

# **Conduct of Public Officers Bill, 2013**

## ARRANGEMENT OF SECTIONS

### *Section*

#### *Disqualification*

1. Disqualification from holding public office
2. Effective date of disqualification
3. Dispensation

#### *Declaration of assets and liabilities*

4. Declaration of assets
5. Assets to be declared
6. Assets acquired after declaration
7. Accuracy of information
8. Clarification
9. Declaration as evidence
10. Complaints in respect of contravention
11. Failure to submit a declaration or clarification
12. Confidentiality of information
13. Retention of information

#### *Code of Conduct*

14. Provision of Code of Conduct
15. Publication of Code of Conduct
16. Performance of functions
17. Professionalism
18. Rule of law
19. Duty to the public
20. Improper enrichment
21. Solicitation and acceptance of gifts
22. Acceptable gifts
23. Duty to check gifts
24. Forfeiture and disposal of prohibited gifts

#### *Conflict of interest*

25. Avoidance of conflict of interest
26. Duty to report
27. Business interests
28. Award of contract
29. Financial interest

## **Conduct of Public Officers Bill, 2013**

30. Self- dealing
31. Care of public property
32. Political neutrality
33. Offer of advice
34. Misleading the public
35. Conduct of private affairs
36. Sexual harassment
37. Selection of public officers
38. Agency
39. Reporting improper directives
40. Consumption of alcoholic beverage and psychotropic substances
41. Vindication of acts and character by a public officer
42. Connection with the media
43. Communication of information

### *Enforcement of Code of Conduct*

44. Investigations
45. Action after investigations
46. Publication of actions
47. Referral for criminal proceedings

### *Public Officers and Legal Proceedings*

48. Immunity from actions
49. Actions against a public officer

### *Miscellaneous provisions*

50. Administrative procedure
51. Instructions to a public officer
52. General sanction for contravention of Act
53. Public officers' oath
54. Signing of Code of Conduct and Ethics
55. Post employment
56. Regulations
57. Interpretation
57. Repeals and savings

## **SCHEDULES**

## Conduct of Public Officers Bill, 2013

# A BILL

ENTITLED

### **CONDUCT OF PUBLIC OFFICERS ACT, 2013**

AN ACT to provide for the conduct of public officers in the performance of their functions and for related matters.

PASSED by Parliament and assented to by the President:

#### *Disqualification*

#### **Disqualification from holding public office**

1. A person does not qualify to hold a public office specified in the First Schedule if that person

- (a) has been convicted of
  - (i) a serious offence,
  - (ii) an offence which involves fraud or dishonesty committed in this country or elsewhere;
- (b) has been found by a commission of inquiry to be unsuitable to hold public office;
- (c) has been found by a commission of inquiry to have
  - (i) acquired assets unlawfully,
  - (ii) defrauded the Republic or that person's employer,

*Conduct of Public Officers Bill, 2013*

- (iii) misused or abused that person's office, during the course of service as a public officer or in a previous employment and the findings have not been set aside on appeal or by judicial review and the normal time limit prescribed for appealing or applying for judicial review has passed;
- (d) acted in a manner prejudicial to the public interest or the interest of the employer of that person, or
- (e) is under a death sentence.

**Effective date of disqualification**

2. Where a commission of inquiry makes an adverse finding against a person, the finding shall not take effect unless
- (a) six months have passed since the finding was made and announced to the public, or
  - (b) the Government issues a statement in the *Gazette* and in the national media that it does not intend to issue a White Paper on the report of the Commission whichever is the earlier.

**Dispensation**

3. (1) Despite section 1, a person is qualified to hold a public office if
- (a) ten years or more have passed since the effective date of disqualification as specified in section 2; or
  - (b) that person has been pardoned by the President.
- (2) The dispensation granted under subsection (1) does not apply to a person seeking to hold office as President or Vice-President.

*Declaration of assets and liabilities*

**Declaration of assets**

4. (1) A public officer who holds an office specified in the First Schedule shall submit to the Auditor-General, a declaration of
- (a) assets owned directly or indirectly by the public officer, and
  - (b) liabilities owed directly or indirectly by the public officer.
- (2) The public officer shall submit the declaration to the Auditor-General in accordance with article 286 of the Constitution
- (a) before taking office,
  - (b) at the end of each four year period, and
  - (c) at the end of the public officer's term of office.

*Conduct of Public Officers Bill, 2013*

(3) The public officer shall submit the declaration not later than six months after the occurrence of any of the events specified in subsection (2) (b) and (2) (c).

(4) In the case of the Auditor-General, the Auditor-General shall make a declaration of the Auditor-General's assets and liabilities to the President.

(5) A written declaration made under this section shall be in the form set out in the Second Schedule.

**Assets to be declared**

5. The assets to be declared by a public officer include

- (a) movable and immovable assets;
- (b) trust or family property in respect of which the public officer has a beneficial interest;
- (c) business interests;
- (d) securities;
- (e) bank balances;
- (f) bonds and treasury bills;
- (g) jewellery or objects of art of the value of one thousand Ghana cedis or more;
- (h) insurance policies; and
- (i) any other assets of the value of one thousand Ghana cedis or more.

**Assets acquired after declaration**

6. Where a public officer, after making a declaration of assets, acquires an asset which would have been included in the declaration if that asset had been acquired before the declaration was made, the asset will be deemed to have been acquired unlawfully unless they can reasonably be regarded as being

- (a) income,
- (b) acceptable gifts,
- (c) loans,
- (d) inheritance, or
- (d) otherwise lawful.

**Accuracy of information**

7. (1) A public officer shall not submit a declaration or clarification which the public officer knows to be false or misleading.

*Conduct of Public Officers Bill, 2013*

(2) A public officer who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or to a term of imprisonment of not more than two years or to both.

**Clarification**

8. (1) A public officer who submits a declaration to the Auditor-General shall provide any clarification requested by the Auditor-General in writing.

- (2) A request for clarification may include
- (a) a request for information that has or may have been omitted;
  - (b) a request for verification of the ownership of any declared assets; or
  - (c) a request that a discrepancy or inconsistency, including a discrepancy or inconsistency that results from information other than information included on the declaration, be explained or corrected.

**Declaration as evidence**

9. In furtherance of article 286 (3) of the Constitution, a declaration made under this Act is admissible evidence before

- (a) a court,
- (b) a commission of inquiry appointed under article 278 of the Constitution, or
- (c) an investigator appointed by the Commissioner.

**Complaints in respect of contravention**

10. A person who alleges that a public officer has contravened a provision of this Act shall make a report in accordance with article 287 of the Constitution.

