

BELIZE:

PUBLIC CONTRACTS COMMISSION BILL, 2021

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BELIZE:

BILL

for

AN ACT to establish the Office of the Public Contracts Commission to monitor the award and implementation of public contracts for the purpose of ensuring that such contracts are awarded impartially and on merit; to investigate fraud, corruption, mismanagement, waste or abuse in the award of public contracts; and to provide for matters connected therewith or incidental thereto.

(Gazetted2020).

BE IT ENACTED, *by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:*

PART I

Preliminary

Short title.

1. This Act may be cited as the

PUBLIC CONTRACTS COMMISSION ACT, 2021,

Interpretation.

2.—(1) In this Act, unless the context otherwise requires—

“Commission” means the Public Contracts Commission established under section 3;

“contractor” includes any person, firm or entity with whom a public body enters into any agreement for the carrying out of any building or other works or for the supply of any goods or services and includes a person who carries out such works or supplies such goods or services for or on behalf of any public body pursuant to a licence, permit or other concession or authority issued or granted to that person by a public body;

“Contractor-General” means the Contractor-General appointed under section 19 of this Act;

CAP. 4.

“Council” means the Belize Advisory Council established under section 54 of the Belize Constitution;

“functions” includes powers and duties;

“Minister” means the Minister responsible for finance;

“prescribed licence” means any licence, certificate, quota, permit or warrant issued or granted pursuant to any enactment by a public body or an officer thereof;

“principal officer” means—

- (a) in relation to a Ministry, the Chief Executive Officer of that Ministry;
- (b) in relation to a Department, the Head of that Department; and
- (c) in relation to any other public body, the Chief Executive Officer, general manager, or other similar officer of that body;

“prospective contractor” means any person, firm or entity proposing to obtain the award of a public contract;

“public body” means—

- (a) a Ministry, department or agency of Government;
- (b) a City Council or a Town Council;
- (c) a statutory body or authority; or
- (d) any company registered under the Companies Act, being a company in which the Government or an agency of Government holds not less than fifty-one per centum of the ordinary shares;

CAP. 250.

“public contract” means a contract awarded by a public body and includes any licence, permit or other concession or authority issued by a public body or agreement entered into by a public body for the carrying out of any building or other works or for the supply of any goods or services;

“public officer” or “public service” has the meaning assigned to it under section 131 of the Belize Constitution; and

CAP. 4.

“Public Services Commission” means the Public Services Commission

CAP. 4.

Public Contracts Commission

constituted under section 105 of the Belize Constitution.

(2) The references in this Act to a Ministry, department or agency of Government include a reference to the Minister, Minister of State, members or officers of that Ministry, department or agency.

PART II

Public Contracts Commission

Establishment of
Commission.

3.—(1) There is hereby established for the purposes of this Act a body to be called the Public Contracts Commission.

(2) The Commission shall consist of the following members, appointed by the Governor-General by instrument in writing—

- (a) a person designated by the Minister responsible for finance, as Chairman;
- (b) a member of the National Assembly recommended by the Leader of the Opposition;
- (c) one civil society Senator, selected from among the civil society Senators, on a yearly rotation;
- (d) a person designated by the Minister responsible for the Public Service; and
- (e) a person designated by the Attorney General.

Schedule I.

(3) The Commission shall be governed by Schedule I.

(4) For the purpose of the discharge of its functions, the Commission may delegate, by Order published in the *Gazette*, any of its powers to, and impose any of its duties on, the Contractor-General.

(5) Where the Chairman or any person designated under sub-section (2) is unable to act for any meeting or period of time, then the responsible Minister shall designate an alternate.

Principal objects
of the
Commission.

4. The principal objects of the Commission are—

- (a) the promotion of efficiency in the process of award and implementation of public contracts and ensuring transparency and equity in the awarding of such contracts; and

- (b) investigation of any fraud, corruption, mismanagement, waste or abuse in the award of public contracts.

5.-(1) The functions of the Commission shall be to carry out such activities as may be necessary to give effect to the principal objects specified in section 4 and to perform such other functions as may be conferred on the Commission under this or any other enactment, and without limiting the generality of the foregoing, such functions shall include—

Functions of the Commission.

