

ST. LUCIA LEGAL ANNEX

REVIEWED LAWS:

- Constitution
- Integrity in Public Life Act (2004)
- HOUSE OF ASSEMBLY (CONTRACTS WITH GOVERNMENT) (DISQUALIFICATION) ACT
- Public Service Staff Orders (*)

(*) Law(s) reviewed but not containing relevant articles for this study.

RELEVANT ARTICLES:

CONSTITUTION:

Art 32.- Disqualifications from electio

(4) A person shall not be qualified to be elected as a member if he is a Senator.

(5) If it is so provided by Parliament and subject to such exceptions and limitations (if any) as Parliament may prescribed, a person shall not be qualified to be elected as a member if-

a) he holds or is acting in any office or appointment (whether specified individually or by reference to a class of office or appointment);

b) he belongs to any of the armed forces of Saint Lucia or to any class of person that is comprised in any such force;

c) he belongs to any police-force or to any class of person that is comprised in any such force; or

d) he has, within such period (not exceeding three years) as parliament may prescribe, held or acted in any office or appointment the tenure of which would, by virtue of any provisions made under this subsection, disqualify him for election as a member, being an office or appointment the emoluments of which exceed such amount as Parliament may prescribe.

PUBLIC SERVICE STAFF ORDERS

Private Interest

4.7 An officer shall not at any time engage in any private activity which might:

- (i) bring the officer or the Government into disrepute;
- (ii) conflict with his official duties or responsibilities;
- (iii) place him or give the appearance of placing him in a position

to use his official position for his private benefit;
(iv) make him unavailable for reasonable out of hours duties
or official commitments;

provided that an officer, who is of the opinion that any private activity upon which he is engaged or in which he has a private pecuniary interest might offend against the provisions of this Order, must declare it fully to the provisions of this Order, must declare it fully to the appropriate Service Commission and must comply with such conditions or restrictions as the appropriate Service Commission after due enquiry, may consider necessary.

INTEGRITY IN PUBLIC LIFE ACT

FIRST SCHEDULE

(Section 2)

PERSONS IN PUBLIC LIFE

1. Member of the Senate and of the House of Assembly

Secrecy and confidentiality

9. The declarations filed with the Commission and the records of the Commission in respect of those declarations are secret and confidential and shall not be made public, except where a particular declaration or record is required to be produced for the purpose of, or in connection with any court proceedings against, or enquiry in respect of a declarant under this Act, the Exchange Control Ordinance (Cap 180), the Commissions of Inquiry Ordinance (Cap 5) or perjury under the Criminal Code.

PART III

FINANCIAL DISCLOSURE

Declaration of financial affairs

11.— (1) A person in public life shall, in accordance with this Act, file a declaration of income, assets and liabilities with the Commission in the manner prescribed in Form 2 of the Third Schedule.

(2) The Commission shall examine every declaration furnished to it and may request from the Declarant any information or explanation relevant to a declaration made, which in its opinion, would assist it in its examination.

(3) Where upon an examination under subsection (2), the Commission is satisfied that a declaration has been fully made, it shall publish a certificate in the Gazette in the manner prescribed in Form 3 of the Third Schedule.

Filing of declarations

13.— (1) A person in public life shall, as soon as possible after the expiration of each financial year but within one month after the end of the financial year, file in respect of the financial year immediately preceding, the declaration required under this Act.

(2) The declaration shall be filed irrespective of the fact that, during the financial year in respect of which the declaration is required or in the following financial year, the declarant ceased to be a person in public life, otherwise than by reason of death.

Income

14. For purposes of this Act, the income of a person in public life is that which —

- (a) he or she acquired in or out of Saint Lucia and includes all perquisites or benefits direct or indirect and all income within the meaning of “income” under the Income Tax Act No. 1 of 1989;
- (b) a spouse acquired in or out of Saint Lucia and includes all perquisites or benefits direct or indirect and all income within the meaning of “income” under the Income Tax No. 1 of 1989.

Assets

15. For the purposes of this Act, the assets of a person in public life are all property including money, beneficially held in Saint Lucia or elsewhere —

- (a) by him or her and all rights or benefits enjoyed by him or her on a continuing basis;
- (b) by a spouse and all rights or benefits enjoyed by the spouse on a continuing basis.

Liabilities

16. For the purposes of this Act, the liabilities of a person in public life are —

- (a) all his or her obligations to pay money or to transfer money to others in Saint Lucia or elsewhere;
- (b) all the spouse’s obligations to pay money or to transfer moneys to others in Saint Lucia or elsewhere.

