) Each public body shall maintain and publish rules about official meetings.

(2) In this Act “meeting” includes any meeting or conversation—

- (a) whether or not taking place by prior arrangement, and
 - (b) whether taking place wholly or partly in person or wholly or partly by telephonic, electronic or other means.
- (3) For the purposes of this Act a meeting is “official” if it—
- (a) includes one or more public officials (whether or not it also includes other persons); and
 - (b) is expected to address, or does address, any matter of public interest.
- (4) For the purposes of subsection (3) “matter of public interest” means any matter—
- (a) relating to the policy, application, operation or enforcement of the law; or
 - (b) relating to the development, application or operation of public policy; or
 - (c) falling within any description prescribed by regulations made by the Chief Minister and the Attorney General.
- (5) The Chief Minister and the Attorney General shall issue model rules under this section; and—
- (a) a government department shall adopt model rules under this section to the extent that the rules are stated to apply to it; and
 - (b) any other public body shall have regard to model rules under this section to the extent that the rules are stated to apply to it.
- (6) Rules under this section (including model rules) may, in particular, make provision for the inclusion of observers or facilitators in meetings.
- (7) The Chief Minister and the Attorney General shall issue guidance—
- (a) to public bodies, as to the operation of rules under this section;
 - (b) to public officials, as to their compliance with rules under this section.
- (8) Public bodies and public officials shall have regard to guidance under subsection (7).
- (9) In making model rules and issuing guidance under this section the Chief Minister and the Attorney General must, in particular, have regard to the importance of—
- (a) providing a clear audit trail of compliance with the provisions of this Act;

- (b) minimising interference with the operation of public officials in complying with the provisions of this Act;
- (c) minimising the burden on the resources of public offices of complying with the provisions of this Act.

(10) The Chief Minister may by regulations provide that a specified class of meeting is not to be treated as a meeting, or as an official meeting, for the purposes of this Act.

Register of meetings.

27.(1) Rules (including model rules) under section 26 must include provision for the maintenance and publication of a register of meetings.

(2) Each public body shall require its members and staff to disclose for entry on the register any meeting—

- (a) which involves one or more Ministers and one or more other persons, and
- (b) which satisfies criteria set out in the rules.

(3) Rules made by virtue of subsection (1) must, in particular, require publication of notice of intended meetings wherever reasonably practicable.

(4) Rules under section 26 may, in particular, include provision about—

- (a) time periods within which entries must be made;
- (b) updating and removal of entries;
- (c) the form and content of entries;
- (d) method, timing and form of publication of registers.

(5) Rules made by virtue of subsection (1) may include exemptions on grounds of public interest (by reference to security, commercial sensitivity, personal sensitivity, legitimate expectation of confidentiality, legal privilege or otherwise).

(6) Rules made by virtue of this section may include provision about the redaction of information from a published register on grounds of public interest (by reference to security, commercial sensitivity, personal sensitivity, legitimate expectation of confidentiality, legal privilege or otherwise).

(7) Rules made by virtue of this section may include general exemptions for meetings which satisfy specified criteria (whether by reference to the persons attending the meeting, the matters to be discussed, or otherwise).

(8) Rules under this subsection must require—

- (a) publication of a policy on exemptions and redactions, including grounds and criteria for applying for, considering, granting and refusing exemptions and redactions; and
- (b) indication in the register where an exemption has been applied or a redaction has been made and the grounds on which it was applied or made.

Records of meetings.

28.(1) Rules (including model rules) under section 26 must include provision for taking, and publishing, records of meetings.

(2) Each public body shall require its members and staff to comply with rules made by virtue of subsection (1).

(3) Rules made by virtue of subsection (1) may, in particular, include provision about—

- (a) the form and content of records;
- (b) method, timing and form of publication of records.

(4) Provision made by virtue of subsection (3) may not require records to include information other than—

- (a) the identities and capacities of persons attending the meeting;
- (b) formal decisions taken at the meeting; and
- (c) action points assigned at the meeting.

(5) Rules made by virtue of subsection (1) must make provision for recording—

- (a) the capacity or capacities in which each individual at a meeting is attending; and
- (b) the capacity in which an individual is acting in respect of speech or other act of the individual at the meeting.

(6) Rules made by virtue of this section may include exemptions on grounds of public interest (by reference to security, commercial sensitivity, personal sensitivity, legitimate expectation of confidentiality, legal privilege or otherwise).

