

CODE OF CONDUCT BILL 2016
(BILL NO. 22 OF 2016)

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BILL NO. 22 OF 2016**A BILL**

FOR AN ACT TO ESTABLISH A CODE OF CONDUCT AND FOR OTHER MATTERS
AS PRESCRIBED UNDER SECTION 149 OF THE CONSTITUTION OF THE
REPUBLIC OF FIJI

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY*Short title and commencement*

1.—(1) This Act may be cited as the Code of Conduct Act 2016.

(2) This Act comes into force on a date or dates appointed by the Minister by notice published in the Gazette.

Interpretation

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

“appointing authority” means a person or entity which is responsible for appointing or advising on the appointment of any person to whom a Code of Conduct applies or a person or entity which has the authority to take disciplinary action against, or remove from office, any person to whom a Code of Conduct applies;

“child” means a biological child, an adopted child or a stepchild who is—

- (a) under the age of 18 years; or
- (b) over the age of 18 years and is dependent on his or her parent for support;

“civil service” has the same meaning given to the term ‘public service’ under section 163(1) of the Constitution;

“Code of Conduct” means a Code of Conduct contained in the Schedules;

“Commission” means the Accountability and Transparency Commission established under section 121 of the Constitution;

“complainant” means a person who has made a complaint to the Commission under section 10;

“complaint” means a complaint made to the Commission under section 10;

“Constitution” means the Constitution of the Republic of Fiji;

“detrimental action” includes action causing, comprising or involving—

- (a) injury, damage or loss;
- (b) intimidation or harassment;
- (c) adverse discrimination, disadvantage or adverse treatment in relation to a person’s career, profession, employment, trade or business;
- (d) any disciplinary action;
- (e) dismissal or having his or her services or employment dispensed with or otherwise terminated; or
- (f) a reprisal;

“disciplined force” has the same meaning given to that term under section 163(1) of the Constitution;

“FICAC” means the Fiji Independent Commission Against Corruption established by the Fiji Independent Commission Against Corruption Promulgation 2007 and continued in existence by section 115 of the Constitution;

“FNPF” means the Fiji National Provident Fund;

“judicial officer” includes the Chief Justice, a Judge of the Supreme Court, the President of the Court of Appeal, a Justice of Appeal, a Judge of the High Court, a Master of the High Court, the Chief Registrar, the Chief Magistrate, a Magistrate, other judicial officers and members of tribunals appointed by or on the advice of the Judicial Services Commission;

“Minister” means the Minister responsible for the administration of this Act;

“property” means real property and personal property of every description whether tangible or intangible, whether situated inside or outside Fiji, and includes—

- (a) cash in a bank, building society, credit union or other financial institution;
- (b) an interest of any kind in property; and
- (c) shares or interests in any business, company, partnership, trust or scheme;

“prosecuting authority” means FICAC, provided however that for any complaint against the Commissioner or the Deputy Commissioner of FICAC, the prosecuting authority is the Director of Public Prosecutions;

“public official” means the holder of the following offices—

- (a) an office created by, or continued in existence, under the Constitution;
- (b) an office in respect of which the Constitution makes provision;
- (c) an officer or employee of any statutory authority or of any commission established by, or continued in existence, under the Constitution;
- (d) an office in the civil service and the disciplined force; or
- (e) an office established by written law,

but does not include a judicial officer, the President, the Prime Minister, members of Parliament, a member of a statutory authority, or a member of a commission established by, or continued in existence, under the Constitution, or any person to whom Schedule 1, 2, 3 or 4 applies;

“spouse” includes a *de facto* partner; and

“statement” means a statement made under section 26(1).

PART 2—ACCOUNTABILITY AND TRANSPARENCY COMMISSION

Functions and powers of the Commission

3. The Commission has such power, authority, duty and function as prescribed in this Act.

Guidelines and directions

4. The Commission may from time to time issue guidelines and directions for the performance of the Commission’s functions and for the handling of complaints.

Commission to maintain confidentiality

5.—(1) Any member, staff, employee, agent or consultant of the Commission must not, directly or indirectly, make a record of, disclose or communicate to any person any information acquired in the performance of the Commission's functions under this Act, unless—

- (a) it is necessary to do so for the purpose of, or in connection with, the performance of a function of the Commission under this Act;
- (b) it is necessary to do so for the purposes of producing a document or giving evidence to a court in the course of civil or criminal proceedings or proceedings under this Act or any other written law;
- (c) it is necessary to do so for reporting a suspected offence to the prosecuting authority, or assisting the prosecuting authority in its investigations; or
- (d) it is necessary to do so for reporting a breach of the Code of Conduct by any person to the appointing authority of that person.

(2) Any person who breaches subsection (1) commits an offence and is liable upon conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Annual report

6.—(1) The Commission must, as soon as practicable after the end of each financial year, publish an annual report on the exercise of the Commission's functions under this Act during the year, and must submit a copy to the Minister who must table the annual report in Parliament.

(2) The annual report published by the Commission under subsection (1) must not contain the names of any complainant or of any person the subject of a complaint, or specific details of any particular complaint.

PART 3—CODE OF CONDUCT

Code of Conduct

7.—(1) In accordance with section 149(a) of the Constitution, the Codes of Conduct as set out in the Schedules are hereby established.

(2) The Code of Conduct prescribed in Schedule 1 applies to the President, Prime Minister and all Ministers.

(3) The Code of Conduct contained in Schedule 2 applies to the Speaker, Deputy Speaker and all members of Parliament.

(4) The Code of Conduct contained in Schedule 3 applies to all judicial officers.

(5) The Code of Conduct contained in Schedule 4 applies to all members of a commission established by, or continued in existence, under the Constitution and all members of a statutory authority or a board of a statutory authority.

(6) The Code of Conduct contained in Schedule 5 applies to all public officials.

(7) For the purposes of this section and Schedule 1, a “Minister” includes an Assistant Minister and an Acting Minister.

Compliance

8. Every person to whom a Code of Conduct applies has a duty to conduct himself or herself in accordance with the Code of Conduct and to keep himself or herself informed of the provisions of the relevant Code of Conduct and any amendment of the Code of Conduct.

**PART 4—MONITORING COMPLIANCE AND ENFORCEMENT
OF CODE OF CONDUCT**

Monitoring compliance

9.—(1) The Commission monitors compliance with a Code of Conduct by investigating any complaint made to the Commission under this Act concerning an alleged or suspected non-compliance with a Code of Conduct by any person to whom a Code of Conduct applies.

(2) The investigation of any complaint made to the Commission concerning an alleged or suspected non-compliance with a Code of Conduct by any person to whom a Code of Conduct applies must be done in accordance with the procedures set out in this Act.

Complaints

10.—(1) Any person may make a complaint to the Commission concerning an alleged or suspected non-compliance with the Code of Conduct by any person to whom a Code of Conduct applies.

(2) A complaint under subsection (1) must be made in writing.

(3) The Commission must neither accept nor investigate any complaint from an anonymous person.

(4) Any person who seeks to make a complaint against a member of the Commission for an alleged or suspected non-compliance with the Code of Conduct by that member, may make a complaint to the Chief Justice.

