

A 250

I assent.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

30th March, 2017

ACT No. XIII of 2017

AN ACT to provide for the appointment of a Commissioner and a Standing Committee with power to investigate breaches of statutory or ethical duties of categories of persons in public life, and for matters ancillary or related thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

PRELIMINARY

Short title and
commencement.

1. (1) The short title of this Act is the Standards in Public Life Act, 2017.

(2) This Act shall come into force on such date as the Minister responsible for Parliamentary affairs shall by order in the Gazette establish and different dates may be established in respect of different provisions and purposes of this Act.

2. In this Act, unless the context otherwise requires -

Interpretation.

"Commissioner" means the Commissioner for Standards in Public Life appointed under article 4 and includes any officer or employee of the Commissioner authorised by him in that behalf;

"Committee" means the Standing Committee on Standards in Public Life established under article 26;

"corrupt practice" has the meaning assigned to it in article 6 of the Permanent Commission against Corruption Act;

Cap. 326.

"Minister" means the Minister responsible for Justice;

"person of trust" means any employee or person engaged in the private secretariat of a Minister or of a Parliamentary Secretary wherein the person acts as an adviser or consultant to a Minister or to a Parliamentary Secretary or acts in an executive role in the Ministry or Parliamentary Secretariat, and where the person has not been engaged according to the procedure established under article 110 of the Constitution;

"statutory body" means any corporation or other body corporate established by law or any partnership or other body in which the Government or such body as aforesaid has a controlling interest, or over which it has effective control.

3. (1) This Act applies to:

Scope.

(a) Members of the House of Representatives including Ministers, Parliamentary Secretaries and Parliamentary Assistants;

(b) Persons of trust only to the extent that it shall be within the power of the Commissioner, acting either of his own motion or after receiving a complaint, to investigate and report to the House of Representatives whether a person of trust shall have breached the provisions of the Code of Ethics included in the First Schedule to the Public Administration Act to which persons of trust shall by virtue of this Act and without any further requirement, be subject.

(2) This Act shall also apply to any other person or category of persons as the Minister may by regulations, supported by an affirmative resolution of the House of Representatives, prescribe.

(3) (a) The Code of Ethics set out in the First Schedule shall apply to Members of the House of Representatives.

Code of Ethics.

A 252

(b) Without prejudice to the provisions of paragraph (a) the Code of Ethics set out in the Second Schedule shall apply to Ministers, Parliamentary Secretaries and Parliamentary Assistants.

(4) The Minister may, from time to time, upon a recommendation by the Standing Committee on Standards in Public Life, by Order in the Gazette, supported by an affirmative resolution of the House of Representatives, amend or substitute the schedules.

(5) It shall be the duty of all persons, to whom this Act applies, to comply with the applicable Code of Ethics as provided in this article.

PART I

COMMISSIONER FOR STANDARDS IN PUBLIC LIFE

Appointment of
Commissioner.

4. There shall be appointed a Commissioner for Standards in Public Life who shall be appointed by the President of Malta acting in accordance with a resolution of the House of Representatives supported by the votes of not less than two-thirds of all the members of the House:

Provided that when a person who is not a member of the House of Representatives is elected to be the Speaker of the House of Representatives he shall not be treated as a member of the House for the purpose of establishing the majority required by this article.

Disqualification
and incompati-
bilities.

5. (1) A person shall not be qualified to be appointed to the office of Commissioner if he is a member of the House of Representatives, a member of a local council, a public officer, or a person who holds an office or position which is subject to this Act.

(2) The office of Commissioner shall be incompatible with the exercise of any professional, banking, commercial or trade union activity, or other activity for profit or reward except for such other activity as members of the judiciary are by law allowed to pursue in addition to their judicial duties.

(3) The Commissioner shall not hold any position which is incompatible with the correct performance of his official duties or with his impartiality and independence or with public confidence therein. The Commissioner shall declare to, and seek the approval of, the Speaker of the House of Representatives, regarding any positions, trusts or memberships which the Commissioner considers do not affect impartiality, or independence and public confidence, and which it is desired to retain during the term of office.

6. (1) Except as otherwise provided in this Act, a Commissioner shall hold office for a term of five years, and shall not be eligible for reappointment. Term of office.

(2) Unless his office becomes vacant sooner, a person appointed as a Commissioner shall hold office until his successor is appointed.

(3) A Commissioner may at any time resign his office by writing addressed to the President.

7. (1) A Commissioner may at any time be removed or suspended from his office by the President of Malta, upon an address from the House of Representatives supported by the votes of not less than two-thirds of all members of the House, requesting such removal on the ground of proved inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or proved misbehaviour, and the provisions of the proviso to article 4 shall also apply for the purpose of establishing the majority required under this sub-article. Removal or suspension from office.

(2) At any time when Parliament is not in session, a Commissioner may be suspended from his office by the President of Malta acting in accordance with his own discretion for inability to perform the functions of his office or misbehaviour proved to the satisfaction of the President of Malta; but any such suspension shall not continue in force beyond two months after the beginning of the next ensuing session of Parliament.