**Failure to submit a declaration or clarification**

11. A public officer who
- (a) fails to submit a declaration or clarification as required under this Act, or
  - (b) submits a declaration or clarification that contains information which the public officer knows, or ought reasonably to have known to be false or misleading,

*Conduct of Public Officers Bill, 2013*

commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or to a term of imprisonment of not more than two years or to both.

**Confidentiality of information**

**12.** (1) The Auditor-General shall keep information obtained under this Act confidential.

(2) Despite subsection (1), information obtained under this Act and held by the Auditor-General may be accessed by

- (a) authorised staff of the Commission where a public officer is under investigation,
- (b) the public officer who provided the information or the public officer's authorised representative, or
- (c) a person authorised by law to have the information.

(3) A public officer shall not

- (a) access information obtained under this Act and held by the Auditor-General's Office, or
- (b) in any case disclose or allow access to information held under this Act other than in accordance with subsection (2).

(4) A public officer who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or to a term of imprisonment of not more than two years or to both.

**Retention of information**

**13.** (1) The Auditor-General shall keep information in respect of the declaration of assets of a public officer obtained under this Act for not less than five years after the public officer ceases to be a public officer.

(2) The Auditor-General shall keep copies of information obtained under this Act at the Public Record and Archives Administration Department.

*Code of Conduct*

**Provision of Code of Conduct**

**14.** (1) The Commission shall provide a Code of Conduct for public officers.

*Conduct of Public Officers Bill, 2013*

- (2) The Code of Conduct shall
- (a) be consistent with the Constitution and the provisions of this Act, and
  - (b) determine requirements as to how the guiding principles may be satisfied.

(3) A requirement of the Code of Conduct shall not infringe the rights of a public officer as provided in the Constitution, an Act of Parliament or other rules and regulations related to the rights of public officers.

**Publication of Code of Conduct**

15. The Commission shall publish the Code of Conduct for public officers in the *Gazette*.

**Performance of functions**

16. A public officer shall perform functions assigned to the public officer efficiently and honestly.

**Professionalism**

17. A public officer shall
- (a) discharge the public officer's duty and behave in other respects in a professional manner,
  - (b) perform the functions of the public officer in a manner that maintains public confidence in the integrity of the public officer's office,
  - (c) treat members of the public and other public officers with courtesy and respect,
  - (d) to the extent appropriate to the public officer's office, seek to maintain, and where reasonably practicable, improve the standards of performance and level of professionalism in the public officer's organisation,
  - (e) observe the ethics and professional requirements of a professional body in accordance with the Code of Conduct of the public officer's office if the public officer is a member of a professional body,
  - (f) not be absent from official duty without proper authorisation or reasonable cause, and
  - (g) maintain an appropriate standard of dressing and hygiene.

*Conduct of Public Officers Bill, 2013*

**Rule of law**

**18.** A public officer shall perform official functions in accordance with the Constitution and any other law.

**Duty to the public**

**19.** A public officer shall deal with members of the public in a courteous, impartial, efficient and decisive manner in the discharge of official duties.

**Improper enrichment**

**20.** (1) A public officer shall not use the public officer's office improperly to enrich the public officer or to enrich any other person.

(2) A public officer shall not

(a) use the office of that public officer to improperly acquire property personally or for another person, whether or not the property is paid for,

(b) use or allow information that is acquired in connection with the functions of that public officer and that is not public, to be used for personal benefit or to benefit

(i) another individual, or

(ii) a company owned by or under the control of the public officer.

**Solicitation and acceptance of gifts**

**21.** A public officer shall not

(a) solicit a gift, favour or an advantage that has the potential to influence the proper discharge of the public officers functions or judgment, from a person with whom the public officer comes into contact in relation to the public officer's functions,

(b) accept a gift, favour or an advantage that has the potential to influence the proper discharge of the public officer's functions or judgment, from a person with whom the public officer comes into contact in relation to the public officer's functions, or

(c) accept cash of any amount in the course of duty.

**Acceptable gifts**

**22.** A public officer may accept any of the following gifts where the gift does not reasonably appear to influence or result in the influence of the performance of the public officer's functions:

(a) an unsolicited souvenir that does not exceed the value prescribed by Regulations;

*Conduct of Public Officers Bill, 2013*

- (b) a gift from a relative on the basis only of that relationship;
- (c) a reduced membership or other fee for being a member of a professional body, where that reduction is offered generally to the members of that body and made known to the public;
- (d) a gift or benefit from the business employment of a spouse if that gift or benefit is extended to other families and has not been offered on the basis of the public officer's functions;
- (e) a social invitation from a person other than a person whom the public officer comes into contact with in relation to the public officer's functions;
- (f) an award, honorary degree and honorarium, if that award, honorary degree or honorarium
  - (i) is given in good faith or is incidental to a genuine award, honorary degree or honorarium given for meritorious public service or professional achievement by the public officer, and
  - (ii) is made as part of an established programme of recognition and funded wholly or in part to ensure its continuation on a regular basis and the selection of recipients is made in accordance with a transparent criterion.

**Duty to check gifts**

**23.** (1) Where a gift, favour or advantage is offered to a public officer, the public officer shall consider whether

- (a) the gift, favour or advantage is in appreciation of an official duty or is intended to seek favour or special treatment from the public officer in respect of the performance of the functions of the public officer;
- (b) acceptance of the gift will influence the discharge of an official duty or the performance of an official function in favour of the donor;
- (c) there is an implied obligation to return the favour in an official capacity in favour of the donor, the family of the donor or associates of the donor or the public officer's family or associates;
- (d) the public officer is prepared to declare the gift and the source of the gift to the public officer's organisation and its clients and to the Ghana Revenue Authority;

*Conduct of Public Officers Bill, 2013*

- (e) there is an attempt to influence the public officer to flout
  - (i) the law,
  - (ii) Regulations,
  - (iii) the Code of Conduct, or
  - (iv) the public officer's organisation's policy; or
- (f) there is an attempt to gain an unfair advantage by influencing the public officer's discretionary decisions.

(2) A gift, favour or advantage which falls within paragraph (a) to (f) of subsection (1) is a prohibited gift.

**Forfeiture and disposal of prohibited gifts**

24. The Commissioner may by legislative instrument make Regulations for the forfeiture and disposal of prohibited gifts.

*Conflict of interest*

**Avoidance of conflict of interest**

25. (1) A public officer shall not act in a manner that puts the public officer in a position where the personal interest of the public officer conflicts or is likely to conflict with the public officer's official functions.

(2) A public officer whose personal interest conflicts with official functions shall

- (a) declare the personal interest to the Commission, the public officer's immediate superior or another appropriate body in writing, orally or in any other manner prescribed by law and the public officer shall comply with any directions to avoid or resolve the conflict; and
- (b) not be present at or participate in any deliberations in connection with that matter.