- (a) examining applications for the award of government contracts;
- (b) to monitor the award and the implementation of public contracts with a view to ensuring that—
 - (i) such contracts are awarded impartially and on merit;
 - (ii) the circumstances in which each contract is awarded or, as the case may be, terminated, do not involve any impropriety or irregularity;
 - (iii) without prejudice to the functions of any public body in relation to any contract, the implementation of each such contract conforms to the terms thereof;
 - (iv) there is no fraud, corruption, mismanagement, waste or abuse in the awarding of contracts by a public body;
- (c) approving or overseeing the award of government contracts within the specified limits;
- (d) in the case of government contracts above the specified limits, making recommendations to the Cabinet regarding the award of such contracts;
- (e) registering prospective contractors for the purposes of this Part and classifying such contractors according to the level and scope of government contracts to which such registration applies;
- (f) establishing and keeping up-to-date lists of contractors so registered, distinguished according to the category of work for which they have been registered;
- (g) continuously assessing the financial and human resources, technical, financial and managerial capacity and performance of contractors;

- (h) making recommendations to the Cabinet for improving the efficiency of the procedures for the granting and implementation of government contracts;
- (i) overseeing the activities of sector committees;
- (j) to investigate any such fraud, mismanagement, waste or abuse;
- (k) to develop policy guidelines, evaluate programme performance and monitor actions taken by a public body with respect to the award, execution and termination of contracts; and
- (l) to monitor the grant, issue, suspension or revocation of any prescribed licence, with a view to ensuring that the circumstances of such grant, issue, suspension or revocation do not involve impropriety or irregularity, and, where appropriate, to examine whether such licence is used in accordance with the terms and conditions thereof.

(2) For the purpose of the discharge of its functions under this Act, the Commission shall be entitled—

- (a) to be advised of the award and, where applicable, the variation of any public contract by the public body responsible for such contract;
- (b) to have access to all books, records, documents, stores or other property belonging to a public body, whether in the possession of any officer of a public body or a contractor or any other person;
- (c) to have access to any premises or location where work on a public contract has been, is being or is to be carried out;
- (d) to have access to all books, records, documents or other property used in connection with the grant, issue, suspension or revocation of any prescribed licence whether in the possession of any public officer or any other person;
- (e) to have access to any premises or location where he has reason to believe that any such books, records, documents or other property as are referred to in paragraph (d) above or any property which is the subject of a prescribed licence, may be found;

- (f) to enter any premises occupied by any person in order to make such enquiries or to inspect such document, record or property as he considers necessary to any matter being investigated by him; and
- (g) without prejudice to the provisions of section 10 , to retain any such document, record or other property referred to in paragraph (f) above.

(3) For the purpose of sub-section (2), the Commission shall have power to require any public body to furnish in such manner and at such times as may be specified by the Commission, information with regard to the award of any contract and such other information in relation thereto as Commission considers desirable.

(4) For the purpose of sub-section (2), the Commission shall have the power to bring proceedings in any court to apply for an order, including a Norwich Pharmacal or Bankers Trust Order, in relation to any person, including any bank or financial institution, to furnish any banking or other financial information or any information they may have in their possession, as may be necessary to conduct its investigation as it considers appropriate.

(5) For the purposes of sub-section (2)(d) and (e), the Commission shall have power to require any public officer or any other person to furnish in such manner and at such times as may be specified by the Commission, information with regard to the grant, issue, suspension, or revocation of any prescribed licence and such other information in relation thereto as the Commission considers desirable.

(6) The Commission may do anything or enter into any transaction which it considers necessary or desirable for the proper performance of its functions.

(7) For the purposes of sub-section (1), a public contract is within the specified limit if the contract sum does not exceed such amount as may be approved by the Cabinet from time to time and published in the *Gazette*.

6.-(1) The Commission may make regulations prescribing—

- (a) the qualifications required of prospective contractors for registration and classification under this Part;
- (b) the procedure for the submission of tenders for public contracts;
- (c) the requirement for contractors to enter into performance bonds;

Commission
may make
regulations.

- (d) competitive bidding in relation to public contracts;
- (e) the circumstances in which registration may be cancelled and the procedure for such cancellation.

(2) Regulations under this section shall be subject to negative resolution.

Scope of investigation.

7. The Commission shall, where it is necessary and desirable, conduct an investigation into any or all of the following matters—

- (a) the selection of contractors;
- (b) tender procedures relating to contracts awarded by public bodies;
- (c) the award of any public contract;
- (d) any allegation of fraud, mismanagement, waste or abuse involving public contracts and their execution;
- (e) the implementation of the terms of any public contract;
- (f) the circumstances of and the practices and procedures relating to the grant, issue, use, suspension or revocation of any prescribed licence.

Initiation of investigation.

8.—(1) An investigation pursuant to section 7 may be undertaken by the Commission on its own initiative or as a result of representations made to it, if in its opinion such investigation is warranted.

(2) The Commission may receive and investigate complaints or information from an employee of a public body concerning the possible existence of an activity constituting a violation of law, rules, or regulations; or mismanagement, gross waste of funds, fraud, corruption or other impropriety relating to the award or termination of any contract; or the grant, issue suspension or revocation of any prescribed licence.