Trust Property

17. Where a person in public life holds money or other property in trust for another person, he or she shall so state in the declaration but shall not be required to disclose the terms of the trust.

Income, assets and liabilities of agent acting as agent

18. For the purposes of a declaration, the income, assets and liabilities of a person in public life, include the income, assets and liabilities acquired, held or incurred by any other person —

- (a) as his or her agent or on his or her behalf;
- (b) as a spouse's agent or on behalf of a spouse.

Blind trusts

19.— (1) A person in public life may place his or her assets or part thereof in a blind trust for the purposes of this Act and file a copy of the trust deed with the Commission.

(2) Where the assets of a person in public life are placed in a blind trust, he or she need not in his or her declaration give more particulars of those assets than the amount and description of the assets placed in that trust and the date of so doing.

(3) A blind trust is created when a person in public life enters into an agreement with a qualified trust company whereby —

- (a) all or part of his or her assets are conveyed to the trust company for its management, administration and control, in its absolute discretion without recourse or report to the persons beneficially entitled to those assets;
- (b) income derived from the management of the assets is to be distributed to him or her as agreed;
- (c) should the assets be converted into other assets, that fact is not to be communicated to him or her, until he or she ceases to be a person in public life; and
- (d) after he or she ceases to be a person in public life, proper and full accounting is to be made to him or her, as the circumstances of the management of the trust require.

(4) A trust company is a qualified trust company where —

- (a) it is incorporated in Saint Lucia and is carrying on business in Saint Lucia;
- (b) no more than five per cent of the issued shares in the trust company or its affiliate is held by the person in public life entering into an agreement with it, or by any other person associated with him or her; and

(c) the person in public life holds no directorship or office in the trust company or its affiliate.

(5) A company is the affiliate of another where it holds more than five per cent of the issued shares in that other or where that other holds more than five per cent of the issued shares in it.

(6) For the purposes of this section, a person is associated with another where that other is —

- (a) the spouse, child, brother or sister of the person; or
- (b) the partner of the person in a professional, trade, or commercial undertaking; or
- (c) a corporation, and any person specified in paragraph (a) or (b) controls the corporation, its holding corporation or a corporation affiliated with either.

(7) In subsection (6) —

- (a) “child” means a son or daughter of a person including a step-child, illegitimate child, a child held out by a person as a child of that person or a child adopted under the Adoption Ordinance (Cap 19);
- (b) “control” shall be construed within the meaning of “controlled company” under subsection (3) of section 40 of the Income Tax Act 1989, No. 1;

Failure to file declaration

20.— (1) Where a person in public life fails to file a declaration under section 11 or fails to furnish particulars under section 12, the Commission shall publish the fact in the *Gazette* and shall —

- (a) in the case of a public servant, send a report to the Public Service Commission for further action;
- (b) in any other case, send a report to the Director of Public Prosecutions for further action.

(2) The Commission may in its discretion send a report to the Director of Public Prosecution for further action in the case of a public servant.

(3) For purposes of this section, “failure to file a declaration” includes failure to make a disclosure of any material fact in the declaration.

Commission may hold formal inquiry

21.— (1) Where the Commission considers it necessary or expedient to enquire into the accuracy or fullness of a declaration filed with it, the Commission may, under subsection (2), advise the Governor-General to appoint a Tribunal for the purpose.

(2) The Governor-General shall, on the advice of the Commission, appoint as a Tribunal one or more members of the Commission to conduct an inquiry to verify the contents of a declaration or other statement filed with the Commission.

(3) For the purposes of any inquiry under this section a Tribunal may, subject to subsection (4), request in writing that the declarant or any other person who the Tribunal reasonably believes has knowledge of the matters to be inquired into —

- (a) attend before the Tribunal to give such information as it may require to satisfy itself that it is in possession of all the material facts;
- (b) furnish such information or documents as would assist the Tribunal in verifying the declaration.

(4) An inquiry may not be commenced after five years from the date when the person in respect of whose declaration the inquiry is being conducted ceased to be a person in public life.

(5) Where from the inquiry made by a Tribunal under this section, the Commission is of the view that a breach of any of the provisions of this Act may have been committed, the Commission shall refer the matter to the Director of Public Prosecutions for further action.

Findings of Tribunal

23. Where, from an inquiry under section 21, a Tribunal finds that a declarant had in fact made full disclosure in his or her declaration, it shall, if so requested in writing by the declarant, publish a statement to that effect in the *Gazette*.