(5) The Chief Justice, upon receipt of any complaint under subsection (4), must investigate any such complaint in accordance with the procedures set out under this Act and the powers vested upon the Commission under this Act.

Further information and verification by the complainant

11.—(1) Upon receipt of a complaint, the Commission must notify the complainant in writing of the receipt of the complaint.

(2) Upon receipt of the complaint, the Commission may require the complainant to provide such further information and details about the complaint as the Commission deems appropriate.

(3) The Commission must verify that every complainant is a person, including verification of the identification and address of the complainant.

(4) The Commission may require the complainant to verify the complaint or any matters referred therein by way of a statutory declaration.

Investigation by the Commission

12.—(1) The Commission must investigate any complaint received by the Commission, unless the Commission is of the opinion that—

- (a) the complaint is trivial, frivolous, vexatious, lacking in substance or not made in good faith;
- (b) the complaint is malicious or is politically motivated or is made for the purpose of discrediting, defaming, or causing reputational damage to, the person the subject of the complaint;
- (c) the complainant has disclosed the nature, substance or details of his or her complaint or has disclosed the name or office of the person the subject of the complaint to any other person or entity apart from the Commission;
- (d) there has been such a delay between the conduct complained of and the complaint to the Commission as to render an investigation unreasonable;
- (e) the subject matter of the complaint does not come within the scope of this Act;
- (f) further information and verification as required by the Commission are not provided by the complainant;
- (g) the subject matter of the complaint has been the subject of a previous complaint that has been dismissed by the Commission; or
- (h) an investigation of the complaint would be inappropriate or inexpedient.

(2) The Commission may, without having to seek any explanation from the person the subject of the complaint, summarily dismiss a complaint for any reason set out in subsection (1).

(3) If the Commission summarily dismisses a complaint under this section, then the Commission must notify the complainant in writing and provide reasons for its decision.

(4) If the Commission believes that a complaint which has been summarily dismissed under this section was malicious or was politically motivated against a person the subject of the complaint or was made for the purpose of discrediting or defaming, or causing reputational damage to, a person the subject of the complaint, then the Commission must refer the complaint to the prosecuting authority for the prosecuting authority to take such criminal proceeding under section 13 or under any other written law against the complainant as the prosecuting authority may deem appropriate.

Malicious complaints

13. Any person who makes a complaint which is malicious or is politically motivated against the person the subject of the complaint or is made for the purpose of discrediting or defaming, or causing reputational damage to, the person the subject of the complaint commits an offence and is liable upon conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Commission to require explanation

14.—(1) If the Commission, after consideration of a complaint, makes a decision under section 12 not to summarily dismiss a complaint, the Commission must refer the substance of the complaint in writing to the person the subject of the complaint, and must require that person to provide a written explanation of the matters referred to in the complaint within such time, not less than 14 days, as specified by the Commission.

(2) The Commission may, after receipt and consideration of the written explanation from the person the subject of the complaint, summarily dismiss a complaint for any of the reasons set out in section 12(1) without the need for any further investigation.

(3) If the Commission summarily dismisses a complaint under this section, then the Commission must notify the complainant in writing and provide reasons for its decision, and must also notify the person the subject of the complaint.

(4) If the Commission believes that a complaint which has been summarily dismissed under this section was malicious or was politically motivated against a person the subject of the complaint or was made for the purpose of discrediting or defaming, or causing reputational damage to, a person the subject of the complaint, then the Commission must refer the complaint to the prosecuting authority for the prosecuting authority to take such criminal proceeding under section 13 or under any other written law against the complainant as the prosecuting authority may deem appropriate.

Right to access material

15. Subject to section 16, when carrying out an investigation of a complaint which has not been summarily dismissed by the Commission under this Act, the Commission—

- (a) is entitled to full access at all convenient times to all minutes, records, contracts, documents, books, accounts and other material of any Government ministry or department, that relate to and are relevant to the investigation; and
- (b) may take extracts from, or make copies of, any such material.

Disclosure of certain matters not to be required

16.—(1) Where a person asserts that the giving of any information, the answering of any question or the production of any document, paper or thing is likely to—

- (a) prejudice the security, defence or international relations of the State (including the State's relations with any other State or country or with any international organisation); or

- (b) involve the disclosure of proceedings, deliberations or decisions of Cabinet or of any committee of Cabinet which relate to matters of a secret or confidential nature and the disclosure of which would be injurious to the public interest,

that person must produce a certificate signed by the Attorney-General and certifying the matters specified in paragraphs (a) or (b).

(2) Upon the production of a certificate referred to in subsection (1), the Commission must not require the information or answer to be given or, as the case may be, the document, paper or thing to be produced.

(3) The Commission must not require production of any document, paper or thing or require answers to any question from any person if a written law authorises or requires the withholding of any document, paper or thing or the refusal to answer any question by that person.

(4) If the person the subject of a complaint is the Attorney-General, then a certificate under subsection (1) must be signed by the Prime Minister.

Proceedings of the Commission

17.—(1) Any investigation of any complaint by the Commission under this Act must be conducted in private.

(2) Any member, staff, employee, agent or consultant of the Commission must not disclose or report to any person or entity any details concerning an investigation of any complaint by the Commission under this Act, including the name of the complainant and the name of the person the subject of a complaint.

(3) Any person who breaches subsection (2) commits an offence and is liable upon conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 5 years, or to both.

(4) Nothing in this Act compels the Commission to hold any hearing and no person, other than the person whose conduct is being investigated, is entitled as of right to be heard by the Commission.

Decision after investigation

18.—(1) Upon completing its investigation into any complaint which has not been summarily dismissed by the Commission under this Act, the Commission must, by written notice, either—

- (a) dismiss the complaint and provide a copy of the written notice to the complainant and the person the subject of the complaint; or
- (b) refer the complaint to the prosecuting authority and the appointing authority of the person the subject of the complaint if the Commission decides that the conduct of that person warrants further investigation, and must provide a copy of the written notice to the complainant and the person the subject of the complaint.

- (2) If the Commission refers a complaint under subsection (1)(b)—
- (a) the appointing authority of the person the subject of the complaint may take such disciplinary action against that person as the appointing authority may deem appropriate; and
 - (b) the prosecuting authority may institute such criminal proceedings against the person the subject of the complaint as the prosecuting authority may deem appropriate.

Effect of investigation by the Commission

19. The result of any investigation under this Act by the Commission is not a bar to proceedings in respect of the same conduct under any other written law.

PART 5—PROTECTION OF COMPLAINANTS

Immunity for making complaints

20. Subject to the provisions of this Act, a person who makes a complaint under this Act concerning an alleged or suspected non-compliance with a Code of Conduct by any person—

- (a) incurs no civil or criminal liability for doing so; and
- (b) is not, for doing so, liable—
 - (i) to any disciplinary action; or
 - (ii) for any breach of duty of secrecy or confidentiality (whether or not imposed by a written law) applicable to that person.

Offence of taking detrimental action

21.—(1) Any person who takes or threatens to take any detrimental action against another person because anyone has made, or intends to make, a complaint under this Act for an alleged or suspected non-compliance with a Code of Conduct by any person commits an offence and is liable upon conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 5 years, or to both.