(3) The Commission shall not, after receipt of a complaint or information from an employee under sub-section (2), disclose the identity of the employee without the consent of the employee, unless the Commission determines that such disclosure is unavoidable during the course of the investigation.

Procedure in respect of investigations.

9.—(1) The Commission may adopt whatever procedure the Commission considers appropriate to the circumstances of a particular case and, subject to the provisions of this Act, may obtain information from such persons and in such manner and make such enquiries as the Commission thinks fit.

(2) Nothing in this Act shall be construed as requiring the Commission to hold any hearing and no person shall be entitled as of right to comment on any allegations or to be heard by the Commission .

(3) Regulations made under this Act may prescribe the practice and procedure to be adopted at any hearing.

(4) Where, for the purpose of an investigation, the Commission requires a person to attend before it, that person shall be entitled to be paid for any expenses incurred by him by reason of such attendance and by way of compensation for the trouble and loss of time suffered by him.

10.—(1) Subject to the provisions of sub-section (5), the Commission may at any time require any officer or member of a public body or any other person who, in the opinion of the Commission, is able to give any assistance in relation to the investigation of any matter pursuant to this Act, to furnish such information and produce any document or thing in connection with such matter as may be in the possession or under the control of that officer, member or other person.

Evidence.

(2) Subject as aforesaid, the Commission may summon before it, and examine on oath—

(a) any person who has made representations to the Commission; or

(b) any officer, member or employee of a public body or any other person who, in the opinion of the Commission, is able to furnish information relating to the investigation, and such examination shall be deemed to be a judicial proceeding and the appropriate provisions of the Criminal Code (relating to perjury and obstruction of public justice) shall apply to all statements made in such proceedings.

CAP. 101.

(3) For the purpose of an investigation under this Act, the Commission shall have the same powers as a Judge of the Supreme Court in respect of the attendance and examination of witnesses and the production of documents and whether to hold proceedings *in camera* or in the public.

(4) Subject to the provisions of this Act, any obligation to maintain secrecy or any restriction on the disclosure of information or the production of any document or paper or thing imposed on any person by or under any law shall not apply in relation to the disclosure of information or the production of any document or thing by that person to the Commission for the purpose of an investigation; and accordingly, no person shall be liable to prosecution for an offence under any such law by reason only of his compliance with a requirement of the Commission under this Act.

(5) No person shall, for the purpose of an investigation, be compelled to give any evidence or produce any document or thing which he could not be compelled to give or produce in proceedings in any court of law.

No restriction on disclosure.

11. No law which authorizes or requires the refusal to answer any question or the withholding of any information or document or thing on the ground that the answering of the question or the disclosure of the information, document or thing would be injurious to the public interest, shall apply in respect of any investigation by or proceedings before the Commission.

Procedure after investigation.

12.—(1) After conducting an investigation under this Act, the Commission shall, in writing, inform the principal officer of the public body concerned and the Minister having responsibility therefore, of the result of that investigation and make such recommendations as the Commission considers necessary in respect of the matter which was investigated.

(2) Where any report of the Commission reflects adversely upon any person, the Commission shall, so far as practicable, inform that person of the substance of the report.

(3) Where the Commission has made a recommendation under sub-section (1), and within the time specified or a reasonable time thereafter, the Commission is of the opinion that no adequate action has been taken in pursuance of its recommendation, the Commission shall expeditiously lay before the National Assembly a special report on the case.

Disciplinary action against officers.

13.—(1) Subject to sub-section (2), where the Commission finds, during the course of its investigation or on the conclusion thereof, that there is evidence of a breach of duty or misconduct, irregularity, impropriety, breach of trust or criminal offence on the part of an officer or member of a public body, the Commission shall refer the matter to the person or persons competent to take such disciplinary or other proceeding as may be appropriate against that officer or member and in all such cases shall lay a special report before the National Assembly.

(2) In every case where the Commission finds that there is evidence of the commission of a criminal offence, the Commission shall, in addition to taking action as prescribed in sub-section (1), refer the matter to the Director of Public Prosecutions or the Attorney General, as the case may be, for further action.

Power of Commission to investigate notwithstanding Ombudsman Act.
CAP. 5.

14.—(1) Notwithstanding the investigative powers conferred upon the Ombudsman under the Ombudsman Act, the Commission shall have power to investigate any allegation of fraud, corruption, mismanagement, waste, abuse or other impropriety or irregularity in the award, execution or

termination of any contract, or in the grant, issue, suspension or revocation of any prescribed licence.

(2) In carrying out its investigations, duties and responsibilities under this Act, the Commission shall have particular regard to the activities and functions of the Ombudsman with respect to investigations under the Ombudsman Act, with a view to avoiding duplication of functions and ensuring effective coordination and cooperation between his office and that of the Ombudsman.