8. (1) If a Commissioner dies, or resigns from office, or vacates his office or is removed from office, the vacancy thereby created shall be filled in accordance with this article. Filling of vacancy.

(2) If the vacancy in the office of a Commissioner occurs at any time while Parliament is in session, it shall be filled by the appointment of the Commissioner by the President of Malta on the recommendation of the House of Representatives in accordance with article 4:

Provided that if the vacancy occurs less than two months before the close of that session and no such recommendation is made in that session, the provisions of sub-article (3) shall apply as if the vacancy had occurred while Parliament was not in session.

(3) If any such vacancy occurs at any time while Parliament is not in session, the President of Malta shall appoint a Commissioner to fill the vacancy, and the person so appointed shall, unless his office becomes vacant sooner, hold office until another Commissioner is

A 254

appointed in accordance with article 4.

Temporary
appointment of
Commissioner.

9. (1) The President of Malta may -

(a) at any time during the illness or absence of the Commissioner, or

(b) for any other temporary purpose where the Commissioner considers it necessary not to conduct an investigation himself because of such circumstances, that were he a judge of the superior courts, he would abstain,

appoint a Commissioner to hold office in accordance with this article, and such a Commissioner shall be paid such salary, not exceeding the amount payable to the Commissioner, as the President of Malta thinks fit.

(2) The power relating to the provisions of sub-article (1)(b) shall be exercised only on a certificate signed by the Commissioner to the effect that, in his opinion, it is necessary for the due conduct of the business of the Commissioner under this Act that an additional Commissioner should be temporarily appointed.

(3) A Commissioner appointed under this article on account of the illness or absence of the Commissioner shall hold office until the resumption of office of the Commissioner, and every other Commissioner appointed for a temporary purpose shall hold office until he performs the function assigned to him.

(4) (a) A person shall not be qualified to be appointed under this article if he is disqualified to be appointed Commissioner under article 5(1).

(b) The provisions of article 5(2) and (3) shall apply to a person appointed under this article:

Provided that a person appointed under this article may exercise any activity for profit or reward which is not in any way incompatible with the provisions of article 5(3).

Oath of Office.

10. (1) Before entering upon the exercise of the duties of his office a Commissioner shall take an oath that he will faithfully and impartially perform the duties of his office, and that he will not, except in accordance with article 21, divulge any information acquired by him under this Act.

(2) The oath shall be administered by the Speaker of the House of Representatives.

11. (1) Subject to the provisions of the Constitution and of any other enactment applicable thereto, and subject to the provisions of this article, the Commissioner may appoint such officers and employees as may be necessary for the carrying out of the functions, powers and duties under this Act. This power to appoint includes approval to the numbers of persons that may be appointed under this article whether generally or in respect of any specific duties or classes of duties, their salaries and conditions of appointment. Resources.

(2) The Commissioner may in the conduct of an investigation engage, in a consultative capacity, any person whose particular expertise is essential to the effectiveness of the investigation:

Provided that if the consultant required is a public officer the Prime Minister may, at the request of the Commissioner, designate the public officer to assist.

(3) Subject to the provisions of this article the Commissioner shall be responsible for approving the level of capital equipment, furnishings, materials, and administrative activities for the carrying out of the functions, powers and duties under this Act.

(4) The finance required for the Commissioner's salary and allowances, and for the resources described in sub-articles (1), (2) and (3) shall not exceed a maximum amount indicated in a financial plan approved by the House of Representatives and shall be a charge on the Consolidated Fund without any further appropriation other than this Act:

Provided that the Commissioner shall present to the House, by the 15th day of September of each year, a financial plan which will indicate the ensuing year's activities.

(5) The salary, allowances and expenses payable to the Commissioner shall be at rates equivalent to those applicable to a judge of the superior courts. The salary is not to be diminished during the continuance of the Commissioner's appointment.

(6) The officers and employees appointed in accordance with sub-article (1) shall, before entering into the exercise of their office or employment, take an oath that they will faithfully and impartially perform the duties of their office or employment, and that they will not, except in accordance with article 21, divulge any information acquired by them under this Act. Such oath shall be administered by the Commissioner.

12. The accounts of the office of the Commissioner shall be audited by the Auditor General, and the Financial Administration and Audit.
Cap. 174.

A 256

Audit Act shall apply.

FUNCTIONS

Functions of the
Commissioner.

13. (1) The Commissioner shall have the following functions:

(a) to examine, and if necessary verify, such declarations relating to income or assets or other interest or benefits of whatever nature of persons to whom this Act applies who are under a duty to file such declarations as may be provided under this or any other law and to make recommendations in the form of guidelines which the Commissioner considers appropriate and proportionate also with regard to any person who fails to make any declaration as aforesaid or who makes an incorrect declaration in a manner which materially distorts the purpose of the declaration;

(b) to investigate on his initiative or on the written allegation of any person any matter alleged to be in breach of any statutory or any ethical duty of any person to whom this Act applies:

Provided that a person making an allegation in terms of this paragraph shall not be required to show any personal interest in support of his allegation;

Negative
clearance.