(3) A public officer who complies with a direction under subsection (2) (a) is not liable for a matter arising from the declared matter.

**Duty to report**

26. (1) A public officer shall report to the Commission, an immediate superior officer or appropriate body where

- (a) there is a situation which gives rise to, or is likely to give rise to a conflict of interest, or
- (b) the public officer is in doubt about whether a situation gives rise to, or is likely to give rise to a conflict of interest.

(2) The report of the public officer shall be in accordance with section 25 (2) (a).

**Business interests**

27. A public officer shall not hold shares or have an interest in a corporation, partnership or other body, directly or through another person, if holding the shares or having that interest will give rise to, or may reasonably appear to give rise to a conflict between the public officer's personal interest and the public officer's functions.

**Award of contract**

28. A public officer shall not award, or seek to award a contract or influence or seek to influence the award of a contract to

- (a) the public officer;
- (b) the spouse or other relative of the public officer; or
- (c) a corporation, partnership or other body in which the public officer has a personal interest.

**Financial interest**

29. A public officer shall not participate in an official capacity in a matter in which

- (a) the public officer has a financial interest, or
- (b) a spouse or other relative of the public officer has a financial interest.

**Self-dealing**

30. A public officer shall not, in the performance of an official function, act in a manner which involves the use of the public officer's position for the public officer's personal benefit.

**Care of public property**

31. (1) A public officer shall take reasonable steps to ensure that property that is entrusted to the public officer's care is adequately protected and not lost, damaged, misused or misappropriated.

(2) A public officer who contravenes subsection (1) is personally liable for any loss that may result from the contravention.

**Political neutrality**

32. (1) A public officer shall not, in the performance of an official function,

- (a) act as an agent for or further the interest of a political party, or
- (b) indicate support for or opposition to a political party or a candidate in a public election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of the office of the public officer.

*Conduct of Public Officers Bill, 2013*

**Offer of advice**

33. A public officer who offers official advice to a person shall do so honestly and impartially, without fear or favour.

**Misleading the public**

34. A public officer shall not, knowingly give false or misleading information to anyone in the performance of an official function.

**Conduct of private affairs**

35. (1) A public officer shall conduct the private affairs of the public officer in a manner that maintains public confidence in the integrity of the office of that public officer.

(2) A public officer shall not neglect the financial obligations of the public officer or neglect to settle them.

**Sexual harassment**

36. A public officer shall not sexually harass another person.

**Selection of public officers**

37. A public officer shall follow prescribed procedure as regards the selection of a public officer for any public office or purpose.

**Agency**

38. (1) A public officer shall not

- (a) cause anything to be done through another person that would, if done by the public officer contravene this Act; or
- (b) allow or direct a person under the supervision or control of the public officer to do anything that is a contravention of this Act.

(2) Subsection (1) (b) does not apply to an act done without the knowledge or consent of the public officer or if the public officer took reasonable steps to prevent it.

(3) A public officer shall not act as an agent of a foreign or local person or company where doing so would create a situation of conflict of interest or compromise the position of the public officer.

**Reporting improper directives**

39. Where a public officer considers that

- (a) an action required of the public officer is a contravention of this Act or any other law or code of conduct, or
- (b) is otherwise improper or unethical,

the public officer shall report the matter to the Commission or other appropriate authority as soon as is practicable.

**Consumption of alcoholic beverage and psychotropic substances**

40. (1) A public officer shall not be under the influence of any alcoholic beverage or psychotropic substance while performing or purporting to perform the functions of a public officer.

(2) A public officer who contravenes subsection (1) is liable to the disciplinary rules of the public service concerned.

**Vindication of acts and character by a public officer**

41. (1) A public officer shall not have recourse to any court or to the media for the vindication of an official act that is the subject matter of adverse criticism or attack, whether or not of a defamatory nature, without the prior written consent of the head of the institution to which the public officer belongs.

(2) Despite subsection (1), a public officer may have recourse to a court or the media to vindicate an official act which is the subject matter of adverse criticism or attack without the prior consent of the head of institution to which the public officer belongs if no adverse directive is received by the public officer from the head of the institution to which the public officer belongs within ten working days after the date of the request for consent.

(3) Subsection (1) does not prevent a public officer from seeking to vindicate the public officer's private character and does not apply to an act done by the public officer in a private capacity.

(4) A public officer shall submit a report to the Commissioner in furtherance of subsection (3).

**Connection with the media**

42. (1) A public officer may in the discharge of official duty, publish a book, contribute to or participate in the public media.

(2) A public officer who publishes a book, contributes to or participates in the public media and expresses a personal opinion must make it clear that the opinion is personal and not an official opinion.

**Communication of information**

43. A public officer shall communicate information related to official duties and official documents in accordance with the directives of the institution to which the public officer belongs.

*Conduct of Public Officers Bill, 2013*

*Enforcement of Code of Conduct*

**Investigations**

**44.** (1) A complaint that a public officer has contravened or has not complied with the Code of Conduct for public officers shall be made to the Commissioner for Human Rights and Administrative Justice.

(2) Where the complaint relates to the Commissioner for Human Rights and Administrative Justice the complaint shall be made to the Chief Justice who shall, unless the Commissioner makes a written admission of the contravention or non-compliance, cause the matter to be investigated.

(3) The Commission may refer a matter to an investigating body for investigation and that investigating body shall investigate the matter within the time specified by the Commission and submit a report on its findings to the Commissioner.

(4) The report shall be submitted within thirty days after the completion of the investigation.

(5) An investigation may be conducted even after the public officer alleged to have contravened the Code of Conduct has ceased to be a public officer.

(6) Subsection (5) does not apply where the public officer is seriously ill or dead.

**Action after investigations**

**45.** (1) Where an investigation discloses that a public officer has contravened the Code of Conduct, the Commission shall take the action that the Commission considers appropriate against the public officer, including

(a) taking disciplinary action which is within the power of the Commission, or

(b) referring the matter to an appropriate body or person if the Commission does not have the power to take the disciplinary action the Commission considers appropriate.

(2) The Commission shall inform the public officer of the action the Commission intends to take.

**Publication of actions**

**46.** (1) The Commission shall publish any action it takes in furtherance of this Act in accordance with administrative procedure under section 50.

*Conduct of Public Officers Bill, 2013*

- (2) The Commission shall indicate
- (a) a description of the public officer's contravention of the Code of Conduct,
  - (b) the circumstances of the contravention,
  - (c) the extent of the public officer's culpability,
  - (d) a summary of the evidence upon which the contravention was based, and
  - (e) a description of the action the Commission took against the public officer or, if the Commission referred the matter to another body or person, the action the Commission considered appropriate and the action taken by that other body or person.