CAP. 5.

(3) In this section, “Ombudsman” means the Ombudsman appointed under the Ombudsman Act.

CAP. 5.

15. The proceedings of the Commission shall not be rendered void for want of form.

Proceedings of Commission not to be void for want of form.

16.—(1) Except in the case of proceedings for an offence under section 33 (c) of this Act, no proceedings whatsoever shall lie against the Commission or any person concerned with the administration of this Act, for anything the Commission or that person may do or report or say in the performance of its functions under this Act.

Privilege.

(2) Anything said or information supplied or any document or thing produced by any person for the purpose or in the course of any investigation by or proceedings before the Commission under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(3) For the purposes of the Libel and Defamation Act, any report made by the Commission under this Act and any fair and accurate comment thereon shall be deemed to be privileged.

CAP. 169.

17.—(1) The Commission may appoint and employ for the purposes of this Act, on such remuneration and on such terms and conditions as may be approved by the National Assembly, such officers and agents as may be considered necessary to assist the Commission in the proper performance of its functions under this Act.

Appointment of officers, etc.

(2) The Governor-General or the Public Services Commission, as the case may be, may, subject to such conditions as may be imposed, approve the secondment to the staff of the Commission, of any officer in the public service, provided that in relation to any pension, gratuity, allowances and other rights as a public officer, such officer shall be deemed to be in the public service while so employed.

Public Contracts Commission

Oaths. **18.**—(1) Before entering upon its duties under this Act, every member of the Commission and the Contractor-General shall take and subscribe the oath of allegiance and office before the Governor-General.

Schedule II. (2) Every person appointed to the staff of the Commission shall, before he performs any function assigned to him under or by virtue of this Act, take and subscribe an oath to be administered by the Commission in the form set out in Schedule II.

PART III

Contractor-General

Appointment of Contractor-General. **19.**—(1) The Governor-General, acting on the recommendations of both Houses of the National Assembly contained in resolutions passed in that behalf, shall appoint a Contractor-General.

(2) Notwithstanding anything to the contrary contained in this Act; the office of Contractor-General shall not be deemed to be an office in the public service.

(3) The Contractor-General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, or public administration.

Direction and control of the Contractor-General. **20.** In exercise of the powers conferred upon him by section 3(4), the Contractor-General shall be subject to the direction or control of the Commission and no proceedings of the Contractor-General on the direction and control of the Commission shall be called in question in any court of law by way of certiorari or any other means.

Tenure of office. **21.**—(1) Subject to the provisions of this Act, a person appointed as Contractor-General shall hold office for a period of three years and shall, at the expiration of such period, be eligible for reappointment.

(2) A person appointed as Contractor-General may at his own request be relieved of office by the Governor-General and shall in any case, subject to the provisions of sub-sections (3) and (4), vacate office on attaining the age of sixty-five years.

(3) The Governor-General, acting on the recommendations of the National Assembly as aforesaid, may permit a Contractor-General who attains the age of sixty-five years to continue in office until he has attained such later age, not exceeding seventy years, as may be agreed between them.

(4) Notwithstanding that he has attained the age at which he is required by or under the provisions of this section to vacate his office, the Contractor-General may continue in office for such period after attaining that age as the Governor-General, acting on the recommendations of the National Assembly as aforesaid, may specify, in order to enable the Contractor-General to give his decision or do any other thing in relation to any investigation he was conducting before he attained that age.

(5) Nothing done by the Contractor-General shall be invalid by reason only that he has attained the age at which he is required by this section to vacate his office.

22.—(1) The Contractor-General may be removed from office only for—

Removal from office.

- (a) inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause); or
- (b) misbehaviour; or
- (c) trading with a public body without the prior approval, by resolution, of each House of the National Assembly,

and shall not be so removed except in accordance with the provisions of this section.

(2) For the purposes of this section, a Contractor-General trades with a public body if, while holding office as such, he becomes party to, or is a partner in a firm or a director or manager of a company which to his knowledge becomes a party to any contract with a public body.

(3) If each House of the National Assembly by Resolution decides that the question of removing the Contractor-General from office ought to be investigated then—

- (a) the Governor-General shall refer the matter to the Belize Advisory Council which shall sit as a tribunal presided over by the Chairperson of the Council; and
- (b) the Council shall enquire into the matter and report on the facts to the Governor-General and advise the Governor-General whether the Contractor-General ought to be removed under this section.

(4) Where the question of the removal of the Contractor-General from office has been referred to the Council, the Governor-General may suspend the Contractor-General from performing the functions of his office and any such suspension may at any time be revoked by the Governor-

General and shall in any case cease to have effect if the Council advises the Governor-General that the Contractor-General ought not to be removed from office.