Offences

25.— (1) A person who —

- (a) fails to furnish to the Commission a declaration or further particulars thereof which he or she is required to furnish in accordance with this Act;
- (b) knowingly makes a declaration which is false in some material particular;
- (c) fails to give such information as a Tribunal may require under section 21;
- (d) fails to attend an inquiry being conducted under section 21 or gives any false information at such inquiry,

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

(2) Where the offence under section (1) involves the non-disclosure of property acquired while in public life, the Court shall, in addition to the penalty specified under subsection (1) —

- (a) where the property involved is situated in Saint Lucia, declare that it be forfeited to the State;
- (b) where the property involved is situated outside Saint Lucia, order that an amount equivalent to the value of the property

Possession of unaccounted property or pecuniary resource

30.— (1) Where upon examination of a complaint made under section 32, or otherwise, the Commission, in the course of an investigation under section 35 is of the view that a person in public life, or any other person on his or her behalf is in possession of property or pecuniary resource disproportionate to his or her legitimate sources of income, the Commission shall conduct a separate inquiry to determine whether such person has committed a breach of the provisions of the Act in connection with that property or pecuniary resource.

(2) On the conclusion of any inquiry under subsection (1), the Commission shall submit a report to the Director of Public Prosecutions and the Governor-General.

(3) Where the Director of Public Prosecutions is satisfied, on the examination of the report referred to in subsection (2) and other relevant

evidence, that any person in public life ought to be prosecuted for an offence under section 31, the Director of Public Prosecution shall institute and undertake criminal proceedings against the person in public life.

(4) Where the Commission has forwarded to the Director of Public Prosecutions a report under subsection (2), the Director of Public Prosecution shall inform the Commission and the Governor-General, in writing, about the action taken in pursuance of the report.

(5) In imposing a fine on a person found guilty of an offence under this section, the court shall have regard to the value of the property or pecuniary resource in the possession of that person, which cannot be accounted for taking into account his or her legitimate sources of income.

Complaint to Commission

32.— (1) Any person who has reasonable grounds to believe that a person in public life —

- (a) is in breach of a provision of this Act;
- (b) has committed an act of corruption,

may make a complaint in writing to the Commission.

(2) The complaint shall state —

- (a) the particulars of the breach or act of corruption;
- (b) the particulars, as far as they are known, of the person against whom the complaint is made;
- (c) the nature of the evidence that the complainant proposes to produce in respect of the complaint; and
- (d) such other particulars as may be prescribed in regulations made by the Minister.

(3) A complaint to the Commission under this section may be presented in person, or may be sent by registered post to the Chairperson of the Integrity Commission.

PART IV
GIFTS

Report to the Commission of gifts

28.— (1) Every person in public life who receives a gift worth more than five hundred EC dollars shall make a report of that fact to the Commission stating the name and address of the donor and the description and approximate value of such gift.

(2) The Commission shall determine whether the gift is a personal or a State gift.

(3) The decision of the Commission made under subsection (2) shall be final.

(4) A person in public life who is not sure whether a gift is a State gift or a personal gift shall apply to the Commission seeking its opinion as to the proper classification of the gift.

(5) A report made under subsection (1) or an application under subsection (4) shall be made to the Commission by the person in public life within thirty days of the receipt of the gift.

(6) Where the Commission finds through the inquiry that the gift was given to the person in public life personally and —

(a) was trivial; or

(b) was not trivial, but was not intended to be a motive or reward for doing or abstaining from doing anything in the course of the performance of his or her official functions or causing any other person from doing or forbearing to do anything,

the Commission shall allow the person in public life to retain the gift.

(7) Where the Commission finds through the inquiry that the gift was given to the person in public life as a State gift or was given to the person in public life personally but —

(a) was not trivial; or

(b) was intended to be a motive or reward for doing or abstaining from doing anything in the course of the performance of his or her official functions or causing any other person from doing or abstaining to do anything,

the Commission shall direct the person in public life in writing to deliver the gift to the Minister responsible for Finance within such period, not exceeding thirty days, as may be specified by the Commission, and the person in public life shall comply with the direction within the time so specified.

(8) A person in public life is entitled to notice of the proceedings of any inquiry under subsection (6) or (7) and is entitled to be represented at the inquiry, either in person or through an attorney-at-law.

(9) For the purpose of this section, the expression "trivial" means less than five hundred dollars, retail value.