(3) The Commission shall not publish the identity or any other details of a person other than the public officer, if in the opinion of the Commission, the publication would be unfair or otherwise inappropriate.

**Referral for criminal proceedings**

47. (1) If, in the course or at the end of an investigation, the Commission is of the view that criminal proceedings ought to be instituted, the Commission shall refer the matter to the Attorney-General.

(2) Where criminal proceedings are initiated by the Attorney-General in respect of a matter referred to it by the Commission, the Commission shall suspend the investigation in respect of that matter.

*Public Officers and Legal Proceedings*

**Immunity from actions**

48. (1) An action does not lie against a public officer in the execution of the duty of the public officer

- (a) on a promise, express or implied, to repay money paid or advanced to the public officer or to another person at the request of the public officer;
- (b) on a promise, express or implied, to be answerable for the debt or default of another person; or
- (c) on a bond, bill of exchange, other than a cheque drawn on a banker, promissory note, or any other personal security made, drawn, accepted, endorsed, or given by the public officer.

*Conduct of Public Officers Bill, 2013*

- (2) Subsection (1) does not apply to an action which is
- (a) brought against a public officer who at the time when the cause of action arises is in receipt of a salary of more than six hundred Ghana cedis per month in respect of that public officer's substantive appointment;
  - (b) brought against a person in respect of liability incurred before the date on which that person became a public officer; or
  - (c) brought by the holder of a security other than those specified in paragraph (c) of subsection (1) to realise that security.

**Actions against a public officer**

**49.** (1) Where an action, a prosecution or any other proceeding is commenced against a public officer

- (a) for an act done in pursuance of an enactment, or
- (b) for discharge of a public duty or exercise of an authority, or
- (c) in respect of an alleged neglect or a default in the execution of a duty or authority

the action, prosecution or proceedings shall not be instituted unless it is commenced within three months of the act, neglect or default complained of, or in the case of a continuance of the injury or damage, within three months after the cessation of the injury or damage.

(2) Where the action, prosecution or proceedings is brought by a person for a cause arising while that person was a convict, it may be commenced within three months after the discharge of that person from prison.

(3) Where the proceedings consist of an action for damages, an offer to pay a sum of money by way of satisfaction for the wrong alleged to have been committed may be pleaded before the action is commenced, instead of or in addition to any other plea.

(4) Where an action is commenced after the offer or is proceeded with after payment into court of a sum of money in satisfaction of the plaintiff's claim and the plaintiff does not recover more than the sum offered or paid, the plaintiff shall not recover the costs incurred after the offer or payment and the defendant is entitled to costs to be taxed as between lawyer and client from the time of the offer or payment but this provision does not affect the costs of an injunction in the action.

*Conduct of Public Officers Bill, 2013*

(5) Where the court thinks the plaintiff has not given the defendant sufficient opportunity to offer to pay a sum of money by way of satisfaction for the wrong alleged to have been committed before the commencement of the proceeding, the court may award costs to the defendant to be taxed as between lawyer and client.

*Miscellaneous provisions*

**Administrative procedure**

**50.** (1) The Commission shall establish procedures for the administration of this Act.

(2) The administrative procedures shall be published in the *Gazette*.

**Instructions to a public officer**

**51.** (1) Where a public officer is required to act on the instruction of a superior officer, the instruction of the superior officer shall be given in writing.

(2) An oral instruction by a superior officer shall be confirmed in writing.

(3) A public officer who receives an oral instruction from a superior officer shall seek written confirmation of the oral instruction as soon as possible.

**General sanction for contravention of Act**

**52.** (1) A public officer who contravenes a provision in this Act for which a sanction is not provided shall be subject to the disciplinary rules of the public service concerned.

**Public officers' oath**

**53.** Each public officer shall take and subscribe to the oath of office required under the Oaths Act, 1972 (NRCD 6) before the public officer takes office or performs official functions.

**Signing of Code of Conduct and Ethics**

**54.** Each public officer shall sign the Code of Conduct for Public Officers before taking up office.

**Post employment**

**55.** (1) A public officer, shall not take improper advantage of the previous office of that public officer on termination of employment.

*Conduct of Public Officers Bill, 2013*

(2) A public officer shall not assist or represent any person in a business transaction with the former office of that public officer or the government if the public officer participated personally or supervised the subject matter of the transaction during the term of office or employment of the public officer.

(3) Subsection (2) applies for a minimum of two years after the termination of the term of office or employment of that public officer.

**Regulations**

**56.** The Auditor-General may by legislative instrument make Regulations for

- (a) the declaration of assets and liabilities,
- (b) the verification of assets,
- (c) the forfeiture and disposal of prohibited gifts,
- (d) the access by the public to declarations made, and
- (e) other matters for the effective implementation of this Act.

**Interpretation**

**57.** In this Act unless the context otherwise requires

“appropriate body” means the agency responsible for the discipline of a public officer;

“Auditor-General” means the person appointed to that office under the Audit Service Act, 2000 (Act 584);

“Commission” means the Commission on Human Rights and Administrative Justice established under the Commission on Human Rights and Administrative Act, 1993 (Act 456);

“commission of inquiry” includes a committee of inquiry;

“Commissioner” means the Commissioner for Human Rights and Administrative Justice;

“conflict of interest” includes

- (a) an interest or benefit, financial or otherwise, direct or indirect;
- (b) participation in any business transaction or professional activity other than the public officer’s official duty;
- (c) incurring a personal obligation of any nature; or
- (d) an act or omission

which has, or may reasonably appear to have the potential to be contrary to the officer’s functions;

*Conduct of Public Officers Bill, 2013*

- “court” means a court of competent jurisdiction;
- “family” means extended family;
- “family property” includes any property whether movable or immovable, which belongs to the members collectively of a particular family or is held for the benefit of these members and any receipts or proceeds from that property;
- “foreign person” means
- (a) a person who is not a citizen of this country,
  - (b) an organisation
    - (i) established outside the country, or
    - (ii) owned or controlled by a foreign government, organisation or individual;
- “gift” means an item of value given without payment that is reasonably likely to influence or result in the influence of the performance of a public officer’s functions;
- “honorarium” means a payment or something of economic value given to a public officer in exchange for service where custom or propriety prevents the setting of a price;
- “institution” means an entity that uses public funds;
- “personal interest” includes the interest of a spouse or relative of a public officer;
- “psychotropic substance” means a substance that has a mind-altering property and that may be in the nature of a narcotic drug;
- “public interest” includes a right or advantage that enures or is intended to enure to the benefit generally of the whole of the people of the Republic;
- “public office” includes
- (a) an office where the emolument, remuneration or allowances attached are paid from the Consolidated Fund or a public fund provided by the Government or by Parliament;
  - (b) an office in a statutory corporation, a public corporation or on a board or council established by an enactment; or
  - (c) an office in a company partially or wholly owned by the Republic;
- “public officer” means a person who holds a public office;