(c) to give recommendations, when requested by a person to whom this Act applies, on whether an action or conduct intended by him falls to be prohibited by the applicable Code of Ethics or by any other particular statutory or ethical duty, and no liability shall attach for any breach of the applicable Code of Ethics or any other statutory or ethical duty where a person has acted in conformity with any such recommendations;

(d) to scrutinize the register with all details of absentee members of parliament held by the Speaker of the House;

(e) to ensure that every month, the administrative penalty due by every member of Parliament as provided in Standing Order 159 is calculated, after having identified those members of Parliament that have been absent throughout the whole session without permission of absence. The Commissioner is to inform in writing every member owing an administrative penalty the amount due and reasons for such

penalty;

(f) to identify those activities which are to be considered as lobbying activities, to issue guidelines for those activities and to make such recommendations as he deems appropriate in respect of the regulation of such activities;

(g) (i) to make recommendations for the improvement of any Code of Ethics applicable to persons who are subject to this Act and in particular but without prejudice to the generality of the foregoing, to make recommendations on the acceptance of gifts, the misuse of public resources, the misuse of confidential information, and on limitations on employment or other activities after a person ceases to hold office as a Minister, a Parliamentary Secretary or a member of the House of Representatives;

(ii) to ensure that any recommendations made give due account to the need for any measures, guidelines or rules intended to ensure high standards in public life according to this Act are easily accessible and comprehensible to the general public.

(2) For the purpose of this article 'ethical duty' includes the obligation to observe the applicable Code of Ethics.

(3) The Commissioner shall not proceed to investigate any allegation on a matter about which proceedings are pending before a court or before a tribunal established by law, and shall suspend an investigation if any interested person files a demand before a court or tribunal as aforesaid about the matter under investigation, or if the Court of Magistrates holds an inquest about such matter, or if the Commissioner of Police shall have commenced an investigation about the same matter.

(4) In the execution of his duties, the Commissioner shall not prejudice the performance of any duty assigned or prerogative given by the Constitution to any person, authority or holder of a political office and in particular, but without prejudice to the generality of the aforesaid, he shall not prejudice the powers and prerogatives of the Prime Minister in respect of the Cabinet.

(5) In the exercise of his functions the Commissioner shall not be subject to the direction or control of any other person or authority.

14. (1) Nothing in this Act shall permit the Commissioner to investigate an allegation on an act which occurred prior to the date on which this Act comes into force.

Time limit for allegations.

A 258

(2) A complaint under this Act shall not be entertained unless it is made not later than thirty working days from the day on which the complainant had knowledge of the fact giving rise to the complaint or than one year from when the fact giving rise to the complaint happened, whichever date is the earliest.

Rules for
Commissioner's
guidance.

15. (1) Without prejudice to the provisions of sub-article (4) of article 13, the House of Representatives may, by resolution from time to time if it thinks fit, make general rules for the guidance of the Commissioner, in the exercise of his functions under this Act, and may at any time in like manner revoke or vary any such rules.

(2) All rules made under this article shall be made by, and published as, subsidiary legislation made under this Act.

Mode of
allegation.

16. Every allegation to the Commissioner shall be made in writing or orally. An allegation made orally shall be put in writing as soon as practical, but in any event not later than ten days:

Provided that an anonymous allegation shall not be entertained.

Refusal to
investigate
allegations.

17. (1) If upon an allegation, or in the course of an investigation of an allegation, it appears to the Commissioner that, having regard to all the circumstances of the case, any investigation, or further investigation is unnecessary, he may refuse to investigate, or investigate further any such allegation.

(2) Without limiting the generality of the powers conferred on the Commissioner by this Act, the Commissioner may in his discretion decide not to investigate, or, as the case may require, not to investigate further an allegation if in his opinion -

(a) the subject-matter of the allegation is trivial; or

(b) the allegation is frivolous or vexatious or is not made in good faith.

(3) In any case where the Commissioner decides not to investigate or make further investigation of an allegation he shall inform in writing the person making the allegation of that decision, and shall state his reasons therefore.

PROCEEDINGS

Proceedings.

18. (1) Every investigation by the Commissioner under this Act shall be conducted *in camera*.

(2) The Commissioner may hear or obtain information from such persons as he thinks fit, and may make such enquiries as he

thinks fit.

(3) The Commissioner shall not make any finding or recommendation about a person being investigated without having granted such person access to all evidence and having afforded to that person a right to be heard in accordance with the principles of fair trial.

(4) If, during or after any investigation, the Commissioner is of the opinion that there is substantial evidence of any significant breach of duty or misconduct on the part of any person to whom this Act applies, he shall refer the matter to the appropriate authority including the Police:

Provided that the Commissioner shall suspend his investigation during the time when the matter stands referred as aforesaid but shall, without prejudice to the independence of the police investigation, be entitled to demand information from the Commissioner of Police about the progress of such investigation and about the date envisaged for the conclusion of the investigation.