(2) Any person who—

- (a) attempts to commit an offence created by subsection (1); or
- (b) intending that an offence created by subsection (1) be committed, incites another person to commit that offence,

commits an offence and is liable upon conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Order preventing detrimental action

22.—(1) Any person who believes that detrimental action has been taken or may be taken against him or her in reprisal for a complaint made by him or her under this Act to the Commission may make a report to the Commission.

(2) If the Commission, upon receipt of a report under subsection (1) is satisfied that a person has taken or intends to take detrimental action against the person making the report under subsection (1) in reprisal for a complaint made to the Commission, the Commission may make an application to the High Court for an—

- (a) order that the person who took the detrimental action remedy that action; or
- (b) injunction and such other orders against the person who has taken or intends to take the detrimental action in such terms as the High Court thinks appropriate.

Protection of identity

23.—(1) A person must not disclose any information that might identify or tend to identify anyone as a person who made a complaint under this Act unless—

- (a) the person who made the complaint under this Act consents to the disclosure of information that might identify or tend to identify him or her;
- (b) the disclosure is made in accordance with an order of a court; or
- (c) the disclosure is made for the purposes of any criminal proceeding by the prosecuting authority or for the purposes of any disciplinary action by an appointing authority.

(2) Any person who discloses any information contrary to subsection (1) commits an offence and is liable upon conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 5 years, or to both.

(3) A person must not disclose any information that might identify or tend to identify anyone as a person the subject of a complaint under this Act unless—

- (a) the person the subject of the complaint under this Act consents to the disclosure of information that might identify or tend to identify him or her;
- (b) the disclosure is made in accordance with an order of a court; or
- (c) the disclosure is made for the purposes of any criminal proceeding by the prosecuting authority or for the purposes of any disciplinary action by an appointing authority.

(4) Any person who discloses any information contrary to subsection (3) commits an offence and is liable upon conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Protection forfeited in certain cases

24. Any person who has made a complaint under this Act and—

- (a) who fails, without reasonable excuse, to assist the Commission in investigating the complaint in any way, including failing to provide the Commission with any information requested by the Commission;

- (b) who discloses the details of his or her complaint to any other person or entity other than the Commission;
- (c) the substance of the complaint was malicious or was politically motivated against the person the subject of the complaint or was made for the purpose of discrediting or defaming, or causing reputational damage to, the person the subject of the complaint; or
- (d) who breaches any provision of this Act,

forfeits the protection given to that person under this Part.

PART 6—DECLARATION OF INCOME, ASSETS, OTHER INTERESTS AND LIABILITIES

Application of this Part

25.—(1) This Part applies to all persons holding the positions prescribed in Schedule 6, including any person acting in any such position.

(2) The Minister may, by regulations, amend Schedule 6 and prescribe other public officials or civil servants or members or employees of statutory authorities and other State entities to which this Part applies.

Statement of income, assets, other interests and liabilities

26.—(1) A person to whom this Part applies must provide the Commission, in the prescribed form and in accordance with the guidelines or a directive issued by the Commission, with a statement setting out, to the best of the person's knowledge, the matters specified in subsection (2) in respect of that person and his or her spouse and any child—

- (a) within 3 months after the coming into operation of this Act; or
- (b) within 3 months after being appointed to a position prescribed in Schedule 6,

whichever is the later, and thereafter, while he or she remains the holder of an office prescribed in Schedule 6, on or before 31 January of each year, a statement as at 31 December of the previous year.

(2) The matters referred to in subsection (1) are—

- (a) total assets whether in Fiji or abroad (including money and other property but excluding any FNPF or superannuation fund whether in Fiji or abroad) owned by or in possession of each of them;
- (b) the total income whether in Fiji or abroad, and the source of such income, received by each of them during the period to which the statement relates;
- (c) any directorships or other office in a corporation or other organisation whether in Fiji or abroad held by each of them;

- (d) any business transaction over an amount prescribed by regulations whether in Fiji or abroad entered into by each of them during the period to which the statement relates whether in Fiji or abroad;
- (e) any assets acquired by each of them whether in Fiji or abroad during the period to which the statement relates; and
- (f) the liabilities incurred, or discharged, by each of them whether in Fiji or abroad during the period to which the statement relates, and the amount of each such liability (including any outstanding credit card balance as at the date of the statement).

(3) Regulations made under this Act may specify items which are minor items for which it will be sufficient compliance with this section if the statement shows the general nature of such items.

(4) The Commission may by written notice require a person to whom this Part applies to explain or give details or further details of any matter relating to the statement including—

- (a) items mentioned in subsection (2);
- (b) omissions or apparent omissions; or
- (c) discrepancies in the statement or between it and other statements or other information available to the Commission.

(5) Subject to section 27, statements and any other information given to the Commission under this section must not be revealed to any person to whom this Part applies except—

- (a) by the Commission, or any other member of the Commission's staff authorised by the Commission, in the course of the Commission's duties with respect to any proceedings or preparatory to proceedings under this Act; or
- (b) under an order of a court.

(6) Any person who breaches subsection (5) commits an offence and is liable upon conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Disclosure of statement

27.—(1) Any person or entity may, upon making a written request to the Commission and upon payment of such fees as may be prescribed by the Commission, obtain a copy of a statement and any other information given to the Commission by any person to whom this Part applies.

(2) Upon receipt of a written request under subsection (1), the Commission must within 14 days of the receipt of the request, provide to the person or entity making the request a copy of a statement and any other information given to the Commission with respect to the person to whom this Part applies whose statement is being sought by the person or entity making the request.

(3) Any person or entity who obtains a copy of a statement given to the Commission by any person to whom this Part applies must not publish or broadcast by any medium whatsoever or make available to the media in any way whatsoever the contents of the statement obtained under this section.

(4) Any person who breaches subsection (3) commits an offence and is liable upon conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 5 years, or to both.

Failure to provide statement

28. Any person to whom this Part applies who—

- (a) fails without reasonable excuse (the proof of which is upon him or her) to give to the Commission a statement in accordance with section 26 or to give any explanation or details required under section 26; or
- (b) knowingly, recklessly or negligently gives a statement or explanation required under section 26, or any other detail, that is false, misleading or incomplete in a material particular,

commits an offence and is liable upon conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 5 years, or to both.

PART 7—MISCELLANEOUS

Regulations

29. The Minister may, in consultation with the Commission, make regulations prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.

SCHEDULE 1

CODE OF CONDUCT FOR PRESIDENT, PRIME MINISTER AND MINISTERS

1. Observance of this Code

- 1.1 A person to whom this Code applies has a duty to conduct himself or herself in accordance with this Code and therefore to keep himself or herself informed of its provisions and any amendments.

2. Conflicts of Interest

- 2.1 So as to protect and uphold the public interest, a person to whom this Code applies must take reasonable steps to avoid, resolve or disclose any conflict of interest, financial or non-financial, that arises or is likely to arise, between his or her personal interests and his or her official duties.
- 2.2 A person to whom this Code applies should not allow his or her private interest to conflict with his or her public position. It is his or her responsibility to avoid such conflicts of interest, whether real, potential or apparent.
- 2.3 A person to whom this Code applies must declare any such conflict of interest in writing to the appointing authority as soon as possible after becoming aware of the conflict.
- 2.4 A person to whom this Code applies is individually responsible for preventing conflicts of interest.
- 2.5 A conflict of interest arises from a situation in which the person to whom this Code applies has a private interest which is such as to influence, or appear to influence, the impartial and objective performance of his or her official duties.
- 2.6 Since the person to whom this Code applies is usually the only person who knows whether he or she is in that situation, the person to whom this Code applies has a personal responsibility to—
- (a) be alert to any actual or potential conflict of interest; and
 - (b) take steps to avoid such conflict.