*Conduct of Public Officers Bill, 2013*

“Public Record and Archives Administration Department” means the body established under the Public Record and Archives Administration Act, 1997 (Act 535);

“record” means data generated, sent, received or stored;

“relative” means a person who belongs to the same family as another person;

“serious offence” includes

- (a) participation in an organised criminal group, terrorism and terrorist financing, money laundering, human trafficking, people smuggling, sexual exploitation, illicit trafficking in narcotic drugs, illicit arms trafficking, trafficking in stolen and other goods, corruption and bribery, serious fraud, counterfeiting and piracy of products, smuggling, extortion, forgery, insider trading and market manipulation,
- (b) murder, grievous bodily harm, armed robbery or theft where these are predicate offences for a serious offence, and
- (c) any other offence punishable with imprisonment for a period of not less than twelve month;

“sexual harassment” includes an unwelcome physical, verbal or non-verbal conduct of a sexual nature; and

“spouse” includes multiple wives and ex-spouse.

**Repeals and savings**

**58.** (1) The Public Officers Act, 1962 (Act 114) is repealed.

(2) The Public Office Holder’s (Declaration of Assets and Disqualification) Act, 1998 (Act 550) is repealed.

(3) Despite subsections (1) and (2), regulations, notices, orders or directions or any other act lawfully made, given or done under the repealed Acts and in force immediately before the commencement of this Act, shall be considered to have been made or done under this Act and shall upon the commencement of this Act continue in force until amended or revoked in accordance with this Act.

*Conduct of Public Officers Bill, 2013*

*SCHEDULES*  
**FIRST SCHEDULE**  
*(Section 1)*

1. President of the Republic.
2. Vice-President of the Republic.
3. Speaker, Deputy Speaker and a Member of Parliament.
4. Minister of State or Deputy Minister.
5. Chief Justice.
6. Justice of the Superior Court of Judicature.
7. Commissioner for Human Rights and Administrative Justice and deputies.
8. Judicial officer.
9. Ambassador or High Commissioner.
10. Secretary to the Cabinet.
11. Head of Ministry or a government department or equivalent office in the Civil Service.
12. Chairperson, chief executive officer, managing director, secretary, general manager and departmental head of a public corporation or company in which the Republic has a controlling interest.
13. Governor and Deputy Governors of Bank of Ghana.
14. Chairperson, Electoral Commission and Chairperson's deputies.
15. Chairperson, National Commission on Civic Education and deputies.
16. Head of Chancery of Ghana Embassy or High Commission.
17. Heads of departments of Bank of Ghana.
18. An officer in the Armed Forces on secondment to civilian establishments.
19. Member of a Tender Board at the Central, Regional and District Assembly levels.
20. Officials of the Driver, Vehicle Examination and Licensing Authority.

*Conduct of Public Officers Bill, 2013*

21. Presidential staffer or aide.
22. An officer of the rank of Assistant Inspector of Taxes and above in the Internal Revenue Service or the equivalent of that office in the
  - (a) National Fire Service,
  - (b) Immigration Service,
  - (c) Customs Excise and Preventive Service.
25. An officer of the Ghana Police Service.
26. An officer of the Prisons Service.
27. District Chief Executive, Presiding member or secretary of Metropolitan, Municipal or District Assembly.
28. Chairperson and deputy chairpersons of the Commission on Human Rights and Administrative Justice.
29. Head, Office of the Civil Service.
30. Persons who are
  - (a) heads of,
  - (b) accountants in,
  - (c) internal auditors in,
  - (d) procurement officers in, and
  - (e) planning and budget officers infinance and procurement departments of government ministries, departments and agencies, Districts, Municipal and Metropolitan Assemblies.
31. An officer in any other public office or public institution other than the Armed Forces, the salary attached to which is equivalent to or above the salary of a Director in the Civil Service.

**SECOND SCHEDULE**

*(Section 4 (5))*

**Declaration of Assets and Liabilities Form**

(Foolscap sheets can be used if the space provided for the answers is not sufficient. The number of the question must be clearly shown and a line drawn to separate the number from the beginning of another question. All answers must cover assets in and outside the Republic).

**1. Personal particulars**

- (a) Surname .....
- (b) Other Names.....
- (c) Date of Birth.....
- (d) Place of Birth.....
- (e) Present Appointment .....
- (f) Date of Appointment.....
- (g) Address (Residential) .....
- (h) Address (Postal) .....

*Conduct of Public Officers Bill, 2013*

**2. Assets**

(a) Movable and immovable assets

Land, house and other buildings (including fixtures)	Address and location of property	Freehold or leasehold	Mode of acquisition-inheritance, assignment, gift, purchase	Cost of land or property as at time of acquisition	Value of land or property as at date of declaration	Rent earned from the property, per annum (gross)

*Conduct of Public Officers Bill, 2013*

(b) Trust or family property in respect of which the public officer has a beneficial interest

Nature of trust, property or family property	Address and location of asset or property	Estimated value of assets as at date of acquisition	Estimated value of asset as at date of declaration

*Conduct of Public Officers Bill, 2013*

(c) Business interests

Name and nature of business, profession (sole proprietor, partnership, shares in companies, poultry farming, transport, fishing and shops)	Place of employment or address of business	Date of creation or acquisition of business	Value of business as at date of creation or acquisition of business	Value of business as at date of declaration

*Conduct of Public Officers Bill, 2013*

*(d) Securities*

Name and nature of security or investment	Account number, location and address of security holding company or investment fund manager	Date of acquisition of security or investment	Cost of security or investment	Value of security or investment as at date of declaration

*Conduct of Public Officers Bill, 2013*

(e) Bank balances

Name of account holder	Name and address of Bank	Branch	Name and type of account	Balance

*Conduct of Public Officers Bill, 2013*

*(f) Bonds and treasury bills*

Name of bank, Investment Company	Date of purchase or acquisition of bonds or treasury bills	Value of bond or treasury bill as at date of purchase or acquisition	Value of bond or treasury bill as at date of declaration

*Conduct of Public Officers Bill, 2013*

(g) Jewellery or objects of art valued at more than one thousand Ghana Cedis

Object of art (sculpture, cultural piece, heirloom)	Location of object of art	Date of acquisition of object of art	Value of object of art as at date of acquisition of object of art	Value of object of art as at date of declaration

*Conduct of Public Officers Bill, 2013*

*(h)* Insurance policies

Name and type of insurance policy	Registered office address of insurance company	Insurance policy number	Value of insurance policy	Maturity date of insurance policy

*Conduct of Public Officers Bill, 2013*

(i) Other assets valued at one thousand Ghana Cedis or more

Name and type of asset	Location, address of asset if asset is immovable, or security holding	Cost of asset as at date of acquisition	Value of asset as at date of declaration	Income or rent earned from the asset

*Conduct of Public Officers Bill, 2013*

**3. Liabilities**

(a) Mortgage, loan, judgement debt

Nature or type of liability (mortgage, loan, judgement debt)	Name and address of creditor	Date of creation of liability	Extent or total sum of liability	Date of maturity of liability

*Conduct of Public Officers Bill, 2013*

(b) Any other information relevant to the declaration of assets and liabilities.