(5) Any person to whom this Act applies has a duty to cooperate, at all stages, with an investigation under this Act.

(6) Subject to the provisions of this Act and of any rules made thereunder, the Commissioner may regulate his procedure in such manner as he thinks fit.

19. (1) Without prejudice to the provisions of this article and of article 20 and except where and insofar as any law regulating procedures before a court of law may apply, the Commissioner may from time to time require any person who in his opinion may give information related to a matter under investigation by the Commissioner, to give that information and to produce documents, files or things which in the opinion of the Commissioner are related to the matter aforesaid and which may be in the possession or control of that person. Evidence.

(2) The Commissioner shall have power to -

(a) summon witnesses;

(b) administer an oath to any witness and to any person concerned in the investigation,

and require them to give evidence and to produce documents in their possession or under their custody in such circumstances and in the same manner as they could be required to give evidence or produce documents before a court of law.

(3) Summonses for attendance of witnesses may be in the form set out in the Third Schedule to this Act or in such other form as may be appropriate to the case, and shall be signed by the Commissioner.

(4) A summons may be served either by hand or through the post. In any case additional service may also be made by electronic means by sending the summons to the official electronic address of the person summoned. When a summons is notified by hand it shall be served either personally to the person summoned or at the place of residence, of work or of business of the person summoned and it shall be proved by the signature of the recipient who may not be a person under the age of sixteen years. When a summons is served through the post it must be proved that it was properly addressed and that it was sent by registered post and that it arrived at the place to which it was addressed.

(5) Any person summoned as aforesaid who refuses, or without sufficient cause fails, to attend at the time and place mentioned in the summons, or refuses, without sufficient cause to answer or to answer fully and satisfactorily, to the best of his knowledge and belief all questions put to him by the Commissioner, or refuses or fails, without sufficient cause, to produce any document he was required to produce by the Commissioner shall be guilty of contempt of the Commissioner and shall be liable to an administrative penalty, after being given the opportunity to be heard, which may be imposed by the Commissioner of not less than fifty euro (€50) and of not more than two thousand and five hundred euro (€2,500). The said administrative penalty shall be enforceable as a civil debt in favour of the Commissioner:

Provided that, without prejudice to the generality of the provisions of sub-article (2), no person giving evidence before the Commissioner may be compelled to answer any question which tends to expose him to any criminal prosecution, and every such person shall, in respect of any evidence given by him before the Commissioner, be entitled to the same privileges to which a witness giving evidence before a court of law is entitled.

Cap. 9.

(6) The provisions of articles 104, 105, 107, 108 and 109 of the Criminal Code shall *mutatis mutandis* apply to the person to be heard by the Commissioner, as the case may be, where the person to be heard does not testify to the truth; for this purpose the proceedings before the Commissioner shall be deemed to be proceedings taking place before a court and the person to be heard shall be deemed to be a person testifying in those proceedings. For the purpose of determining the applicable punishment as may be necessary in proceedings for perjury under this sub-article the allegation being

inquired into or adjudicated by the Commissioner shall be deemed to be liable to the punishment to which it would have been liable had the same fact taken place before a court of law.

(7) Where the Commissioner considers that any person summoned to give evidence before him or who without having been summoned voluntarily gives evidence before him, may have committed a criminal offence provided for under this Act or related to proceedings under this Act he shall refer the matter to the Commissioner of Police for further investigation and warranted action.

20. (1) Where the Prime Minister certifies that the giving of any information or the answering of any question or the production of any thing, paper or other document - Exemptions from disclosure.

(a) affects the security or defence of Malta or relations or dealings between the Government of Malta and any other Government or any international organisation of States or Governments; or

(b) is likely to damage seriously the national economy;
or

(c) involves the disclosure of the deliberations or proceedings of Cabinet or any committee of Cabinet; or

(d) prejudices the investigation or detection of offences,

the Commissioner shall not require the information or answer to be given or, as the case may be, the thing, paper or other document to be produced.

(2) Without prejudice to the provisions of sub-article (1), any law which authorizes or requires the withholding of any document, thing or file, or the refusal to answer any question, on the ground that the disclosure of the document, thing or file or the answer to a question will prejudice the public interest, shall be observed during an investigation or proceedings before the Commissioner.

21. (1) Information obtained by the Commissioner and by every person holding any office, appointment or designation under the Commissioner, in the course of or for the purpose of an investigation under this Act, shall not be disclosed except for the purposes of the investigation and of any report to be made thereon under this Act, or for the purpose of any proceedings relating to an offence under this Act, and the Commissioner and members of his staff shall not be called upon to give evidence in any proceedings, other than such as aforesaid, of matters coming to their knowledge in Secrecy of information.

A 262

the course of an investigation under this Act.

Cap. 9.

(2) The provisions of article 133 of the Criminal Code shall apply to, and in relation to, the Commissioner and his staff as they apply to or in relation to a public officer or servant referred to in article 133 of the Criminal Code.

PROCEDURE AFTER INVESTIGATION

Procedure after investigation.