3. Divestment of Personal Interests

- 3.1 A person to whom this Code applies, upon assuming office, must take transparent steps to deal with the financial and other interests of himself or herself, or his or her spouse or child, which could create the impression of a material conflict with his or her public duties.

4. Improper Advantage and Misuse of Official Position

- 4.1 A person to whom this Code applies should never take undue advantage of his or her position for his or her private interest.

- 4.2 A person to whom this Code applies must undertake, upon assuming office, not to use his or her position improperly to gain a direct or indirect personal advantage for himself or herself, or any other person or entity, not enjoyed by the general public.
- 4.3 A person to whom this Code applies should not offer or give any advantage in any way connected with his or her position, unless lawfully authorised to do so.

5. Confidentiality

- 5.1 Having due regard for the right of access to official information, a person to whom this Code applies has a duty to treat appropriately, with all necessary confidentiality, all information and documents acquired by him or her in the course of, or as a result of, his or her appointment and during the course of his or her official duties.
- 5.2 A person to whom this Code applies must undertake, upon assuming office, not to use any information obtained in the course of his or her official duties so as to gain a direct or indirect personal advantage for himself or herself, or any other person or entity, not enjoyed by the general public, whether during the course of his or her appointment or upon resignation, retirement or dismissal from office.

6. Improper Use of Public Resources

- 6.1 A person to whom this Code applies must not use public resources, or allow such resources to be used by others, for personal advantage or benefit.
- 6.2 A person to whom this Code applies must use and manage public resources in accordance with any rules and guidelines regarding the use of those resources.
- 6.3 A person to whom this Code applies must be scrupulous in ensuring the legitimacy and accuracy of any claim for the payment of any remuneration or allowance he or she makes on the public purse.
- 6.4 A person to whom this Code applies must regard the skills and abilities of civil servants as a public resource to be utilised appropriately.

7. Gifts and Benefits

- 7.1 A person to whom this Code applies must not solicit, encourage or accept gifts, benefits or favours either for himself or herself or for another person in connection with performing or not performing his or her official duties, contrary to any gift and benefit policy issued by the person's appointing authority.

8. Susceptibility to Influence by Others

- 8.1 A person to whom this Code applies should not allow himself or herself to be put, or appear to be put, in a position of obligation to return a favour to any person or body. Nor should his or her conduct in his or her official capacity or in his or her private life make him or her susceptible to the improper influence of others.

9. Lobbyists

- 9.1 A person to whom this Code applies must handle any dealings with lobbyists so as to avoid giving rise to a conflict of interest between his or her public duty and personal interests.

10. Directorships and Other Forms of Employment

- 10.1 A person to whom this Code applies must not engage in any outside employment that involves a substantial commitment of time and effort such as to interfere with his or her official duties.
- 10.2 Except with the express approval of the appointing authority, a person to whom this Code applies will resign or decline directorships of public or private companies and businesses on taking up office.
- (a) A person to whom this Code applies may hold a directorship in a private company operating a family farm, business or investment with the express approval of the appointing authority.
- (b) Approval to retain a directorship of a private company or business will be granted only if the appointing authority is satisfied that no conflict of interest is likely to arise.
- 10.3 A person to whom this Code applies will resign from all positions held in business (or professional) associations or trade unions on taking up office. Individual membership of such business or professional association and of a trade union does not constitute a 'position'.
- 10.4 A person to whom this Code applies shall not act as a consultant or adviser to any company, business or other interest, whether paid or unpaid, or provide assistance to any such body, except as may be appropriate in his or her official capacity.

11. Shareholdings

- 11.1 A person to whom this Code applies, must declare all shares or interests in any business, company, partnership, trust or scheme, to the appointing authority and must relinquish any shareholding or interest if directed to do so by the appointing authority.

12. Post-office Employment

12.1 A person to whom this Code applies must undertake that upon leaving office and for a period of 12 months thereafter, he or she will not take up any employment with, accept a directorship of, or act as a consultant to any company, business or organisation with which he or she has had official dealings in his or her last 12 months in office.

12.2 A person to whom this Code applies must undertake that upon leaving office he or she will not use official information which is not in the public domain, or information obtained in confidence in the course of his or her official duties, for the private advantage or benefit of himself or herself or another person or persons.

13. Duty to Act Lawfully

13.1 In decision making, a person to whom this Code applies should act lawfully and exercise his or her discretionary powers, taking into account only relevant matters.

14. Respect for Persons

14.1 A person to whom this Code applies is to treat everyone with respect, courtesy and in a fair and equitable manner without harassment, victimisation or discrimination in accordance with section 26(3) of the Constitution.

15. Respect for Rights

15.1 In the performance of his or her duties, a person to whom this Code applies should not act arbitrarily to the detriment of any person, group or body and should have due regard for the rights, duties and proper interests of all others.

16. Public Officials

16.1 A person to whom this Code applies must not by his or her decisions, directions or conduct in office encourage or induce public officials to break the law, or to fail to comply with a code of ethical conduct applicable to such public officials.

SCHEDULE 2

CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT, SPEAKER AND
DEPUTY SPEAKER**1. Observance of this Code**

- 1.1 A person to whom this Code applies has a duty to conduct himself or herself in accordance with this Code and therefore to keep himself or herself informed of its provisions and any amendments.

2. Conflicts of Interest

- 2.1 So as to protect and uphold the public interest, a person to whom this Code applies must take reasonable steps to avoid, resolve or disclose any conflict of interest, financial or non-financial, that arises or is likely to arise, between his or her personal interests and his or her official duties.
- 2.2 A person to whom this Code applies should not allow his or her private interest to conflict with his or her public position. It is his or her responsibility to avoid such conflicts of interest, whether real, potential or apparent.
- 2.3 A person to whom this Code applies must declare any such conflict of interest in writing to the appointing authority as soon as possible after becoming aware of the conflict.
- 2.4 A person to whom this Code applies is individually responsible for preventing conflicts of interest.
- 2.5 A conflict of interest arises from a situation in which the person to whom this Code applies has a private interest which is such as to influence, or appear to influence, the impartial and objective performance of his or her official duties.
- 2.6 Since the person to whom this Code applies is usually the only person who knows whether he or she is in that situation, the person to whom this Code applies has a personal responsibility to—
- (a) be alert to any actual or potential conflict of interest; and
 - (b) take steps to avoid such conflict.

3. Improper Advantage and Misuse of Official Position

- 3.1 A person to whom this Code applies should never take undue advantage of his or her position for his or her private interest.
- 3.2 A person to whom this Code applies must undertake, upon assuming office, not to use his or her position improperly to gain a direct or indirect personal advantage for himself or herself, or any other person or entity, not enjoyed by the general public.