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Date of *Gazette* notification: 14th November, 2013.



## **Conduct of Public Officers' Bill, 2013**

### **MEMORANDUM**

The purpose of the Bill is to give effect to Chapter 24 of the 1992 Constitution, domesticate the United Nations Convention against Corruption and the African Union Convention on Preventing and Combating Corruption and to provide for other purposes. The two anti-corruption Conventions were ratified by Parliament on 14<sup>th</sup> December, 2005. The provisions of these Conventions provide the international template for anti-corruption.

Each public officer occupies a position of trust to serve the best interest of the general public. Public office is defined in article 295 of the Constitution to include an office the emoluments attached to which are paid directly from the Consolidated Fund or directly out of moneys provided by Parliament. It also includes an office in a public corporation established entirely out of public funds or moneys provided by Parliament. Increasingly, the populace expects and demands that public officials perform their functions with integrity and in a fair and unbiased manner. Public officers are therefore not expected to allow their private interests and affiliations to compromise official decision-making and public management. When public officials breach the duty of trust, a conflict of interest situation arises.

Chapter 24 article 284-288 of the 1992 Constitution provides a Code of Conduct for Public Officials. Article 284 of the Constitution provides that

“A public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office.”

Article 285 provides that

“No person shall be appointed to act as the Chairman of the governing body of a public corporation or authority while he holds a position in the service of that corporation or authority.”

Article 286 requires some public officials to submit written declarations of their assets, property owned and liabilities owed, whether directly or indirectly to the Auditor-General. This is to be done within three months of assumption of office, after each four year period and at the end of the public officer's term of office.

## **Conduct of Public Officers' Bill, 2013**

Legislation on corruption in this country is scattered in a number of laws. The Criminal Offences Act, 1960 (Act 29) contains provisions on corruption but these are inadequate to deal with public office accountability.

The present state of the law does not provide the necessary deterrence to achieve zero tolerance for corruption in public office. Although there are public finance laws, the Financial Administration Act, 2003 (Act 654), Public Procurement Act, 2003 (Act 663), Internal Audit Agency Act, 2003 (Act 658) and the Audit Service Act, 2000 (Act 584), intended to regulate the financial management in the country and curb the leakage of resources, they do not adequately deal with the problem of corruption of a public officer.

Corruption is a system and corruption has a system. It can only be curbed by a framework that provides an enabling environment within which anti-corruption agencies and institutions of governance like the Commission on Human Rights and Administrative Justice, the Economic and Organised Crime Office, the Judiciary, the Auditor-General, the Police Service, among others, can effectively operate. This environment is created through an elaborate anti-corruption policy, an appropriate legal and institutional framework, a responsible media, civil society and citizen engagement, coalitions, international co-operation and above all, political will.

The provisions of the United Nations Convention against Corruption are enshrined in the African Union Convention on Preventing and Combating Corruption, 2003. The main purpose of the African Union Convention is to eliminate corruption in African Union member states. There is the need to upgrade our laws to meet the United Nations and African Union minimum standards as contained in the Conventions as regards public officer accountability and corruption.

The objects of the Conventions are to promote and develop mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sector. The Conventions are also to promote, facilitate and regulate co-operation among state parties to ensure the effectiveness of measures and actions to detect, punish

## **Conduct of Public Officers' Bill, 2013**

and eradicate corruption and related offences. The intent is to establish conditions to foster transparency and accountability in the management of public affairs.

The related offences within the scope of the Conventions include solicitation or acceptance of benefit and gifts by a public officer for personal use to perform a public function and the offer or grant directly or indirectly of a benefit, gift or advantage by a public officer in the discharge of duty. They also include illicit enrichment and other related benefits received by a public officer in the discharge of public duties.

The Commission on Human Rights and Administrative Justice was established to investigate complaints of fundamental human rights and freedoms, administrative injustice, corruption and abuse of power to ensure that public officers do not allow their private interests to compromise their official decision-making in public management and where conflict occurs, to investigate the conflict and take appropriate action.

Article 287 of the Constitution mandates the Commission on Human Rights and Administrative Justice to investigate allegations of contravention of, or non-compliance with, the code of conduct for public officers, including conflict of interest, non-declaration of assets and illegal acquisition of wealth.

The Constitution does not however define in detail the situations that constitute conflict of interest neither is there a legal framework which the Commission can rely on to determine complaints made against public officers. The absence of a definition of conflict of interest and a unified code of conduct for public officers makes the process of the investigation of allegations of conflict of interest difficult for the Commission and the public officer against whom the allegation has been made.

As public officials may have legitimate interests which arise from their status as private citizens, conflicts of interest cannot be avoided or prohibited altogether. It is therefore important that conflict of interest is defined, identified and managed.

The lack of clarity in matters of conflict of interest and lack of an extensive code of conduct for public officers has helped to lower the trust that people have in public institutions in the country, hence the need for the enactment of this Bill.

## **Conduct of Public Officers' Bill, 2013**

It has been found that a number of corruption allegations handled by the Commission emanate from conflicts between the public interest and private, professional or commercial interest of a public officer. A strategy to combat corruption is therefore to understand, identify and manage conflicts of interest.

In 2006 the Commission produced Guidelines on Conflict of Interest to assist public officials to identify, manage and resolve conflicts of interest. This document, though very useful and informative, did not contain provisions that are justiciable. Public officers in conflict of interest situations should be prosecuted. The Bill is intended to add to the justiciable provisions already in the statute book to combat corruption.

Furthermore, the Inter-Governmental Action Force against Money Laundering in West Africa GIABA has also recommended the enactment of this legislation to plug loopholes as far as the legal framework on anti-corruption for public officers is concerned.