22. (1) The provisions of this article shall apply in every case where, after making any investigation under this Act, the Commissioner is of the opinion that the allegation forming the subject-matter of the investigation -

(a) appears *prima facie* to have been contrary to law; or

(b) was *prima facie* in breach of any statutory or any ethical duty as provided under this or any other law.

(2) The provisions of this article shall also apply in any case where the Commissioner is of the opinion that in the conduct constituting the subject-matter of the allegation, a discretionary power has been exercised in a manner that constitutes abuse of power.

(3) If in any case to which this article applies the Commissioner is of the opinion -

(a) that the matter should be referred to the appropriate authority for further consideration; or

(b) that any practice or conduct is in breach of any statutory or ethical duty or that such practice or conduct should be altered; or

(c) that any other steps should be taken,

the Commissioner shall report his opinion and the reasons therefor in writing to the Committee and he may also make such recommendations as he deems appropriate.

(4) If within a reasonable time, which shall not exceed three months, after the report is made no action is taken which seems to the Commissioner to be adequate and appropriate, the Commissioner, in his discretion, may send a copy of the report and recommendations to the Speaker who shall lay a copy thereof on the Table of the House.

Permission to remedy the breach.

(5) Where the Commissioner finds that a breach of the Code of Ethics or of any statutory or ethical duty is not of a serious nature, he may grant the person investigated a time limit within which to

remedy such breach.

(6) Where from the investigation it appears *prima facie* that a criminal offence or a corrupt practice has been committed, the Commissioner shall refer his findings to the Commissioner of Police or the Permanent Commission Against Corruption, as the case may be, and shall immediately inform the Chairman of the Committee.

23. (1) No proceedings, civil or criminal, shall lie against the Commissioner or against any member of his staff for anything he may do or report or say in the course of the exercise or intended exercise of his functions under this Act unless it is shown that he acted in bad faith. Privileged proceedings.

(2) The Commissioner and such persons as aforesaid, shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions under this Act.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any inquiry by or proceedings before the Commissioner under this Act shall be privileged in the same manner as if the inquiry or proceedings were proceedings in a court of law.

24. (1) The Commissioner shall conclude his investigation within six months of having received the allegation. Conclusion of investigation.

(2) Where the investigation is not concluded within six months of having received the allegation, the Commissioner shall draw up a report stating the reason for the delay, and this report shall be transmitted by the Commissioner to the Chairman of the Committee not later than seven working days from the lapse of the six months.

(3) Every six months after the first report shall have been drawn up, the Commissioner shall draw up another report stating again the reason for the delay, and every such subsequent report shall be transmitted by the Commissioner to the Chairman of the Committee not later than seven working days from the lapse of the said six month period.

25. The Commissioner shall at least annually or as frequently as he may deem expedient report to the House of Representatives on the performance of his functions under this Act. Each such report shall be submitted to the Speaker of the House of Representatives and the Speaker shall lay each such report before the House of Representatives at the first available opportunity. Reports.

A 264

PART II

COMMITTEE FOR STANDARDS IN PUBLIC LIFE

Composition of
the Committee.

26. (1) There shall be a Committee which shall be a Standing Committee of the House of Representatives, which shall consist of:

(a) the Speaker of the House of Representatives as Chairman;

(b) two members nominated by the Prime Minister and two members nominated by the Leader of the Opposition.

(2) The Speaker shall not have an original vote, but shall have a casting vote in cases of equality of votes.

Powers of the
Committee.

27. (1) The Commissioner shall send his reports, drawn up under article 22, to the Committee.

(2) Without prejudice to the provisions of article 13(4), the Committee shall oversee and scrutinise the work of the Commissioner, for the purpose of ensuring that the Commissioner is fulfilling his duties and operating efficiently, and shall examine any reports it receives from the Commissioner.

(3) The Committee shall decide whether to adopt the conclusions and any recommendations contained in the said reports.

(4) Where the Committee deems that it cannot adopt a report of the Commissioner, it may either decide to reject the said report or decide that the allegation needs to be investigated further, in which case it may, with the assistance of the Commissioner, conduct such additional investigations and hear further evidence on the matter of the allegation. For this purpose the Committee shall have the powers granted to the Commissioner under article 19.

(5) The Committee may also request the Commissioner to explain any aspect of the report or to carry out further investigations.

(6) If the Committee decides to reject the Commissioner's conclusions, it shall give reasons for its decision.

Sanctions by
committee.

28. Where the Committee finds that there has been a breach of the Code of Ethics or of any statutory or ethical duty it may, after granting the person concerned the right to make submissions, decide on any one or more of the following sanctions:

(a) admonish the person investigated;

(b) recommend that the matter be reported to the Commissioner of Police or the Permanent Commission Against Corruption, as the case may be, for further investigation;

(c) in the case where the person investigated is an employee, it may direct Government or any entity or statutory body, to take all necessary measures in accordance with the said person's conditions of employment, with a view to remedy the breach;

(d) in the case of a member of the House of Representatives -

(i) recommend that the said House should direct the member to rectify any breach;

(ii) demand an apology in writing to be made to the Committee;

(iii) demand an apology by way of a personal statement on the floor of the House;

(iv) demand the repayment of or payment for resources improperly used;

(v) recommend that the House of Representatives takes any other measure it may deem fit;

(e) in any case, it may recommend that the House of Representatives directs the person being investigated to rectify the breach.