Disqualifications
for appointment,
etc.

23.—(1) No person shall be qualified for appointment to the office of Contractor-General if he—

- (a) is a member of the House of Representatives or the Senate;
- (b) is a member of a local authority;
- (c) is an un-discharged bankrupt;
- (d) has at any time been convicted of any offence involving dishonesty or moral turpitude; or
- (e) is a party to, or partner in a firm, or a director or manager of a company which to his knowledge is a party to any contract with a public body.

(2) The Contractor-General shall vacate office if any circumstances arise that, if he were not Contractor-General would cause him to be disqualified for appointment as such, by virtue of sub-section (1).

Restriction on
employment.

24. A person appointed as Contractor-General shall—

- (a) be a full-time officer; and
- (b) not be employed in any other capacity during any period in which that person holds office as Contractor-General.

Filling of
vacancy.

25.—(1) Where a vacancy arises in the office of Contractor-General, the Governor-General, acting on the recommendations of the National Assembly, may designate a person to act in that office during such vacancy, until a substantive appointment is made.

(2) Where by reason of illness, absence from the country or other sufficient cause, a person appointed as Contractor-General is unable to perform his functions under this Act, he may appoint a member of his staff to perform those functions for a period not exceeding two months, but if the Contractor-General is unable or fails to appoint such a person or if it is necessary that such a person be appointed for a period in excess of two months, the Governor-General, acting on the recommendations of the National Assembly, may appoint a suitable person to perform those functions.

26.—(1) Subject to sub-section (2), the Contractor-General shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law or by resolution of the National Assembly, such emoluments being not less than the emoluments which may, from time to time, be payable to a judge of the Supreme Court.

Remuneration of Contractor-General.

(2) The emoluments and terms and conditions of service of the Contractor-General, other than allowances that are not taken into account in computing pension, shall not be altered to his disadvantage during the period of his appointment or reappointment, as the case may be.

(3) The emoluments for the time being payable to the Contractor-General by virtue of this Act shall be charged on and paid out of the Consolidated Revenue Fund.

27. The provisions of Schedule III to this Act shall have effect with respect to the pension and other benefits to be paid to or in respect of a person who has held the office of Contractor-General.

Pensions and gratuities. Schedule III.

PART IV

Miscellaneous

28.—(1) Every person concerned with the administration of this Act shall regard as secret and confidential all documents, information and things disclosed to them in the execution of any of the provisions of this Act, except that no disclosure—

Secrecy of information.

(a) made by the Commission, the Contractor-General or any other person in proceedings for an offence under section 33 of this Act or under the appropriate provisions of the Criminal Code, (relating to perjury and obstruction of public justice) by virtue of section 10 (2); or

(b) which the Commission thinks necessary to make in the discharge of its functions or for the purpose of executing any of the provisions of sections 12, 13 and 32 of this Act, shall be deemed inconsistent with any duty imposed by this sub-section.

CAP. 101.

(2) No member of the Commission, the Contractor-General or any such person aforesaid shall be called upon to give evidence in respect of, or produce, any document, information or thing, aforesaid in any proceedings other than proceedings mentioned in sub-section (1).

(3) Nothing in this section shall prevent disclosure by any person of information furnished to him pursuant to section 12 of this Act.

Performance of
functions of
Commission by
members of its
staff.

29.—(1) Without prejudice to the provisions of section 25(2) of this Act, the functions of the Commission, except those under sections 13, 31 (2) and 32, may be performed by any member of its staff authorized for that purpose by the Commission.

(2) Nothing in sub-section (1), shall be construed as affecting the responsibility of the Commission for functions performed on its behalf pursuant to sub-section (1).

Funding.

30. The funds of the office of the Commission shall consist of—

- (a) such sums as may from time to time be appropriated by the National Assembly for the purposes of the office of Commission; and
- (b) all other moneys which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions.

Accounts, etc.

31.—(1) The accounts and financial transactions of the office of the Commission shall be audited annually by the Auditor General and a statement of accounts so audited shall form part of the annual report referred to in section 32.

(2) The Commission shall, before a date specified by the Minister—

- (a) submit to the Minister a statement of accounts in a form satisfactory to the Minister and audited in accordance with the provisions of sub-section (1);
- (b) submit to the Minister for approval, estimates of revenue and expenditure for the ensuing financial year.

Reports.

32.—(1) The Commission may at any time be required by the National Assembly to submit a report thereto in respect of any matter being investigated by the Commission.

(2) The Commission shall submit to the National Assembly an annual report relating generally to the execution of its functions and may at any time submit a report relating to any particular matter or matters investigated, or being investigated by it which, in the opinion of the Commission, require the special attention of the National Assembly.