DISCLOSURE FORM:

FORM 2

(Section 11 (1))

DECLARATION OF INCOME, ASSETS AND LIABILITIES

Declaration of income, assets and of liabilities at
(Declaration Date)

Note:

- (a) This declaration must be submitted by 31st January each year or within three (3) months of one's first appointment or election to office. Please ensure that every section is completed fully and state whether the information required is applicable or not.
- (b) Where any property is held by the declarant, or declarant's spouse in trust for any other person, this should be indicated by a note to that effect.
- (c) The declaration date should be the date on which one was appointed or elected to office and the 31st December thereafter.
- (d) Where a person is appointed or elected during the course of a year he/she should state the income that he/she earned in the previous calendar year.
- (e) Child means the son or daughter of a person including a stepchild, illegitimate child, a child held out by a person as a child of that person or a child adopted under the Adoption Ordinance (Cap. 19).
- (f) Where the space on this Form is inadequate a separate sheet of paper may be used and signed by the Declarant.

Name of Declarant:	Postal Address of Declarant:	
Position:	Telephone/Fax Number: E-mail address:	
Name of Declarant's spouse:	Address of Declarant's spouse:	
Marital status: Married <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Separated <input type="checkbox"/>		
Names of Declarant's Children	Dates of Birth	Addresses

PARTICULARS OF ASSETS HELD BY DECLARANT, AND SPOUSE

Cash in Financial Institutions

1. TO BE SUPPORTED BY A BANK STATEMENT OR LETTER FROM A FINANCIAL INSTITUTION CONFIRMING BALANCES

Names and addresses of banks	In whose name held	Account number	Balance in account

2. CASH IN EXCESS OF FIVE THOUSAND DOLLARS HELD OTHER THAN IN A FINANCIAL INSTITUTION BY DECLARANT AND SPOUSE

Where held	In whose name held	Amount

3. BONDS, TREASURY BILLS, STOCKS, DEBENTURES, MUTUAL FUNDS, OTHER FINANCIAL INSTRUMENTS INCLUDING ANY SUCH PROPERTY OVER WHICH A RIGHT OF DISPOSITION RESIDES IN THE DECLARANT AND SPOUSE

No. and description	Organisation in which held	In whose name held	Face value	Cost of acquisition where known or market value

4. IMMOVABLE PROPERTY (e.g. HOUSE, LAND AND FARM BUILDINGS)
HELD BY DECLARANT AND SPOUSE

Description					
Block and parcel number	Where situated	In whose name held	Purchase price	Year and value of improvement	Estimated current market value

5. SHAREHOLDINGS IN COMPANIES AND HOLDINGS IN PARTNERSHIPS AND JOINT VENTURES

Name of enterprise	Nature of business	No. of shares held	In whose name held	Current valuation	Profit for current year

6. VALUES HELD IN SAFETY DEPOSIT BOXES BY DECLARANT AND SPOUSE

Where held	Owner's Name	Contents	\$ Value

7. LIFE INSURANCE POLICIES HELD BY DECLARANT AND SPOUSE

Insurance Company	Date issued	Date of maturity	Name of insured	Annual premium	Face value	Surrender value

8. ANY OTHER PROPERTY OWNED BY DECLARANT AND SPOUSE

Description	Owner's name	By whom being held	In what capacity being held	Estimated Value

9. OTHER PROPERTY OWNED BY DECLARANT AND SPOUSE, BEING HELD BY A PERSON OTHER THAN OWNER, WHETHER IN TRUST OR OTHERWISE

Description	Owner's name	By whom being held	In what capacity being held	Estimated Market Value in what capacity being held

10. PARTICULARS OF INCOME FROM ALL SOURCES, OF DECLARANT AND SPOUSE (INCLUDING PERQUISITES SUCH AS HOUSE, ENTERTAINMENT ALLOWANCES, RENTALS, ETC.)

Type of income	Recipient's name	Source	Gross amount for period under review

11. PARTICULARS OF LIABILITIES (INCLUDING GUARANTEES) OF DECLARANT AND SPOUSE

CERTIFICATE FROM CREDITOR OR PARTY TO WHICH GUARANTEE GIVEN SHOULD BE PROVIDED

Name of person/institution	Nature of Liability	Original amount	Amount payment	Balance outstanding

12. PARTICULARS OF ANY PROPERTY ACQUIRED OR DISPOSED OF BY DECLARANT AND SPOUSE DURING PERIOD OF 12 MONTHS (OR OTHER PERIOD WHERE APPROPRIATE), ENDING ON.....