29. The Minister may make regulations to implement and to give better effect to the provisions of this Act and without prejudice to the generality of the foregoing may, by such regulations, prescribe anything that is to be or which may be prescribed and provide for any matter consequential, incidental to or connected with the provisions of this Act. Regulations.

FIRST SCHEDULE

(Article 3)

CODE OF ETHICS OF MEMBERS OF THE HOUSE OF REPRESENTATIVES

1. A member of the House of Representatives shall at all times, both inside and outside the House, conduct himself in a manner which reflects the status and dignity of the House of Representatives.

2. A member of the House of Representatives shall adhere to the spirit and letter of the rules of the House of Representatives and to the rules of duly constituted committees thereof as contained in the Standing Orders of the House or any resolution approved by the House of Representatives.

3. Without prejudice to the provisions of sub-article (2) of article 5 of this Schedule, a member of the House of Representatives may not receive any remuneration or compensation under whatever form for his work as a member of the House of Representatives, except for his official remuneration as a member.

4. While a member of the House of Representatives is in duty bound to relay the complaints of his constituents and to make representations in their name to Government authorities, the Member is expected not to use any improper influence, threats or undue pressure in the course of his duties.

5. (1) Every member of the House of Representatives will annually at the time established by the Speaker of the House of Representatives indicate in a register which will be purposely kept by the Speaker, which register shall be open to inspection by the public:

(a) his work or profession, and if he is employed, the identity of his employer;

(b) his own immovable property, that of his spouse if the community of acquests applies, that of his minor children as well as, if he so wishes, the manner of its acquisition and of its use;

(c) shares in commercial companies, investments including money deposited in banks and any other form of pecuniary interest;

(d) directorships or other official positions in commercial companies, associations, boards, co-operatives or other groups, even if voluntary associations.

(2) A member of the House of Representatives -

(a) who has a professional interest, including work interest consultancy, management or any form of connection, pecuniary or otherwise, with persons, groups or companies, that

have a direct interest in legislation before the House, shall declare his interest in the House, at the first opportunity, before a vote is taken on the Second Reading of a Bill;

(b) shall not accept gifts from persons, groups or companies that had any direct or indirect interest in legislation before the House of Representatives;

(c) shall accept no honorarium for a speech, writing or publication, or other similar activity from any person, organisation or companies in excess of the usual and customary value for such services;

(d) who has made a visit outside Malta, financed in whole or in part by one person, group or company which has a direct interest in legislation before the House, shall declare the fact in a register purposely kept by the Speaker, and accessible to the public;

(e) is expected to report to the Speaker and to the competent authorities any attempt at corruption, pressure or undue influence by third persons, aimed at influencing his conduct as a member.

6. Reference shall not be made in professional, occupational or business matters to membership of the House of Representatives which in any way can give undue advantage to a member.

SECOND SCHEDULE

(Article 3)

CODE OF ETHICS FOR MINISTERS

AND PARLIAMENTARY SECRETARIES

In this Code, reference to a Minister includes a reference to a Parliamentary Secretary. The word Minister shall be construed to apply to both males and females.

1. PREAMBLE

The Ministers are chosen by the Prime Minister and shall remain in office as long as they enjoy the confidence of the Prime Minister and are responsible and accountable for their actions to the Prime Minister, to Parliament and to the public in general and,

eventually to the electorate at a general election.

They enjoy a position of trust given to them by the people and that emanates from the office given by the Prime Minister, and they enjoy the power of exercising discretion in the taking of a wide range of decisions that can affect individuals, groups of individuals, or the community in general.

Hence Ministers shall act and behave according to standards of the highest level both on a personal basis and in the performance of their constitutional duties.

2. PURPOSE OF THIS CODE

Whilst Ministers are personally liable for the decisions regarding their actions and behaviour and personally liable to be accountable for their behaviour and to justify their actions and behaviour to the Prime Minister, to Parliament as well as to the people in general, the purpose of this Code of Ethics is to provide a guide of the highest levels expected from the Ministers in their behaviour in order to respect the best standards of integrity, honesty, transparency, accountability and a sense of justice, and so as to provide a guide with the aim of avoiding conflicts of interest.

3. ENFORCEMENT OF THIS CODE

If it results that a Minister has behaved or acted in such a way that *prima facie* constitutes a breach of this Code, the Prime Minister shall use his discretion in order to decide what actions shall be taken.

The Prime Minister shall have a right to refer to or consult on the matter with a body already established by law or that still has to be established, but ultimately the final decision on whether a breach exists and on the applicable consequence, always remains within the exclusive competence of the Prime Minister.