- 3.3 A person to whom this Code applies, during and after leaving public office, must not use his or her influence improperly in order to obtain appointment, promotion, advancement, transfer or any other advantage or benefit on behalf of himself or herself or another person or persons.

4. Confidentiality

- 4.1 Having due regard for the right of access to official information, a person to whom this Code applies has a duty to treat appropriately, with all necessary confidentiality, all information and documents acquired by him or her in the course of, or as a result of, his or her appointment and during the course of his or her official duties.
- 4.2 A person to whom this Code applies must undertake, upon assuming office, not to use any information obtained in the course of his or her official duties so as to gain a direct or indirect personal advantage for himself or herself, or any other person or entity, not enjoyed by the general public, whether during the course of his or her appointment or upon resignation, retirement or dismissal from office.

5. Improper Use of Public Resources

- 5.1 A person to whom this Code applies must not use public resources, or allow such resources to be used by others, for personal advantage or benefit.
- 5.2 A person to whom this Code applies must use and manage public resources in accordance with any rules and guidelines regarding the use of those resources.
- 5.3 A person to whom this Code applies must be scrupulous in ensuring the legitimacy and accuracy of any claim for the payment of any remuneration or allowance he or she makes on the public purse.

6. Gifts and Benefits

- 6.1 A person to whom this Code applies must not solicit, encourage or accept gifts, benefits or favours either for himself or herself or for another person in connection with performing or not performing his or her official duties, contrary to any gift and benefit policy issued by the person's appointing authority.

7. Susceptibility to Influence by Others

- 7.1 A person to whom this Code applies should not allow himself or herself to be put, or appear to be put, in a position of obligation to return a favour to any person or body. Nor should his or her conduct in his or her official capacity or in his or her private life make him or her susceptible to the improper influence of others.

8. Lobbyists

8.1 A person to whom this Code applies must handle any dealings with lobbyists so as to avoid giving rise to a conflict of interest between his or her public duty and personal interests.

9. Outside Employment

9.1 A person to whom this Code applies must not engage in any outside employment that involves a substantial commitment of time and effort such as to interfere with his or her duties as the Speaker, Deputy Speaker or a member of Parliament.

10. Duty to Act Lawfully

10.1 In decision making, a person to whom this Code applies should act lawfully and exercise his or her discretionary powers, taking into account only relevant matters.

11. Respect for Persons

11.1 A person to whom this Code applies is to treat everyone with respect, courtesy and in a fair and equitable manner without harassment, victimisation or discrimination in accordance with section 26(3) of the Constitution.

12. Respect for Rights

12.1 In the performance of his or her duties, a person to whom this Code applies should not act arbitrarily to the detriment of any person, group or body and should have due regard for the rights, duties and proper interests of all others.

SCHEDULE 3

CODE OF CONDUCT FOR JUDICIAL OFFICERS

1. Observance of this Code

1.1 A judicial officer has a duty to conduct himself or herself in accordance with this Code and therefore to keep himself or herself informed of its provisions and any amendments.

2. Independence

2.1 Judicial independence is a prerequisite to the rule of law and a fundamental guarantee of a fair trial. A judicial officer shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

2.2 A judicial officer shall exercise the judicial function independently on the basis of the judicial officer's assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

2.3 A judicial officer shall be independent in relation to society in general and in relation to the particular parties to a dispute which the judicial officer has to adjudicate.

2.4 A judicial officer shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of Government, but must also appear to a reasonable observer to be free therefrom.

2.5 In performing judicial duties, a judicial officer shall be independent of judicial colleagues in respect of decisions which the judicial officer is obliged to make independently.

2.6 A judicial officer shall encourage and uphold safeguards for the discharge of judicial duties in order to maintain and enhance the institutional and operational independence of the Judiciary.

2.7 A judicial officer shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the Judiciary which is fundamental to the maintenance of judicial independence.

3. Impartiality

3.1 Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

- 3.2 A judicial officer shall perform his or her judicial duties without favour, bias or prejudice.
- 3.3 A judicial officer shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judicial officer and of the Judiciary.
- 3.4 A judicial officer shall, so far as is reasonable, so conduct himself or herself as to minimise the occasions on which it will be necessary for the judicial officer to be disqualified from hearing or deciding cases.
- 3.5 A judicial officer shall not knowingly, while a proceeding is before, or could come before, the judicial officer, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall the judicial officer make any comment in public or otherwise that might affect the fair trial of any person or issue.
- 3.6 A judicial officer shall disqualify himself or herself from participating in any proceedings in which the judicial officer is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judicial officer is unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where—
 - (a) the judicial officer has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;
 - (b) the judicial officer previously served as a lawyer or was a material witness in the matter in controversy; or
 - (c) the judicial officer, or a member of the judicial officer's family, has an economic interest in the outcome of the matter in controversy, provided that disqualification of a judicial officer shall not be required if no other tribunal can be constituted to deal with the case or, because of urgent circumstances, failure to act could lead to a serious miscarriage of justice.

4. Integrity

- 4.1 Integrity is essential to the proper discharge of the judicial office.
- 4.2 A judicial officer shall ensure that his or her conduct is above reproach in the view of a reasonable observer.
- 4.3 The behaviour and conduct of a judicial officer must reaffirm the people's faith in the integrity of the Judiciary. Justice must not merely be done but must also be seen to be done.

5. Propriety

- 5.1 Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a judicial officer.
- 5.2 A judicial officer shall avoid impropriety and the appearance of impropriety in all of the judicial officer's activities.
- 5.3 As a subject of constant public scrutiny, a judicial officer must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, a judicial officer shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.
- 5.4 A judicial officer shall, in his or her personal relations with individual members of the legal profession who practise regularly in the judicial officer's court, avoid situations which might reasonably give rise to the suspicion or appearance of favouritism or partiality.
- 5.5 A judicial officer shall not participate in the determination of a case in which any member of the judicial officer's family represents a litigant or is associated in any manner with the case.
- 5.6 A judicial officer shall not allow the use of the judicial officer's residence by a member of the legal profession to receive clients or other members of the legal profession.
- 5.7 A judicial officer, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judicial officer shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the Judiciary.
- 5.8 A judicial officer shall inform himself or herself about the judicial officer's personal and fiduciary financial interests and shall make reasonable efforts to be informed about the financial interests of members of the judicial officer's family.
- 5.9 A judicial officer shall not allow the judicial officer's family, social or other relationships to improperly influence the judicial officer's judicial conduct and judgement as a judicial officer.
- 5.10 A judicial officer shall not use or lend the prestige of the judicial office to advance the private interests of the judicial officer, a member of the judicial officer's family or of anyone else, nor shall a judicial officer convey or permit others to convey the impression that anyone is in a special position improperly to influence the judicial officer in the performance of judicial duties.