The Anti-Money Laundering Act 2008 (Act 749) and the Economic and Organised Crime Act, 2010 (Act 804) deal with money laundering and proceeds of crime respectively. The approach in those enactments has been to use the threshold approach based on the Financial Action Task Force 40 + 9 Recommendations which are that the offence should be punishable by a maximum penalty of more than one year imprisonment. In consequence of this, a serious offence in Act 749 is defined to mean an offence for which the maximum penalty is death or imprisonment for a period of not less than twelve months. In Act 804 the threshold is combined with predicate offences which have been listed. It is thought that this approach provides a more reliable means of disqualification to hold public office where there has been a conviction. This is however subject to a ten year limitation and Presidential pardon.

*Clause 1* to 3 deals with disqualification. *Clause 1* provides the grounds for disqualification of a person from holding public office. They include a conviction for a serious offence or an offence which involves fraud or dishonesty committed in this country or elsewhere. A person is also disqualified to hold a specified public office if a commission or committee of inquiry has found the person to be unsuitable to hold public

## Conduct of Public Officers' Bill, 2013

office. The findings of a committee against a person for unlawful acquisition of assets, fraud against the Republic or misuse or abuse of office are also grounds for disqualification.

The effective date of disqualification to hold a public office is provided in *clause 2*. The disqualification does not take effect unless six months have elapsed after the finding is made and announced to the public or the publication in the *Gazette* and national media of the Government's statement on the report of the commission of inquiry.

A dispensation from disqualification is provided in *clause 3*. A person may hold a public office if ten years or more have elapsed since the effective date of disqualification or the person has been pardoned by the President. This dispensation, however in accordance with article 62(c), does not apply to a person seeking to hold office as President or Vice-President.

*Clause 4* to 13 deals with declaration of assets and liabilities. *Clause 4* requires a person who holds public office to submit to the Auditor-General a declaration of assets owned directly or indirectly and liabilities owed directly or indirectly by that person. The public officer is to submit the declaration to the Auditor-General in accordance with article 286 of the Constitution before the person takes office, at the end of each four year period and at the end of the public officer's term of office. The public officer is to submit the declaration not later than six months after the occurrence of any of the events specified in the clause.

The Auditor-General is required to make a declaration of his or her assets and liabilities to the President in accordance with good governance principles.

The assets to be declared by a public officer are stated in *clause 5*. These include movable and immovable assets, trust or family property in respect of which the public officer has a beneficial interest, business interests, securities, bank balances, bonds and treasury bills, jewellery or objects of art of the value of one thousand Ghana cedis or more. Insurance policies and any other assets specified on the declaration form of the value of one thousand Ghana cedis or more are also to be declared.

*Clause 6* deals with assets which a public officer acquires after making a declaration where the assets would have been included in the declaration if they had been acquired before it was made. These assets are to be

## **Conduct of Public Officers' Bill, 2013**

considered to have been acquired unlawfully unless they can reasonably be regarded as income, acceptable gifts, loans, inheritance or otherwise lawful.

Under *clause 7*, a public officer who submits a declaration or provides clarification as required under the Act is to ensure that the declaration or clarification is not false or misleading. A contravention of this clause is an offence punishable by a fine of not more than two hundred and fifty penalty units or a term of imprisonment of not more than two years or to both.

*Clause 8* requires a public officer who submits a declaration to the Auditor-General to provide any clarification requested by the Auditor-General in writing. A request for clarification may include a request for information that has or may have been omitted. It also includes a request that a discrepancy or inconsistency be explained or corrected.

Article 286 (3) of the Constitution is replicated in *clause 9*. It provides that a declaration made under the Act is admissible evidence before a court of competent jurisdiction, a commission of inquiry appointed under article 278 of the Constitution or an investigator appointed by the Commission on Human Rights and Administrative Justice.

*Clause 10* requires a person who alleges that a public officer has contravened a provision of the Act to make a report in accordance with article 287 of the Constitution.

Under *clause 11*, a public officer who fails to submit a declaration or clarification as required under the Act or submits a declaration or clarification that contains information which the public officer knows, or ought to know is false or misleading, commits an offence and the officer is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or a term of imprisonment of not more than two years or to both.

*Clause 12* requires the Auditor-General to keep information obtained under the Act confidential. However, authorised staff of the Commission may access the information where a public officer is under investigation. The public officer who provided the information, the public officer's authorised representative or a person authorised by law may also access the information. Contravention of this provision is an offence.

## **Conduct of Public Officers' Bill, 2013**

*Clause 13* mandates the Auditor-General to keep information that concerns the declaration of assets of a public officer obtained under the Act for not less than five years after the public officer ceases to be a public officer. The repository for the information obtained under the Act is the Public Records and Archives Administration Department.

*Clause 14* to *24* deals with the Code of Conduct of a public officer. *Clause 14* empowers the Commission to provide a Code of Conduct for public officers. The Code of Conduct is required to be consistent with the Constitution and the provisions of the Act and to determine requirements as to how the guiding principles may be satisfied. A requirement of the Code of Conduct is not to infringe the rights of a public officer as provided in the Constitution, an Act of Parliament or other rules and regulations.

Under *clause 15*, the Commission is to publish the Code of Conduct for public officers in the *Gazette*.

The requirement that a public officer carry out functions assigned to the public officer efficiently and honestly is provided in *clause 16*. *Clause 17* requires a public officer to act with professionalism at all times. This clause also requires a public officer, among other things, to perform the functions in a manner that maintains public confidence in the integrity of the person's office.

A public officer is to carry out official functions in accordance with the Constitution and any other law, *clause 18*. *Clause 19* provides that a public officer is to deal with members of the public in a courteous, impartial, efficient and decisive manner in the discharge of official duties.

Improper enrichment is dealt with in *clause 20*. It requires a public officer, among other things, not to abuse the office of that officer by means of improper enrichment. This extends to other persons related to the public officer. The acceptance or solicitation of gifts, advantages or other favours from a person who has an interest that may be affected by the performance or non-performance of the public officer's functions is prohibited, *clause 21*.

Acceptable gifts are provided for in *clause 22*. A gift is acceptable where it will not reasonably influence or result in the influence of the performance of the public officer's functions. The Act does not however

## **Conduct of Public Officers' Bill, 2013**

prevent the payment of an honorarium to a public officer on the basis of exceptional commitment to duty.

*Clause 23* contains guidelines for the determination as to whether a gift is acceptable. The forfeiture and disposal of prohibited gifts is the subject of *clause 24*. The Commissioner is empowered to make Regulations for the forfeiture and disposal of gifts prohibited under the Act.

*Clause 25* to *43* deals with conflict of interest. *Clause 25* requires a public officer to endeavour to avoid being in a position in which personal interest conflicts with the public officer's official functions. A public officer whose personal interest conflicts with official functions is to declare the personal interest to the Commissioner, the public officer's immediate superior or other appropriate body in writing and comply with any directions to avoid or resolve the conflict. The circumstances when a report is to be made are provided in *clause 26*.