4. GENERAL PRINCIPLES

Apart from the general principles of observance of the law, respect of the following principles is expected of Ministers:

4.1 The principle of collective responsibility, in the sense that a Government is collectively responsible to and shall have the duty to answer for its management, to Parliament.

4.2 Ministers are individually responsible to Parliament for their decisions, policies and actions and for those of the departments and agencies that fall within their ministries.

4.3 Consequently the Ministers shall provide correct information to Parliament and shall correct at the first possible opportunity any mistakes or inaccuracies made unintentionally.

4.4 Ministers shall be, to the widest extent possible, open to providing information to Parliament and to the public in general.

4.5 Ministers shall ensure that government departments and entities that fall within their ministries are managed well and prudently.

4.6 Ministers shall require public officials that fall within their ministries, to provide the most complete and accurate information when requested by the Parliamentary Committees.

4.7 Ministers shall ensure that there is no conflict of interest between their public duties and personal interests.

4.8 Ministers shall not accept any gifts or benefits, except as provided in this Code, that may or may reasonably create an impression that they are compromising their judgement or place them under an inappropriate obligation.

4.9 Ministers shall keep their roles as Ministers and as Representatives separate, as well as their role as a member of a political party.

4.10 Ministers shall respect the principle of political impartiality of the public service.

5. STANDARDS FOR MINISTERS AS PERSONS WHO OCCUPY PUBLIC OFFICE

For this purpose, Ministers as public officers, shall be inspired by, and in their behaviour, actions and decisions shall be guided by the following values:

5.1 A sense of service - the supreme good is the common good and a Minister should not be motivated by a spirit of gain for himself, his family, his friends or persons close to him but only by a sense of service towards the community in general and the common good, because above all he is managing public property on behalf of the general public.

5.2 Integrity – Ministers shall not put themselves in a position of being influenced by a financial obligation or otherwise of persons or organizations that try to do so, or make improper use of information that comes to their knowledge because of their office in order to give undue advantage to someone whilst disadvantaging

others.

5.3 Diligence – once Ministers administer public property, on behalf of the public in general, they shall exercise the highest level of diligence including in the expenditure of public funds, and they shall also work diligently and hard in the performance of their duties.

5.4 Objectivity – in the performance of public duties, including in the appointments to offices, public procurement, or in the context of any award of benefits.

5.5 Accountability – Ministers administer public property and shall be transparent in their operations and open to necessary scrutiny.

5.6 Transparency – Ministers shall as much as possible perform their duties in an open and transparent manner, and therefore give reasons for their decisions and actions.

5.7 Honesty - Ministers shall avoid entering into conflicts of interest between the public interest and their private interest and shall provide complete and correct information to Parliament, to the Cabinet and the public in general.

5.8 Justice and respect – in their behaviour and in decisions which they take, Ministers shall show respect to the institutions and shall respect the laws of the country. They shall show a sense of balance and consideration by being sensitive in general to all sectors of society, and in particular to the rights and aspirations of the persons concerned, in order to act with a sense of justice.

5.9 Leadership - Ministers shall embrace and be inspired by these values in order to lead by example.

6. COLLECTIVE RESPONSIBILITY – THE MINISTERS AND THE GOVERNMENT

6.1 Ministers shall be familiar with the powers and obligations entrusted to them, with the Standing Orders and the rules on which Parliament functions and with the rules and procedures governing their work.

6.2 Since the principle of collective ministerial responsibility is central to the Constitution, whilst discussions in the Cabinet should be as much as possible free and open and the opinions of every member of the Cabinet should be heard, at the same time the same discussions and deliberations are classified as confidential. Ministers therefore should not communicate or comment on what has been discussed in Cabinet outside of Cabinet.

6.3 The decisions of the Cabinet shall be communicated to the Ministers concerned by the Cabinet Secretary who must ensure that the decisions are carried out.

6.4 The meetings of the Cabinet shall take precedence over any other ministerial activity apart from official duties abroad, and Ministers are party to the decisions taken by the Cabinet, whether they were present or not, when the Cabinet has come to a particular decision.

7. MINISTERIAL DUTIES

7.1 Ministerial office is one that occupies the whole working day of the Minister concerned. No Minister can accept any other payment for something in connection with his work as Minister.

7.2 Upon appointment, a Minister is expected not to continue with his private work and shall dedicate all his time to Government work. This applies in so far as the Cabinet does not decide otherwise in exceptional cases where the national interest so requires.

7.3 When a Minister is appointed to office, he shall immediately provide a statement of his assets and interests to the Cabinet Secretary on the relative form. Any interest that may otherwise give rise to a perception of conflict of interest and any actual conflict of interest shall also be indicated to the Cabinet Secretary. This statement shall be provided every year in the manner indicated from time to time.

7.4 Ministers shall respect the impartiality of the public service and shall ensure that their influence on the public service is not abused. Prior to coming to a decision, Ministers have the duty to give appropriate consideration to the widest range possible of advice, including by giving weight to the informed and impartial advice of public officials or employees.