- 5.11 Confidential information acquired by a judicial officer in the judicial officer's judicial capacity shall not be used or disclosed by the judicial officer for any other purpose not related to the judicial officer's judicial duties.
- 5.12 Subject to the proper performance of judicial duties, a judicial officer may—
- (a) write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;
 - (b) appear at a public hearing before an official body concerned with matters relating to the law, the legal system, the administration of justice or related matters;
 - (c) serve as a member of an official body, or other Government commission, committee or advisory body, if such membership is not inconsistent with the perceived impartiality and political neutrality of a judicial officer; or
 - (d) engage in other activities if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties.
- 5.13 A judicial officer shall not practise law whilst the holder of judicial office.
- 5.14 A judicial officer may form or join associations of judicial officers or participate in other organisations representing the interests of judicial officers.
- 5.15 A judicial officer and members of the judicial officer's family, shall neither ask for, nor accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done by the judicial officer in connection with the performance of judicial duties.
- 5.16 A judicial officer shall not knowingly permit court staff or others subject to the judicial officer's influence, direction or authority, to ask for, or accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done in connection with his or her duties or functions.
- 5.17 Subject to law and to any legal requirements of public disclosure, a judicial officer may receive a token gift, award or benefit as appropriate to the occasion on which it is made in accordance with the gift policy issued by the judicial officer's appointing authority, provided that such gift, award or benefit might not reasonably be perceived as intended to influence the judicial officer in the performance of judicial duties or otherwise give rise to an appearance of partiality.

6. Equality

- 6.1 Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.
- 6.2 A judicial officer shall be aware of, and understand, diversity in society and differences arising from various sources, including but not limited to race, culture, ethnic or social origin, colour, place of origin, sex, gender, sexual orientation, gender identity and expression, birth, primary language, economic, social or health status, disability, age, religion, conscience, marital status, pregnancy and other like causes (“irrelevant grounds”).
- 6.3 A judicial officer shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.
- 6.4 A judicial officer shall carry out judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and judicial colleagues, without differentiation on any irrelevant ground, immaterial to the proper performance of such duties.

SCHEDULE 4

CODE OF CONDUCT FOR MEMBERS OF COMMISSIONS AND STATUTORY AUTHORITIES

1. Observance of this Code

- 1.1 A person to whom this Code applies has a duty to conduct himself or herself in accordance with this Code and therefore to keep himself or herself informed of its provisions and any amendments.

2. Conflict of Interest

- 2.1 So as to protect and uphold the public interest, a person to whom this Code applies must take reasonable steps to avoid, resolve or disclose any conflict of interest, financial or non-financial, that arises or is likely to arise, between his or her personal interests and his or her official duties.
- 2.2 A person to whom this Code applies should not allow his or her private interest to conflict with his or her public position. It is his or her responsibility to avoid such conflicts of interest, whether real, potential or apparent.
- 2.3 A person to whom this Code applies must declare any such conflict of interest in writing to his or her appointing authority as soon as possible after becoming aware of the conflict.
- 2.4 A person to whom this Code applies is individually responsible for preventing conflicts of interest.
- 2.5 A conflict of interest arises from a situation in which the person to whom this Code applies has a private interest which is such as to influence, or appear to influence, the impartial and objective performance of his or her official duties.
- 2.6 Since the person to whom this Code applies is usually the only person who knows whether he or she is in that situation, the person to whom this Code applies has a personal responsibility to—
 - (a) be alert to any actual or potential conflict of interest; and
 - (b) take steps to avoid such conflict.

3. Improper Advantage and Misuse of Official Position

- 3.1 A person to whom this Code applies should never take undue advantage of his or her position for his or her private interest.
- 3.2 A person to whom this Code applies must undertake, upon assuming office, not to use his or her position improperly to gain a direct or indirect personal advantage for himself or herself, or any other person or entity, not enjoyed by the general public.

- 3.3 A person to whom this Code applies should not offer or give any advantage in any way connected with his or her position, unless lawfully authorised to do so.
- 3.4 A person to whom this Code applies should not seek to influence for private purposes any person, including public officials, by using his or her official position or by offering him or her personal advantages.

4. Confidentiality

- 4.1 Having due regard for the right of access to official information, a person to whom this Code applies has a duty to treat appropriately, with all necessary confidentiality, all information and documents acquired by him or her in the course of, or as a result of, his or her appointment and during the course of his or her official duties.
- 4.2 A person to whom this Code applies must undertake, upon assuming office, not to use any information obtained in the course of his or her official duties so as to gain a direct or indirect personal advantage for himself or herself, or any other person or entity, not enjoyed by the general public, whether during the course of his or her appointment or upon resignation, retirement or dismissal from office.

5. Information Held by Public Authorities

- 5.1 A person to whom this Code applies should only disclose information in accordance with the rules and requirements applying to the entity by which he or she is appointed.
- 5.2 A person to whom this Code applies should take appropriate steps to protect the security and confidentiality of information for which he or she is responsible or of which he or she becomes aware.
- 5.3 A person to whom this Code applies should not seek access to information which it is inappropriate for him or her to have. A person to whom this Code applies should not make improper use of information which he or she may acquire in the course of, or arising from, his or her appointment.
- 5.4 Equally the person to whom this Code applies has a duty not to withhold official information that should properly be released and a duty not to provide information which he or she knows or has a reasonable ground to believe is false or misleading.

6. Improper Use of Public Resources

- 6.1 A person to whom this Code applies must not use public resources, or allow such resources to be used by others, for personal advantage or benefit.
- 6.2 A person to whom this Code applies must use and manage public resources in accordance with any rules and guidelines regarding the use of those resources.

- 6.3 In the exercise of his or her discretionary powers, a person to whom this Code applies should ensure that on the one hand the staff, and on the other hand the public property, facilities, services and financial resources with which he or she is entrusted are managed and used effectively, efficiently and economically. They should not be used for private purposes except when permission is lawfully given.
- 6.4 A person to whom this Code applies must be scrupulous in ensuring the legitimacy and accuracy of any claim for the payment of any remuneration or allowance he or she makes on the public purse.

7. Gifts and Benefits

- 7.1 A person to whom this Code applies must not solicit, encourage or accept gifts, benefits or favours either for himself or herself or for another person in connection with performing or not performing his or her official duties, contrary to any gift and benefit policy issued by the person's appointing authority.

8. Susceptibility to Influence by Others

- 8.1 A person to whom this Code applies should not allow himself or herself to be put, or appear to be put, in a position of obligation to return a favour to any person or body. Nor should his or her conduct in his or her official capacity or in his or her private life make him or her susceptible to the improper influence of others.

9. Duty to Act Lawfully

- 9.1 A person to whom this Code applies should carry out his or her duties in accordance with the Constitution and all laws, and with those lawful instructions and ethical standards which relate to his or her functions.
- 9.2 A person to whom this Code applies should not and should not attempt to frustrate the lawful policies, decisions or actions of the State.
- 9.3 In decision making, a person to whom this Code applies should act lawfully and exercise his or her discretionary powers impartially, taking into account only relevant matters.

10. Respect for Persons

- 10.1 A person to whom this Code applies is to treat everyone with respect, courtesy and in a fair and equitable manner without harassment, victimisation or discrimination in accordance with section 26(3) of the Constitution.

11. Respect for Rights

- 11.1 In the performance of his or her duties, a person to whom this Code applies should not act arbitrarily to the detriment of any person, group or body and should have due regard for the rights, duties and proper interests of all others.

SCHEDULE 5

CODE OF CONDUCT FOR PUBLIC OFFICIALS

1. Observance of this Code

1.1 A public official has a duty to conduct himself or herself in accordance with this Code and therefore to keep himself or herself informed of its provisions and any amendments.