(3) Reports under this section shall be submitted to the Speaker of the House of Representatives and the President of the Senate who shall, as soon as possible, have them laid on the Table of the respective Houses.

(4) The Commission may, in the public interest, from time to time publish in such manner as the Commission thinks fit, reports relating to such matters as are mentioned in sub-section (2) and any case which is the subject of a special report under section 13, but no such report shall be published until after it has been laid pursuant to sub-section (3).

33. Any person who—

Offences.

- (a) wilfully makes any false statement to mislead, or misleads or attempts to mislead the Commission or any other person in the execution of its functions under this Act; or
- (b) without lawful justification or excuse—
 - (i) obstructs, hinders or resists the Commission or any other person in the execution of its functions under this Act; or
 - (ii) fails to comply with any lawful requirement of the Commission or any other person under this Act;
- (c) deals with documents, information or things mentioned in section 28(1), in a manner inconsistent with his duty under that sub-section; or
- (d) otherwise than in the course of his duty, directly or indirectly, by himself or by any other person, in any manner whatsoever, wilfully influences or attempts to influence the decision of the Commission with regard to any complaint made to it or to any investigation made by the Commission,

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

34.—(1) Nothing in this Act shall be construed as limiting or affecting any remedy or right of appeal or objection given to any person by any other law.

Remedy under any other provision of law unaffected.

(2) The Commission may initiate or continue any investigation and report thereon pursuant to this Act notwithstanding any legal proceedings relating to the subject matter of the investigation.

35.—(1) The Commission may make regulations to provide for any matter

Regulations.

in respect of which it may be necessary or desirable to make regulations for the better carrying into effect of the provisions of this Act, and, without prejudice to the generality of the foregoing, such regulations may provide for—

- (a) any matter required by this Act to be prescribed; and
- (b) the circumstances in which and the manner in which information relating to public contracts shall be furnished to the Commission.

(2) The Commission may make the contravention of any regulation made by him under the preceding sub-section an offence punishable by a fine not exceeding ten thousand dollars or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment.

(3) All regulations made by the Commission under this section shall be laid before the National Assembly as soon as may be after the making thereof and shall be subject to negative resolution.

Application of
Prevention of
Corruption Act.
CAP. 105.

36. The Prevention of Corruption Act, shall apply to the members of the Commission and the Contractor-General and the members of the Commission and the Contractor-General shall be required to make a statutory declaration of their assets, liabilities and income and comply with all other requirements of the said Act.

Repeal.
CAP. 6.

37. The Contractor-General Act is repealed.

Savings and
transitional.

38.—(1) Notwithstanding the repeal, nothing in this Act shall affect any proceedings taken or a right which has accrued or a liability which has been incurred under the repealed Act.

(2) Where a matter or thing has been commenced by the office of the Contractor-General before the coming into force of this Act, that matter or thing may be carried on and completed by the office of the Contractor-General after the commencement of this Act as though that matter or thing had been commenced under this Act.

SCHEDULE I

[section 3 (3)]

PUBLIC CONTRACTS COMMISSION

1. Each member of the Commission, other than an *ex-officio* member shall, subject to the provisions of this Schedule, hold office for a period of three years and shall be eligible for reappointment. Tenure of office.
2. The Governor-General may appoint any person to act temporarily in the place of any member of the Commission, in the case of the absence or inability to act of such member. Temporary appointments.
- 3.-(1) The office of a member of the Commission shall become vacant—Vacancy.
 - (a) if he resigns his office;
 - (b) if his appointment is terminated in accordance with this Schedule.
- (2) If any vacancy occurs in the membership of the Commission, such vacancy shall be filled by the appointment of another member, who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed, so however, that such appointment shall be made in the same manner and from the same category of persons as the appointment of the previous member.
4. The names of all the members of the Commission as first constituted and every change of membership thereof shall be published in the Gazette. Publication of appointments.
5. A member of the Commission may at any time resign his office by instrument in writing addressed to the Governor-General and transmitted through the Chairperson, and from the date of the receipt by the Governor-General of such instrument the member shall cease to hold office. Resignation.
6. The appointment of a person as a member of the Commission may be terminated if that person—Termination of appointment.
 - (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
 - (b) becomes bankrupt or compounds with, or suspends payment to, his creditors;
 - (c) is convicted of any offence involving dishonesty;

Public Contracts Commission

- (d) is convicted and sentenced to a term of imprisonment or to death.

Procedure and meetings.

7.—(1) The Commission shall meet at least once every month and subject thereto, as often as may be necessary or expedient for the performance of its functions under this Act, and such meeting may be held at such places and times and on such days as the Commission may determine.

(2) The Chairperson shall preside at all meetings of the Commission.

(3) Four members shall constitute a quorum of the Commission.