(7) Rules made by virtue of this section may include provision about the redaction of information from published records on grounds of public interest (by reference to security, commercial sensitivity, personal sensitivity, legitimate expectation of confidentiality, legal privilege or otherwise).

(8) Rules made by virtue of this section may include general exemptions for meetings which satisfy specified criteria (whether by reference to the persons attending the meeting, the matters to be discussed, or otherwise).

(9) Rules made by virtue of this section must require—

- (a) publication of a policy on exemptions and redactions, including grounds and criteria for applying for, considering, granting and refusing exemptions and redactions; and
- (b) indication in the register where an exemption or redaction has been applied or made and the grounds on which it was applied or made.

PART 7

COMMISSIONER OF STANDARDS IN PUBLIC LIFE

Establishment and appointment.

29.(1) There shall be a Commissioner of Standards in Public Life.

(2) The Governor, acting in accordance with the advice of the Specified Appointments Commission, shall make and confirm appointment to the office of Commissioner of Standards in Public Life, in accordance with section 56 of the Constitution.

(3) A person who is, or has been within the previous year, a public official, may not be appointed as Commissioner.

Independence.

30. The Commissioner shall be independent in the exercise of functions under this Act.

Functions.

31.(1) The Commissioner—

- (a) shall exercise the functions conferred on the Commissioner by or under this Act (or any other enactment);
- (b) may publish advice or guidance in respect of the provisions of this Act (in addition to giving safe harbour advice in accordance with section 39);
- (c) may publish advice in respect of any other matter relating to the Standards in Public Life; and

(d) may provide training, or arrange for the provision of training, in respect of the provisions of this Act or any other matter relating to the Standards in Public Life.

(2) The Commissioner, and any person appointed or engaged to assist the Commissioner, shall not be liable in damages for anything done in the discharge or purported discharge of functions under this Act (or any other enactment) unless it is proved that the act was in bad faith.

(3) The Commissioner—

(a) may consult the Chief Secretary on any matter appearing appropriate to the Commissioner; and

(b) in exercising functions under this Act, shall have regard to any relevant General Order, Bulletin or other document published by the Government.

Terms and conditions.

32.(1) The Commissioner's appointment is for such a period and on such terms and conditions, including as to remuneration, as are specified in the instrument of appointment (subject to this section).

(2) The period of appointment must not exceed 3 years; and a person is eligible for reappointment for a single further period not exceeding 3 years.

(3) The terms and conditions must include provision enabling resignation.

(4) The Commissioner's appointment may be terminated by the Governor in accordance with the advice of the Specified Appointments Commission, in accordance with section 56 of the Constitution.

Resources.

33.(1) Expenses incurred by the Commissioner in the discharge of functions, and payments made to or in respect of the Commissioner in accordance with the terms and conditions of appointment, shall be a charge on the Consolidated Fund.

(2) The Chief Minister may make resources (including staff) available to facilitate or support the work of the Commissioner.

PART 8
IMPLEMENTATION

Compliance officers.

34.(1) Rules under this Act (including model rules) may require a public body to appoint a member of staff as compliance officer for this Act.

(2) Compliance officers—

- (a) shall be responsible for monitoring compliance with the provisions of this Act, in accordance with rules made by virtue of subsection (1);
- (b) shall exercise any function specified in rules made by virtue of subsection (1); and
- (c) may exercise any other function assigned by a compliance officer's public body.

(3) A compliance officer may (and, to the extent required by virtue of subsection (2), shall)—

- (a) attend meetings for the purposes of monitoring, or advising on, compliance with this Act;
- (b) train other staff of the public body in relation to compliance with this Act;
- (c) seek advice from, and relay communications from, the Commissioner;
- (d) delegate compliance functions to other staff of the public body.

(4) The Chief Minister may make arrangements—

- (a) for compliance officers of different public bodies to share knowledge and resources; and
- (b) for the compliance officer of one public body to undertake functions on behalf of another public body.

Commissioner investigations.

35.(1) The Commissioner may investigate an allegation that a public official has failed to comply with a requirement of this Act.

(2) An investigation may be carried out—

- (a) in response to a complaint made to the Commissioner; or

(b) of the Commissioner's own motion.

(3) The Commissioner may investigate an allegation under this section whether or not the matters to which the investigation relates have been, are or may become the subject of—

(a) a criminal investigation, prosecution or conviction (whether under this Act or otherwise); or

(b) civil or other legal, regulatory or disciplinary proceedings of any kind.