Description of property	Acquisition or disposal	Cost of acquisition	Price of disposal

I do solemnly and sincerely declare that the particulars given by me herein are, to the best of my knowledge, true, accurate and complete.

.....
Signature of Declarant

FORM3

(Section 11 (3))

CERTIFICATE

NAME OF DECLARANT _____

The Commission hereby certifies that it has examined the declaration submitted by the Declarant and is satisfied that the disclosure has been made in accordance with this Act.

Chairperson, Integrity Commission

Dated, this day of 20.....

Passed in the House of Assembly this 30th day of March , 2004.

BADEN J. ALLAIN,
Speaker of the House of Assembly.

Passed in the Senate this 14th day of April, 2004.

HILFORD DETERVILLE,
President of the Senate.

DISQUALIFICATION FOR ELECTION TO HOUSE OF ASSEMBLY ON ACCOUNT OF INTEREST IN GOVERNMENT CONTRACTS

- (1) Subject to the provisions of this section a person shall not be qualified to be elected as a member of the House of Assembly if he or she, or any firm in which he or she is a partner or any body corporate which he or she controls, is a party to any contract made with the Government of the Territory, or a department of that Government, or an officer of that Government contracting as such, for the sale or lease of land (including any interest in or over land), the sale of goods, or the rendering of services, by that person or by that firm or body corporate.
- (2) A person shall not be disqualified to be elected, as a member of the House of Assembly by virtue of the preceding subsection—

- (a) if, at the date of his or her nomination for election, the obligations imposed by the contract on him or her, or on the firm or body corporate aforesaid, have been wholly performed or are unenforceable;
 - (b) by reason only of a contract for the sale of goods where the amount or value of the consideration does not exceed the specified amount and the sale does not form part of a larger transaction or series of transactions in respect of which the amount or value, or aggregate amount or value, of the consideration exceeds the specified amount;
 - (c) by reason only of any contract made under any arrangements for providing guaranteed prices or assured markets for producers generally of any produce, being arrangements made by or under any law in force in the Territory;
 - (d) by reason only of any contract made under an obligation imposed by or under any law in force in the Territory;
 - (e) by reason only of any contract under which professional services to members of the public are rendered, wholly or partly at the public expense, in pursuance of arrangements for the provision of such services by members of a profession generally;
 - (f) by reason only of any contract made by that person in the capacity of a member of the Government of the Territory or by any body corporate which he or she controls in that capacity; or
 - (g) by reason only of any contract made by that person in the capacity of a member of any board, panel, committee or other similar body (whether incorporated or not) established by any law in force in the Territory or of any contract made by any body corporate which he or she controls in that capacity.
- (3) A person shall not be disqualified to be elected as a member of the House of Assembly by reason of such a contract as is referred to in subsection (1), if, within one month before the date of election, he or she publishes in the official Gazette of the Territory and in a newspaper circulating in the electoral district for which he or she seeks election a notice setting out the nature of that contract and his or her interest in it.
- (4) For the purposes of this section—
- (a) a person controls a body corporate if he or she has the power to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of powers conferred by the articles of association or other document regulating the constitution of that or any other body corporate, that the affairs of the first mentioned body corporate are conducted in accordance with his or her wishes; and
 - (b) “**specified amount**” means \$120 or any other sum that is substituted by any law of the Territory.

4. VACATING OF HIS OR HER SEAT BY MEMBER OF HOUSE OF ASSEMBLY ON ACCOUNT OF GOVERNMENT CONTRACT

The seat of a member of the House of Assembly shall become vacant if any circumstances arise that, if he or she were not a member of the House of Assembly, would cause him or her, subject to section 3(3), to be disqualified for election to the House by virtue of that section.

However, if in the circumstances it appears to the House of Assembly to be just so to do, the House may exempt any member from vacating his or her seat under the provisions of this section, if such member, before making a contract referred to in section 3(1), or before or as soon as practicable after otherwise becoming a party to it, or otherwise interested in it (whether through a firm in which he or she is a partner or through a body corporate which he or she controls), discloses to the House the nature of such contract and his or her interest in it. Also, the seat of a person being a member who is required to travel on government duty to a place outside the Territory shall not become vacant by reason only of his or her being granted an advance in anticipation of subsistence allowance provided the advance is repaid in full within one month of the member's return to the Territory.

Teymour Abdel Aziz

<https://fpdkm.sharepointsite.com/doingbusiness/Latin America Caribbean/St. Lucia/Final Country Files/ST LUCIA LEGAL ANNEX.doc>

26/11/2007 14:58:00