2. Conflict of Interest

2.1 So as to protect and uphold the public interest, a public official must take reasonable steps to avoid, resolve or disclose any conflict of interest, financial or non-financial, that arises or is likely to arise, between his or her personal interests and his or her official duties.

2.2 A public official should not allow his or her private interest to conflict with his or her public position. It is his or her responsibility to avoid such conflicts of interest, whether real, potential or apparent.

2.3 A public official must declare any such conflict of interest in writing to his or her appointing authority as soon as possible after becoming aware of the conflict.

2.4 A public official is individually responsible for preventing conflicts of interest.

2.5 A conflict of interest arises from a situation in which the public official has a private interest which is such as to influence, or appear to influence, the impartial and objective performance of his or her official duties.

2.6 Since the public official is usually the only person who knows whether he or she is in that situation, the public official has a personal responsibility to—

(a) be alert to any actual or potential conflict of interest;

(b) take steps to avoid such conflict;

(c) disclose to his or her appointing authority any such conflict as soon as he or she becomes aware of it; and

(d) comply with any final decision to withdraw from the situation or to divest himself or herself of the advantage causing the conflict.

2.7 Any conflict of interest declared by a candidate to the civil service or to a new post in the civil service should be resolved before appointment.

3. Declaration of interests

- 3.1 A public official who occupies a position in which his or her personal or private interests are likely to be affected by his or her official duties should, as lawfully required, declare upon appointment, at regular intervals thereafter and whenever any changes occur to the nature and extent of those interests.

4. Improper Advantage and Misuse of Official Position

- 4.1 A public official should never take undue advantage of his or her position for his or her private interest.
- 4.2 A public official must undertake, upon assuming office, not to use his or her position improperly to gain a direct or indirect personal advantage for himself or herself, or any other person or entity, not enjoyed by the general public.
- 4.3 A public official should not offer or give any advantage in any way connected with his or her position as a public official, unless lawfully authorised to do so.
- 4.4 A public official should not seek to influence for private purposes any person, including other public officials, by using his or her official position or by offering him or her personal advantages.

5. Confidentiality

- 5.1 Having due regard for the right of access to official information, a public official has a duty to treat appropriately, with all necessary confidentiality, all information and documents acquired by him or her in the course of, or as a result of, his or her employment and during the course of his or her official duties.
- 5.2 A public official must undertake, upon assuming office, not to use any information obtained in the course of his or her official duties so as to gain a direct or indirect personal advantage for himself or herself, or any other person or entity, not enjoyed by the general public, whether during the course of his or her appointment or upon resignation, retirement or dismissal from office.

6. Information Held by Public Authorities

- 6.1 A public official should only disclose information in accordance with the rules and requirements applying to the entity by which he or she is employed.
- 6.2 A public official should take appropriate steps to protect the security and confidentiality of information for which he or she is responsible or of which he or she becomes aware.

- 6.3 A public official should not seek access to information which it is inappropriate for him or her to have. A public official should not make improper use of information which he or she may acquire in the course of, or arising from, his or her employment.
- 6.4 Equally the public official has a duty not to withhold official information that should properly be released and a duty not to provide information which he or she knows or has a reasonable ground to believe is false or misleading.

7. Improper Use of Public Resources

- 7.1 A public official must not use public resources, or allow such resources to be used by others, for personal advantage or benefit.
- 7.2 A public official must use and manage public resources in accordance with any rules and guidelines regarding the use of those resources.
- 7.3 In the exercise of his or her discretionary powers, a public official should ensure that on the one hand the staff, and on the other hand the public property, facilities, services and financial resources with which he or she is entrusted are managed and used effectively, efficiently and economically. They should not be used for private purposes except when permission is lawfully given.
- 7.4 A public official must be scrupulous in ensuring the legitimacy and accuracy of any claim for the payment of any remuneration or allowance he or she makes on the public purse.

8. Gifts and Benefits

- 8.1 A public official must not solicit, encourage or accept gifts, benefits or favours either for himself or herself or for another person in connection with performing or not performing his or her official duties, contrary to any gift and benefit policy issued by the public official's appointing authority.

9. Susceptibility to Influence by Others

- 9.1 A public official should not allow himself or herself to be put, or appear to be put, in a position of obligation to return a favour to any person or body. Nor should his or her conduct in his or her official capacity or in his or her private life make him or her susceptible to the improper influence of others.

10. Political Neutrality

- 10.1 A public official should carry out his or her duties in accordance with the Constitution and all laws, and with those lawful instructions and ethical standards which relate to his or her functions.
- 10.2 A public official should act in a politically neutral manner and should not attempt to frustrate the lawful policies, decisions or actions of the State.

11. Political or Public Activity

- 11.1 Subject to respect for fundamental and constitutional rights, a public official should take care that none of his or her political activities or involvement in political or public debates impairs the confidence of the public and his or her employer in his or her ability to perform his or her duties impartially and loyally.
- 11.2 In the exercise of his or her duties, a public official should not allow himself or herself to be used for partisan political purposes.
- 11.3 A public official should comply with any restrictions on political activity lawfully imposed on certain categories of public officials by reason of his or her position or the nature of his or her duties.

12. Incompatible Outside Interests

- 12.1 A public official should not engage in any activity or transaction or acquire any position or function, whether paid or unpaid, that is incompatible with or detracts from the proper performance of his or her duties as a public official. Where it is not clear whether an activity is compatible, he or she should seek advice from his or her superior.
- 12.2 A public official is required to notify and seek the approval of his or her appointing authority to carry out certain activities, whether paid or unpaid, or to accept certain positions or functions outside his or her civil service employment.
- 12.3 A public official should declare membership of, or association with, organisations that could detract from his or her position or proper performance of his or her duties as a public official.

13. Leaving the Public Office

- 13.1 A public official should not take improper advantage of his or her public office to obtain the opportunity of employment outside the civil service.
- 13.2 A public official should not allow the prospect of other employment to create for him or her an actual, potential or apparent conflict of interest. He or she should immediately disclose any concrete offer of employment that could create a conflict of interest. He or she should also disclose his or her acceptance of any offer of employment.
- 13.3 In accordance with such guidelines set by the appointing authority, for an appropriate period of time, the former public official should not act for any person or body in respect of any matter on which he or she acted for, or advised, the civil service and which would result in a particular benefit to that person or body.

- 13.4 The former public official should not use or disclose confidential information acquired by him or her as a public official and must undertake that upon leaving public office he or she will not use official information which is not in the public domain, or information obtained in confidence in the course of his or her official duties, for the private advantage or benefit of himself or herself or another person or persons unless required by law.
- 13.5 A public official should comply with any lawful rules that apply to him or her regarding the acceptance of appointments on leaving the civil service.

14. Dealing with Former Public Officials

- 14.1 A public official should not give preferential treatment or privileged access to the civil service to former public officials.

15. Duty to Act Lawfully

- 15.1 In decision making a public official should act lawfully and exercise his or her discretionary powers impartially, taking into account only relevant matters.

