



Guide to the Commencement of the Standards in Public Life Law

On 25 February 2020 His Excellency the Governor Martyn Roper, OBE signed the Commencement Order for the Standards in Public Life Law, 2014 (“the Law”) and the Standards in Public Life (Amendment) Law, 2016 (“the Amendment Law”), as well as the Standards in Public Life Regulations, 2020 (“the Regulations”) to officially commence on 1 and 2 March 2020 respectively.

The Law is divided into eight parts with the main sections aimed at establishing and promoting standards in public life (including the introduction of measures to prevent conflicts of interest); the establishment of a Register of Interests; directions on the appointment, responsibilities and compensation of board members; and the introduction of powers of investigation. The Law ensures that conflicts of interest are properly addressed and contributes towards a sound infrastructure of good governance, therefore reducing the opportunity for corruption. The commencement of the Law, Amendment Law and Regulations will provide the Commission with the power needed to meet its constitutional mandates to supervise the operation of registers and to investigate breaches of established standards in public life.

Standards in Public Life

The Law adopts the Nolan Principles, the seven principles to be adhered to by persons in public life: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. It sets out a procedure for dealing with possible or perceived conflicts of interest with respect to any matter that comes up for discussion during the course of their duties. The Nolan Principles are set out in Schedule 2 of the Law.

Register of Interests

The Law will repeal and replace the Register of Interest Law, 1996 (“the ROI Law”). As a result, the Clerk of the Legislative Assembly, as the Registrar appointed under the ROI Law, will transfer declarations previously submitted in accordance with the ROI Law to the Commission following which the Commission will inform declarants of this transfer.

The Law will extend the scope of persons to whom disclosure provisions will apply. Now classified as “*persons in public life*”, all public officers holding the post of Heads of Departments, Sections, Units or higher (as well as their Deputies and those acting in those positions) will submit annual declarations. Further, board members of statutory authorities (as defined by the Law), government companies and constitutionally created commissions will be required to complete a declaration. The Law still covers candidates nominated for election, as well as elected and Official Members of the LA and the Speaker.

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Annual Declarations

Annual declarations (or more regularly if there are changes to be declared) from persons in public life shall (subject to the caveat below) include, in relation to herself/himself and any member of the person's immediate family, details relating to:

- (a) shareholdings and directorships held in any company or other corporate body;
- (b) any contract made with any public entity;
- (c) any company, partnership or association in which money is invested;
- (d) any trust;
- (e) any land, whether beneficial or otherwise;
- (f) any investment fund in which an interest is held;
- (g) sources of income other than a salary or money from other perquisites of office;
- (h) other substantial interest whether of a pecuniary nature or not, which raise or may appear to raise a material conflict of interest; and
- (i) any loan, secured or non-secured, **other than** from any institution regulated under "regulatory laws" as defined by section 2 of the Monetary Authority Law.

The Law **does not** require the disclosure of the actual amount or extent of any financial benefit, contribution or interests by anyone.

In relation to the referenced caveat above, where:

- a. a person in public life holds property or manages anything on behalf of any connected person, the person in public life shall so state in the declaration but shall not be required to disclose the terms on which the property is held; or
- b. a connected person holds property or manages anything on behalf of a person in public life, the person in public life shall so state in the declaration but shall not be required to disclose the terms on which the property is held.

Filings by Board Members

Board members of statutory authorities, government companies and constitutionally created commissions shall not be required to include any details in their declaration unless there is a possible or perceived conflict with the person's functions on the entity to which the person is appointed arising out of such interests, income, assets or liabilities as described above. The onus of making true and accurate filings is on the declarant.

Retention and Inspection of Declarations

The Commission will enter into the Register of Interests all declarations made under the Law and will retain all declarations for a period of at least five years. Members of the public who wish to inspect the Register may do so at the offices of the Commissions Secretariat at 67 Fort Street, 2nd Floor Artemis House during normal working hours.

Offences and Penalties Relating to Declarations and Reports of Alleged Breaches

Failure to submit a declaration, making of a false declaration, or refusal to provide requested information (without reasonable cause) may render persons in public life liable to penalties ranging from one hundred dollars for each day in default to, on summary conviction a fine of ten thousand dollars or to imprisonment for a term of two years, or to both.

Members of the public who wish to allege a breach of the Law may do so in writing, providing the facts in support of the allegation and providing any evidence in their possession. Knowingly making a false or misleading statement to the Commission, however, is an offence for which, upon summary conviction, a fine of twenty-five thousand dollars or imprisonment for a term of two years, or to both, may be imposed.

Power of Investigation

The Law provides the Commission with the power to appoint Investigators and/or investigate breaches of the Law by persons in public life. Such investigations may result as a consequence of the Commission’s own initiative or from an allegation made by any member of the public. These powers mirror that of the Grand Court with respect to summoning of witnesses, requiring the production of reports, documents, and other relevant information, although the Commission may also take any other actions necessary or expedient for the purpose of carrying out its functions. The production of these additional reports, documents, etc. are subject to protection and shall not be disclosed except in the limited circumstances set out in the Law.

Persons who fail or refuse to comply with a requirement made by the Commission in accordance with its powers to investigate a suspected breach, or who give to the Commission false or misleading information, commit an offence and are liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years, or to both. Following the conduct of an enquiry the Commission may refer matters to the Royal Cayman Islands Police Service and the Director of Public Prosecutions. Whistleblowers are provided with the same protections as detailed in the Freedom of Information Law.

Appointment, Responsibilities and Compensation of Boards

The Law provides guidance to Cabinet on appointing board members to ensure that each board has the skills, knowledge and integrity to carry out the duties required of the position in a highly competent and politically neutral manner, and provides guidance on the handling of conflicts of interests as they arise during the business and decision-making of the board. The Law allows for the removal of board members in instances of incapacitation due to physical or mental illness, inability or unfitness to discharge duties, unsuitability, conflict of interest, absence from 3 consecutive meetings without consent/permission of the chairman of that board and failure to comply with the requirements of the Law.

Members of the Legislative Assembly

Where a Member contravenes the Law, such contravention may constitute contempt of the Legislative Assembly for which the Assembly may order the Member's suspension from sitting and voting in the Assembly for such period as the Assembly determines.

The Commission is in the process of developing instructions for the completion and submission of declarations. Further information will be released to the public through the media and on the Commission's website. For more information please visit www.standardsinpubliclifecommission.ky.