*Clause 27* on business interests prohibits a public officer from holding shares or having an interest in a corporation, partnership or other body, directly or through another person, if holding the shares or having that interest will give rise to, or may reasonably appear to give rise to a conflict between the public officer's personal interest and the public officer's functions.

*Clause 28* provides that a public officer is not to award or seek to award a contract or influence or seek to influence the award of a contract to the public officer or other persons related to the public officer.

*Clause 29* prohibits a public officer from official participation in a matter in which the public officer has a financial interest or a spouse or other relative of the public officer has a financial interest.

*Clause 30* requires a public officer not to act in a manner which involves the use of the public officer's position for the public officer's personal benefit.

Under *clause 31*, a public officer is to take reasonable steps to ensure that property that is entrusted to the public officer's care is adequately protected and not lost, damaged, misused or misappropriated. A public officer who contravenes this provision is personally liable for any losses that may result from the contravention.

## **Conduct of Public Officers' Bill, 2013**

Under *clause 32*, a public officer in the performance of official functions, is not to act as an agent for or further the interest of a political party or indicate support for or opposition to a political party or candidate in a public election. Engagement in political activity that may compromise or be seen to compromise the political neutrality of the public officer's office is also prohibited.

*Clause 33* mandates a public officer who offers official advice to a person to provide the information honestly and impartially without fear or favour.

*Clause 34* prohibits a public officer from giving false or misleading information knowingly to anyone in the performance of an official function.

*Clause 35* requires a public officer to conduct the public officer's private and financial affairs in a manner that maintains public confidence in the integrity of the office.

Sexual harassment is prohibited under *clause 36*. This includes an unwelcome physical, verbal or non-verbal conduct of a sexual nature.

*Clause 37* proscribes favouritism as regards the selection of a public officer by a public officer for anything connected with public office. The selection is required to be in accordance with the prescribed procedure.

Under *clause 38*, a public officer shall not cause anything to be done through another person that would, if done by the public officer, contravene the Act. A public officer is not liable if the act is done without the public officer's knowledge or consent or if the public officer took reasonable steps to prevent the act. The clause further prohibits a public officer from acting as an agent of a foreign or local person or company. For the purpose of the Act, a person is foreign if that person is not a citizen of Ghana, is an organisation established outside the country or owned or controlled by a foreign government, organisation or individual.

*Clause 39* requires a public officer to report to the Commission or other appropriate authority, any action required of the public officer that the officer considers a contravention of the Act, any other law or code of conduct or conduct that is otherwise improper or unethical. *Clause 40* prohibits a public officer from being under the influence of an alcoholic beverage or psychotropic substance during the performance of official

## **Conduct of Public Officers' Bill, 2013**

functions. Contravention of this provision makes the officer liable to disciplinary action.

*Clause 41* requires a public officer to obtain the prior written consent of the Commissioner in order to have recourse to any court or to the media for the vindication of an official act which is the subject matter of adverse criticism or attack, whether or not of a defamatory nature. However, the officer may have recourse to a court or the media to vindicate an official act which is the subject matter of adverse criticism or attack without the prior consent of the Commissioner, if the officer does not receive an adverse directive from the Commission within ten working days after the date of receipt of the request.

*Clause 42* grants a public officer a right to publish a book, contribute to or participate in the public media in the discharge of official duty. The officer is allowed to express a personal opinion but must make it clear that the opinion is personal and not official.

*Clause 43* requires a public officer to communicate official information related to official duties in accordance with directives of the institution to which the public officer belongs.

*Clause 44 to 47* deals with enforcement of the Code of Conduct. *Clause 44* requires the Commission to investigate a complaint made to the Commission. The Commission may refer a matter to an investigating body for investigation. The investigating body is to investigate the matter within the time specified by the Commission and submit a report on its findings to the Commission. Where the complaint relates to the Commissioner for Human Rights and Administrative Justice, the complaint is to be made to the Chief Justice who is to cause the complaint to be investigated.

*Clause 45* mandates the Commission to take appropriate disciplinary action after investigation where an investigation discloses that a public officer has contravened the Code of Conduct. The Commission may refer the matter to an appropriate body or person if the Commission does not have the power to take the disciplinary action it considers appropriate.

## **Conduct of Public Officers' Bill, 2013**

*Clause 46* requires the Commission to publish any action it takes in furtherance of the Act in accordance with its administrative procedure. The Commission is to provide a description of the public officer's contravention of the Code of Conduct, the circumstances of the contravention, the extent of the public officer's culpability, a summary of the evidence upon which the contravention was based and a description of the action the Commission took against the public officer among other requirements.

If at any time during an investigation under the Act, the Commission is of the view that criminal proceedings ought to be instituted, the Commission is to suspend the investigation and refer the matter to the Attorney General, *clause 47*.

*Clauses 48 and 49* provide for public officers and legal proceedings. These clauses replicate the provisions in the Public Officers Act, 1962 (Act 114). Essentially, they deal with the protection of public officers from legal proceedings in respect of certain liabilities. The clauses also provide protection for persons acting in the execution of public duties.

*Clause 50 to 57* deals with miscellaneous provisions. *Clause 50* mandates the Commission on Human Rights and Administrative Justice to establish procedures for the administration of the Act.

*Clause 51* requires a superior officer of a public officer to issue written instructions. A superior officer is to immediately confirm an oral instruction as a record. A public officer who receives an oral instruction from a superior officer is to seek confirmation in writing as soon as possible.

*Clause 52* provides for the application of disciplinary rules of the public service in which a public officer works if the public officer contravenes a section of the Act for which a specific sanction is not provided.

*Clause 53* requires each public officer to take and subscribe the oath of office required under the Oaths Act, 1972 (NRCD 6) before the public officer takes office or performs official functions.

*Clause 54* requires each public officer to sign the Code of Conduct for Public Officers before taking up office.

## **Conduct of Public Officers' Bill, 2013**

*Clause 55* provides that a public officer shall not take advantage of the public officer's office on termination of employment for a minimum of two years after the termination of the public officers term of office or employment. This applies to representation of or assistance to a person in any business transaction with the public officer's former office or the government if the public officer participated personally or supervised the subject matter of the transaction during the public officer's term of office or employment.

*Clauses 56 and 57* deal with Regulations and interpretation. *Clause 58* repeals the Public Officers Act, 1962 (Act 114) and the Public Office Holder's (Declaration of Assets and Disqualification) Act, 1998 (Act 550) but saves any Regulations and other matters made or done under the repealed enactments.

MARIETTA BREW APPIAH-OPONG (MRS.)  
*Attorney-General and Minister for Justice*

Date: 13th November, 2013.