16. Respect for Persons

- 16.1 A public official must take all reasonable steps to observe relevant standards of procedural fairness in decisions made by him or her. Such decisions are to be unaffected by bias or irrelevant considerations.
- 16.2 A public official is to treat everyone with respect, courtesy and in a fair and equitable manner without harassment, victimisation or discrimination in accordance with section 26(3) of the Constitution.

17. Respect for Rights

- 17.1 In the performance of his or her duties, a public official should not act arbitrarily to the detriment of any person, group or body and should have due regard for the rights, duties and proper interests of all others.

18. Integrity

- 18.1 A public official has a duty always to conduct himself or herself in a way that the public's confidence and trust in the integrity, impartiality and effectiveness of the civil service are preserved and enhanced.

19. Reporting

- 19.1 A public official who believes he or she is being required to act in a way which is unlawful, improper or unethical, which involves maladministration, or which is otherwise inconsistent with this Code, should report the matter as a complaint to the Commission.
- 19.2 A public official should make a complaint to the Commission if he or she becomes aware of breaches of this Code by other public officials.

SCHEDULE 6
(Section 25)

OFFICES AND OFFICIALS TO WHOM PART 6 APPLIES

1. President
2. Prime Minister
3. Attorney-General
4. Ministers (including Assistant Ministers and Acting Ministers)
5. Speaker
6. Deputy Speaker
7. Members of Parliament
8. Supervisor of Elections
9. Secretary-General to Parliament
10. Deputy Secretary-General to Parliament
11. Official Secretary, Office of the President
12. Secretary to Cabinet
13. Commissioner of the Independent Legal Services Commission
14. Commissioner of FICAC
15. Deputy Commissioner of FICAC
16. Solicitor-General
17. Director of Public Prosecutions
18. Director of the Legal Aid Commission
19. Director of the Human Rights and Anti-Discrimination Commission
20. Permanent secretaries
21. Ambassador or principal representative of Fiji to another country or international organisation
22. Commissioner of the Fiji Police Force
23. Deputy or assistant Commissioner of the Fiji Police Force
24. Commissioner of the Fiji Corrections Service
25. Deputy or assistant Commissioner of the Fiji Corrections Service
26. Commander of the Republic of Fiji Military Forces

27. Auditor-General
28. Governor of the Reserve Bank of Fiji
29. Deputy Governor of the Reserve Bank of Fiji
30. Administrator-General
31. Registrar-General
32. Official Receiver
33. Registrar of Companies
34. Registrar of Titles
35. Chief Pharmacist
36. Deputy Chief Pharmacist
37. Chief Accountant
38. Deputy permanent secretaries
39. Directors in any Government ministry or department
40. Deputy or assistant directors in any Government ministry or department
41. Divisional commissioners
42. Deputy or assistant divisional commissioners
43. Provincial administrators
44. Deputy or assistant provisional administrators
45. District officers
46. Deputy or assistant district officers
47. Special administrator of any town or city council
48. Chief executive officer and the town clerk of any town or city council
49. Chief executive officer Biosecurity Authority of Fiji
50. Chief executive officer Civil Aviation Authority of Fiji
51. Chief executive officer Fiji Commerce Commission
52. Chief executive officer Fiji Electricity Authority
53. Chief executive officer Fiji Meat Industry Board
54. Chief executive officer Fiji Revenue and Customs Authority
55. Chief executive officer Fiji Roads Authority
56. Chief executive officer Housing Authority

57. Chief executive officer Investment Fiji
58. Chief executive officer iTaukei Land Trust Board
59. Chief executive officer Land Transport Authority
60. Chief executive officer Maritime Safety Authority of Fiji
61. Chief executive officer Public Rental Board
62. Chief executive officer Tourism Fiji
63. Chief executive officer Water Authority of Fiji

CODE OF CONDUCT BILL 2016

EXPLANATORY NOTE

(This note is not part of the Bill and is only intended to indicate its general effect)

1.0 BACKGROUND

1.1 Section 149 of the Constitution of the Republic of Fiji (**‘Fijian Constitution’**) provides that a written law shall—

- (a) establish a code of conduct which shall be applicable to the President, Speaker, Deputy Speaker, Prime Minister, Ministers, members of Parliament, holders of offices established by or continued in existence under this Constitution or under any written law, members of commissions, permanent secretaries, ambassadors or other principal representatives of the State, and persons who hold statutory appointments or governing or executive positions in statutory authorities, and to such other offices (including public offices) as may be prescribed by written law;
- (b) establish rules, processes and procedures for the implementation of the code of conduct by the Accountability and Transparency Commission;
- (c) provide for the monitoring by the Accountability and Transparency Commission of compliance with the code of conduct by the officers mentioned in paragraph (a);
- (d) make provision for the investigation of alleged breaches of the code of conduct and enforcement of the code of conduct by the Accountability and Transparency Commission, including through criminal and disciplinary proceedings, and provide for the removal from office of those officers who are found to be in breach of the code of conduct;
- (e) provide for the protection of whistle-blowers, being persons who, in good faith, make disclosures that an officer mentioned in paragraph (a) has contravened any written law or has breached the code of conduct or has engaged in fraudulent or corrupt practices; and

- (f) provide for the annual declaration by the officers mentioned in paragraph (a) of the assets and liabilities and financial interests of the officer, and of such other direct relatives of the officer as may be prescribed, to the Accountability and Transparency Commission, and for such declarations to be accessible to the public.

1.2 The Fijian Government is therefore constitutionally bound to enact legislation which gives effect to section 149 of the Fijian Constitution.

1.3 For that reason, the Code of Conduct Bill 2016 (**‘Bill’**) is established to give effect to section 149 of the Fijian Constitution.

2.0 FEATURES OF THE BILL

2.1 Part 1 of the Bill provides for the preliminary provisions such as the short title, commencement and interpretation provisions.

2.2 Part 2 of the Bill provides for the functions and powers of the Accountability and Transparency Commission (**‘Commission’**) established under section 121 of the Fijian Constitution.

2.3 Part 3 of the Bill prescribes the Codes of Conduct which are set out in the Schedules to the Bill in accordance with section 149(a) of the Fijian Constitution applicable to—

- (a) the President, Prime Minister, and all Ministers;
- (b) the Speaker, Deputy Speaker and all members of Parliament;
- (c) judicial officers;
- (d) all members of a commission established by, or continued in existence, under the Constitution and all members of a statutory authority or a board of a statutory authority; and
- (e) all public officials not covered by a Code of Conduct for officials in paragraph (a) to (d) above.

2.4 Part 4 of the Bill provides provisions for the investigation of complaints made to the Commission and for the referral of complains to the appointing authority and the prosecuting authority.

2.5 Part 5 of the Bill provides protection for complainants. It ensures that a person who makes a complaint to the Commission is given immunity and that the person’s identity is protected.

2.6 Part 6 of the Bill provides for the making of mandatory statement of income, assets, other interests and liabilities by persons prescribed in Schedule 6 of the Bill. Part 6 also imposes penalties for failure to declare income, assets, other interests and liabilities.

2.7 Part 7 of the Bill empowers the Minister in consultation with the Commission to make regulations necessary for the implementation of the Bill.

3.0 MINISTERIAL ASSIGNMENT

3.1 This Act comes under the responsibility of the Attorney-General.

A. SAYED-KHAIYUM
Attorney-General