(4) The decisions of the Commission shall be by a majority of votes and in addition to an original vote, the Chairman shall have a casting vote in any case in which the voting is equal.

(5) Subject to any provisions of this Act to the contrary, the Commission may regulate its own proceedings.

(6) The validity of any proceedings of the Commission shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

(7) Minutes in proper form of each meeting of the Commission shall be kept and shall be confirmed as soon as practicable at a subsequent meeting.

Remuneration of members.

8. There shall be paid to the members of the Commission such remuneration whether by way of salary, honorarium, travelling or other allowances as the Cabinet may determine.

Seal and authentication of documents.

9.—(1) The seal of the Commission shall be kept in the custody seal of the Chairperson or of an officer authorized by the Commission in that behalf, and shall be authenticated by the signatures of the Chairperson and another member authorized to act in that behalf.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Commission may be signified under the hand of the Chairperson or any other member authorized in that behalf.

Protection of members.

10.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member for any act done or omitted to be done in good faith in pursuance or execution or intended execution of this Act.

(2) Where any member of the Commission is exempt from liability by reason only of the provisions of this paragraph, the Commission shall be liable to the extent that it would have been if that member were an employee or agent of the Commission.

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SCHEDULE II
[section 18]

OATH OF OFFICE

I.....do swear (or solemnly and sincerely affirm and declare) that I will faithfully perform any functions assigned to me under the Contractor-General Act, Cap. 6, and I will not, on any account, at any time whatsoever, except in so far as provisions of the Act authorize, directly or indirectly ,reveal or make known any information or the nature or contents of any documents communicated to me in the performance of any functions assigned to me by virtue of the Act. SO HELP ME GOD.

SCHEDULE III
[section 27]

PENSIONABLE EMOLUMENTS OF CONTRACTOR-GENERAL

1. In this Schedule—

“pensionable emoluments” has the same meaning as in the Pensions Act;

“the Act” means the Public Contracts Commission Act.

Interpretation.
CAP. 30.

2.—(1) Where a person holding the office of Contractor-General retires in pensionable circumstances, he shall be paid pension and gratuity in accordance with this Schedule.

Entitlement of
pensions and
gratuities in
respect of
services as
Contractor-
General.

(2) For the purposes of this paragraph and paragraph 4 of this Schedule, a person retires in pensionable circumstances if he retires—

- (a) on or after the expiration of seven years from the date of his appointment to the office of Contractor-General;
- (b) by reason of ill-health prior to such expiration;
- (c) on his attaining the age at which he is required by or under the provisions of section 21 of this Act to vacate office.

(3) For the purposes of this Act, a person retires from the office of Contractor-General on the ground of ill-health where—

- (a) he retires on medical evidence, to the satisfaction of the Governor-General, that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office, and that such infirmity is likely to be permanent; or
- (b) he is removed from office, in accordance with section 22(4) of this Act for inability, arising from infirmity of mind or body, to perform the functions of his office.

(4) A person who, pursuant to section 22 of this Act, is removed from the office of Contractor-General for misbehaviour or for any cause other than inability arising from infirmity of mind or body or who retired otherwise than in pensionable circumstances may be granted by the Governor-General such pension and gratuity as the Governor-General thinks fit not exceeding the pension and gratuity to which he would have been

entitled had he retired in pensionable circumstances from such office and for the purposes of sub-paragraph (5) of this paragraph, the date of such removal from office or retirement shall be deemed to be the date of retirement in pensionable circumstances.

(5) Pension payable in accordance with this paragraph shall—

- (a) be charged on and payable out of the Consolidated Revenue Fund; and
- (b) be paid monthly in arrears with effect, subject to paragraph 4 of this Schedule, from the date of retirement in pensionable circumstances and shall, subject to the provisions of this Act, continue to be paid during the lifetime of the person entitled thereto.

Rate of pension.

3. The rate of pension payable pursuant to paragraph 2 of this Schedule to any person shall—

- (a) if the person has retired after completing not less than seven years' service as Contractor-General or, at any time, on the ground of ill-health, be at an annual rate equivalent to his pensionable emoluments at retirement; and
- (b) in any other case, be an annual rate equivalent to the sum of one-half of his pensionable emoluments at the date of retirement and one three hundred and sixtieth of such pensionable emoluments in respect of each month of service as Contractor-General,

Provided that the rate of pension shall not exceed the annual rate of such pensionable emoluments.

Special provision where Contractor-General retires before attaining age fifty.