7.5 Decisions taken shall, as much as possible, be kept recorded in government files, even if the practicality and reality of current electronic communication also has to be taken into consideration.

7.6 Ministers shall ensure that as employers they treat staff in a just and equitable manner.

7.7 Ministers shall be inspired by merit and capabilities in appointments and offices conferred and shall consult the Prime Minister with regard to appointments of chairpersons and board

members.

7.8 Ministers shall ensure that even with regard to travel, they shall make the most efficient arrangements and they are responsible for the size of the delegations.

7.9 When a Minister terminates his appointment, he shall return to the Cabinet Secretary all the documents, material and resources that were given and entrusted to him in order to perform his duties. As customary, it is within the Prime Minister's discretion to permit to ex-Ministers reasonable access to documents and material concerning the period during which they held ministerial office.

7.10 Ministers shall not disclose information or confidential information even after the end of the ministerial office.

8. PRIVATE INTERESTS OF MINISTERS AND CONFLICTS OF INTEREST

8.1 Ministers shall ensure that there is no conflict between their public duties and private interests, financial or otherwise, and it is the personal responsibility of every individual Minister to decide whether steps have to be taken and what needs to be done in order for there not to be such conflict of interest. Provided that if direction is needed from the Prime Minister with regard to the existence of a conflict of interest, that decision shall be final. The general principle is that a Minister may either dispose of this interest or take alternative measures to prevent it.

8.2 Any person who is approached in order to be offered ministerial office, shall, if a doubt exists as to whether there is a possibility of conflict of interest, before accepting such office, inform the Prime Minister of this fact and of other relevant circumstances. Provided that if during the legislature there is a change in the personal circumstances of the Minister which may give rise to conflict of interest, the Minister shall be obliged to immediately inform the Prime Minister.

8.3 In the same manner, any person who is approached by a Minister in order to be offered a post in the secretariat, shall, if a doubt exists as to whether there is a possibility of a conflict of interest, before accepting such post, inform the Minister concerned of this fact and of other relevant circumstances.

8.4 No Minister shall accept gifts, donations, hospitality or services from anyone, that may place him under an obligation towards such person or persons and this shall also apply to immediate

family members of the Minister. In case of doubt, the Prime Minister shall be consulted.

8.5 Ministers shall not normally accept decorations from foreign countries, except with the permission of the Prime Minister.

8.6 No Minister shall take part in the taking of decisions that affect his family members, or other persons close to him and no Minister shall be improperly conditioned in his decisions by a conflict of interest of a financial nature or otherwise, whether involving him or persons close to him, or make improper use of information received because of his office and during the carrying out of his duties, particularly if this is done in order to unfairly favour any person or persons to the detriment of others.

8.7 When a Minister is involved in legal proceedings in his private capacity, these may have implications on the ministerial role. The Cabinet Secretary shall be informed of these proceedings and, in the case when proceedings are instituted by the Minister, the Cabinet Secretary shall be informed before such proceedings are instituted.

9. MINISTERS AND PARLIAMENT

9.1 When Parliament is in session, it is the duty of Ministers to attend parliamentary sittings and to actively participate in the discussions that are in progress in the various stages of Parliament and in selected Committees of Parliament. The Speaker of the House shall be informed when a Minister is abroad or is unable to attend parliamentary sittings due to illness.

9.2 When Parliament is in session, Ministers shall ensure that the most important declarations and statements regarding policies or decisions are announced in Parliament as the highest institution of the country.

9.3 Ministers shall do their utmost so as to provide the most accurate and correct information possible and any correction that may be required shall be made at the first opportunity.

9.4 The Speaker of the House of Representatives shall in any case be informed beforehand with regard to any ministerial statements in Parliament and in general the Opposition shall also be informed of the content some time before the statement is made.

9.5 Ministers shall show respect to the Chair and to all members of Parliament.

A 274

10. MINISTERS, PUBLIC RELATIONS AND THE PRESS

10.1 Ministers shall inform the public and the media of ministerial activities on a regular basis and in an organized manner.

10.2 For this purpose and for efficient co-ordination, statements, interviews and ministerial activities shall first obtain the approval of the Office of the Prime Minister prior to being issued or carried out.

10.3 In the case where incorrect information is given, it shall be corrected immediately.

10.4 In the public interest, Ministers shall ensure that they have open communication with the social partners, non-governmental organizations, professional associations, the broadcasting media and the public in general.

THIRD SCHEDULE

(Article 19)

(The Standards in Public Life Act)

Summons to Witnesses

To A.B. (name of person summoned and residence)

You are hereby summoned to appear before
 at (place) on (date and time)
 and to give evidence respecting

 (the matter of the investigation)
 and to bring the following documents with you

Your attention is also drawn to the fact that should you fail to abide by this summons you may be subjected to an administrative penalty as established by article 19(5) of the Act on Standards in Public Life.

Given under my hand this day of 20

(Signature of the Commissioner or Committee)

Passed by the House of Representatives at Sitting No. 498 of the
22nd March, 2017.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