(4) Before initiating an investigation under this section the Commissioner must be satisfied that it is justified and proportionate to do so.

(5) The Commissioner shall publish a Procedural Protocol for complaints and investigations under this section (which may, in particular, include provision about confidentiality, cooperation, evidence and publication); and a public official shall comply with the provisions of the Procedural Protocol.

(6) On concluding an investigation under this section in respect of a public official the Commissioner may—

(a) close the case without further action;

(b) give the public official words of advice (oral or written);

(c) give the public official a written reprimand;

(d) publish the name of the public official together with such details of the failure as the Commissioner considers appropriate;

(e) agree a package of rectification measures with the public official;

(f) pass the Commissioner's findings to another body for consideration of possible action in the form of criminal, civil, regulatory, disciplinary or other proceedings;
or

(g) take action under more than one of paragraphs (a) to (f) above.

(7) The arrangements for publication of action under subsection (6) are to be as set out in the Procedural Protocol.

(8) A public body or public official shall cooperate with the Commissioner in the exercise of the functions conferred on the Commissioner by or under this Act (or any other enactment).

Ministerial Code.

36.(1) The Chief Minister—

- (a) shall issue and publish a Ministerial Code;
- (b) shall keep the Ministerial Code under review and revise it from time to time.

(2) Before issuing or revising the Ministerial Code the Chief Minister shall consult—

- (a) the Commissioner; and
- (b) such other persons as appear to the Chief Minister to be appropriate.

(3) The Ministerial Code must—

- (a) list the Standards in Public Life, and provide explanations and advice in relation to their application to Ministerial functions and conduct;
- (b) refer to the provisions of this Act about conflicts of interest, and provide explanations and advice in relation to their application to Ministerial functions and conduct; and
- (c) refer to the provisions of Parts 4 to 6 of this Act, and provide explanations and advice in relation to their application to Ministerial functions and conduct.

Offences.

37.(1) It is an offence for a person—

- (a) to contravene any of sections 12, 13, 14, 15, 17, 18, 22 and 25;
- (b) to fail to comply with a provision of the Procedural Protocol;
- (c) to fail to comply with the duty under section 35(8) to cooperate with the Commissioner.

(2) A person who commits an offence under subsection (1) is liable—

- (a) on summary conviction to a fine on level 5 of the standard scale or 12 months' imprisonment, or both; or
- (b) on indictment to a fine or imprisonment for a term of 3 years, or both.

(3) It is a defence to subsection (1) for a person to prove that they had taken all reasonable steps to comply with the relevant provisions of or under this Act.

Whistleblowing.

38.(1) This section applies to Part IVA of the Employment Act (Public Interest Disclosures) in its application to—

- (a) offences under this Act, and
- (b) other matters relating to provisions of or under this Act.

(2) A public official shall be treated as a worker for the purposes of Part IVA in its application in relation to this Act whether or not the public official would fall to be considered a worker for other purposes.

(3) In respect of a public official (“the whistleblower”) who would not fall to be considered a worker for other purposes, a reference in Part IVA to the whistleblower’s employer shall be taken as including a reference to any other public official whom the whistleblower reasonably decides to treat as the employer for the purposes of that Part.

(4) The Chief Minister may make regulations—

- (a) for the purpose of adapting the provisions of Part IVA in their application in relation to this Act;
- (b) replicating, with or without modifications, provisions of Part IVA in relation to this Act;
- (c) permitting rules and arrangements under this Act to make provision adapting the provisions of Part IVA in their application in relation to this Act;
- (d) permitting rules and arrangements under this Act to replicate, with or without modifications, provisions of Part IVA in relation to this Act;
- (e) providing for the person who is to be taken as a whistleblower’s employer, in relation to specified classes of whistleblower or in relation to specified circumstances, by way of limitation or modification of subsection (3).

Safe harbour advice.

39.(1) The Commissioner may publish arrangements enabling a public body to seek advice (“safe harbour advice”) as to whether a proposed action or course of action by the body or one or more members of staff of the body would be compliant, or ensure compliance, with a provision of this Act.

(2) Advice under this section—

- (a) must be sought in writing;

(b) must be given in writing; and

(c) may not be retrospective.

(3) The Commissioner—

(a) shall determine what resources to allocate to the provision of safe harbour advice;

(b) shall make arrangements for the prioritisation of requests for safe harbour advice;

(c) is not obliged to provide safe harbour advice in response to any particular request.