4. Where in accordance with paragraph 2 of this Schedule, a person retires in pensionable circumstances before he has attained the age of fifty years—

- (a) the date with effect from which any pension due to him under this Act shall be payable, shall be the date on which he attains that age, but, if he elects pursuant to paragraph 5 of this Schedule to take a reduced pension and commuted pension gratuity, nothing in this paragraph shall prevent payment of the commuted pension gratuity at any time prior to the attainment of that age; and
- (b) if he dies before attaining that age, and he has not made an election to receive a reduced pension gratuity as aforesaid, he shall for the purpose of paragraph 6 of this Schedule be

deemed to have died while holding the office of Contractor-General.

5.-(1) Any person to whom a pension (in this paragraph referred to as “the original pension”) is payable pursuant to paragraph 2 of this Schedule may, at his option exercisable at his retirement in pensionable circumstances or within such period prior or subsequent to his retirement as the Governor-General may allow, be paid, in lieu of the original pension, a reduced pension at the rate of three-fourths of the annual rate of the original pension together with a gratuity (in this Act referred to as a “commuted pension gratuity”) equal to twelve and one-half times one-quarter of the original pension.

Reducing pension and gratuity.

(2) The option referred to in sub-paragraph (1) above shall be irrevocable unless the Governor-General, on such terms as he considers reasonable, otherwise permits.

6.-(1) Where a person dies while holding the office of Contractor-General there shall be paid to his legal personal representatives, a gratuity of an amount equivalent to—

Gratuity on death.

- (a) one year’s pensionable emoluments;
- (b) the commuted pension gratuity for which the person aforesaid had a right to opt pursuant to paragraph 5 of this Schedule on the assumption that he retired in pensionable circumstances at the date of his death, whichever is the greater.

(2) Where a person dies while in receipt of a pension pursuant to paragraph 2 of this Schedule, there shall be paid to his legal personal representatives a gratuity of an amount equivalent to one year’s pensionable emoluments of that person at the date of his retirement or removal from office.

7. Where a person holding the office of Contractor-General dies as a result of injuries received—

Pension to dependents when a Contractor-General dies as a result of injuries received or a disease contracted in the discharge of his duties.

- (a) in the actual discharge of his duties;
- (b) in circumstances in which the injury is not wholly or mainly due to or seriously aggravated by his own serious and culpable negligence or misconduct; and
- (c) on account of circumstances specifically attributable to the nature of his duty, while serving in that office, it shall be lawful for the Governor-General to grant to the deceased Contractor-General’s widow, children, parents or other

CAP. 30. dependents such awards as would have been made under the Pensions Act if the office of Contractor-General were a pensionable office for the purposes of that Act.

Retirement
consequent upon
injury or disease.

8. Where a Contractor-General—

- (a) is permanently injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct;
- (b) contracts a disease to which he is exposed specifically by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct;
- (c) is permanently injured as a result of an accident or damage to an aircraft while travelling by air in pursuance of official instructions and the injury was not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct;
- (d) while proceeding by a route approved by the Governor-General to or from Belize at the commencement or termination of his service therein, or of a period of secondment, duty leave, or leave therefrom, is permanently injured as the result of damage or any act of violence to the vessel, aircraft or vehicle in which he is travelling, if the Governor-General is satisfied that that damage or act is attributable to circumstances arising out of any war in which Belize is engaged, then, for the purpose of calculating any pension under this Act, any period of service as Contractor-General shall be deemed to be increased by twenty *per centum*.

Pension, etc., not
to be assigned.

9. A pension or gratuity payable under this Act shall not be assignable or transferable except for the purpose of satisfying—

- (a) debt due to the Government; or
- (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor children, of the person to whom the pension or gratuity is payable, and shall not be liable to be attached, sequestered or levied upon, for or in respect of any debt due or claim whatever except a debt or claim due to the Government.

10.-(1) Where a person dies while holding the office of Contractor-General or while entitled to a pension under paragraph 2, there shall be paid to his widow a pension at an annual rate equivalent to one-fifth of the pensionable emoluments of the person aforesaid at the date of his death or, if at that date he was entitled to received a pension under paragraph 2, at the date of his retirement or, as the case may be, removal from office in accordance with this Act.

Pension to widow.

(2) Pension payable to a widow pursuant to sub-paragraph (1) above shall—

- (a) be charged on and paid out of the Consolidated Revenue Fund; and
- (b) be paid monthly in arrears with effect from the date of her husband's death and shall, subject to the provisions of this Act, continue to be paid during her lifetime.

(3) In paragraph 7 of this Schedule and sub-paragraphs (1) and (2) of this paragraph, references to a widow shall, in the case of a female appointed Contractor-General, be deemed to include references to a widower and cognate expressions shall be construed accordingly, and similarly, references to a husband shall be deemed to include references to a wife.

11. In the exercise of his powers under this Schedule, the Governor-General shall act in accordance with the recommendations of the National Assembly.

Recommendations of National Assembly.