(4) The Commissioner must regard safe harbour advice as authoritative in relation to the matter in respect of which it was given, in any investigation undertaken by the Commissioner under this Act.

(5) A court or tribunal may have regard to safe harbour advice to any extent that it thinks appropriate.

(6) The fact that a public body has requested safe harbour advice is not necessarily sufficient proof that reasonable steps have been taken to comply with a provision of this Act.

PART 9

FINAL PROVISIONS

Annual report

Review and report.

40.(1) The Commissioner shall, at least once in each calendar year—

(a) review, or commission a review of, the operation of this Act; and

(b) make a report to the Chief Minister.

(2) The Chief Minister shall lay each report before Parliament as soon as practicable.

(3) The duty to cooperate with the Commissioner under section 35(8) includes a duty to cooperate with the Commissioner, or any person commissioned by the Commissioner, in carrying out a review and making a report under this section.

(4) A person commissioned to carry out a review under this section shall not be liable to any criminal or civil proceedings in respect of anything done in the course of the conduct of the review unless it is proved that the act was in bad faith.

Subordinate and quasi-legislation

Regulations.

41.(1) This section applies to regulations under this Act.

(2) Regulations—

- (a) may make provision of general application or only for specified purposes;
- (b) may make different provision for different purposes.

(3) Regulations may confer a function on the Commissioner.

(4) Regulations may include supplementary, incidental, consequential or transitional provision.

(5) Regulations providing for a matter to be, or not to be, treated in a specified way for the purposes of a provision of this Act shall have effect whether or not the matter would fall to be so treated in accordance with any express interpretation provision of this (or any other) Act.

(6) Before making regulations the Chief Minister and the Attorney General must consult—

- (a) the Commissioner; and
- (b) such other persons as appear to them to be appropriate.

Rules.

42.(1) This section applies to rules under this Act.

(2) Rules—

- (a) may make provision of general application or only for specified purposes;
- (b) may make different provision for different purposes.

(3) Rules may confer a function on the Commissioner.

(4) A person making rules must publish them as soon as is reasonably practicable.

(5) Before making rules a person must consult—

- (a) the Commissioner; and
- (b) such other persons as appear to the person making the rules to be appropriate.

- (6) Rules may include supplementary, incidental, consequential or transitional provision.
- (7) Rules may be amended or revoked by further rules.

Guidance.

43.(1) This section applies to guidance under this Act.

- (2) A person issuing guidance must publish it as soon as is reasonably practicable.
- (3) Before issuing guidance a person must consult—
 - (a) the Commissioner; and
 - (b) such other persons as appear to the person issuing the guidance to be appropriate.
- (4) Guidance may be amended or revoked by further guidance.

Arrangements.

44.(1) This section applies to arrangements under this Act.

- (2) The Chief Minister and the Attorney General shall issue model arrangements under any provision of this Act that provides for the making of arrangements; and—
 - (a) a government department shall adopt model arrangements under this section to the extent that the arrangements are stated to apply to it; and
 - (b) any other public body shall have regard to model arrangements under this section to the extent that the arrangements are stated to apply to it.
- (3) Arrangements—
 - (a) may make provision generally or only for specified purposes;
 - (b) may make different provision for different purposes.
- (4) Arrangements may be amended or revoked by further arrangements.
- (5) Before issuing model arrangements the Chief Minister and the Attorney General must consult the Commissioner.

Joint and concurrent exercise.

45. A function under this Act conferred on the Chief Minister and the Attorney General may be exercised—

- (a) by the two jointly, or
- (b) by either of them (in which case a reference to the Chief Minister and the Attorney General is a reference to either of them).

Parliamentary scrutiny.

46.(1) The Chief Minister shall lay before Parliament as soon as practicable any of the following made by the Chief Minister or the Attorney General (or both) under this Act:

- (a) regulations;
 - (b) rules (including model rules);
 - (c) model arrangements; and
 - (d) guidance.
- (2) The Chief Minister may lay before Parliament—
- (a) any advice or other document issued by the Commissioner; and
 - (b) any arrangements, rules or other document published under this Act by a public body.

EXPLANATORY MEMORANDUM

This Act makes provision about the standards of public life, and principles and rules to be applied by public officials in the performance of their functions; including provision about registering and declaring interests, accepting gifts and hospitality, the conduct of public business and the management of conflicts of interest. It also requires a Ministerial Code to be published and provides for the appointment of an independent Commissioner of Standards in Public Life.