



# The Integrity Commission of Jamaica

# Anti-Corruption and Good Governance Sensitization Workshop Series

**Specially Developed by the Integrity  
Commission for the Cabinet of the Government  
of Jamaica**

# Good Governance and Anti-Corruption Workshop

## Overview of Corruption Offences in Jamaica

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**Director of Corruption Prosecution**

# List of Workshop Modules

- Overview of Jamaica's Anti-Corruption Framework
- The Problem of Corruption
- Principles of Good Governance and Integrity in Public Life
- Public Procurement Overview
- Other Critical Areas Involving the Integrity Commission's Oversight
- IC Process - Filing of Statutory Declarations
- IC Process - Protected Disclosures Act - Whistleblowing
- IC Process - Reporting Allegations of Corruption
- IC Process - Investigating Allegations of Corruption
- IC Process - Prosecuting Allegations of Corruption
- **IC Process - Overview of Corruption Offences in Jamaica**
- International Best Practices in Anti-Corruption and Anti-Bribery

# AN OVERVIEW OF CORRUPTION OFFENCES IN JAMAICA

# Objectives

- Offences under the Integrity Commission Act
- Offences under the Corruption Prevention Act
- Discharge of Liability
- Offences under the Protected Disclosures Act
- Common Law Offences

# Offences Under the Integrity Commission Act

OFFENCE	LEGISLATION	PENALTY
Making a False or Misleading Report to the Commission	Integrity Commission Act s. 37(4)	Summary Conviction: Fine not exceeding \$1M or to imprisonment for a period not exceeding one (1) year
Taking Harmful Action against a Person for Making a Complaint to the Commission	Integrity Commission Act s. 37(7)	Summary Conviction: Fine not exceeding \$500,000 or to a term of imprisonment not exceeding six (6) months

# Offences Under the Integrity Commission Act

<p>Failing to File a Declaration as Required Under Section 41(2) Within Thirty (30) Days of Notice of Failure to File same.</p>	<p>Integrity Commission Act s. 41(7)</p>	<p>Summary Conviction: Fine of \$20,000 for each month offence continues in addition to any penalty under s. 43(1)</p>
<p>Failing to Submit Statutory Declaration Without Reasonable Cause</p>	<p>Integrity Commission Act s. 43(1)(a)</p>	<p>Summary Conviction: Fine not exceeding \$500,000 or to a term of imprisonment not exceeding six (6) months &amp; the Court may make an order mandating the person to comply with the requirement in respect of which the offence was committed.</p>



# Offences Under the Integrity Commission Act

Failing to Provide Information to Director of Information & Complaints Without Reasonable Cause	Integrity Commission Act s. 43(1)(b)	Summary Conviction: Fine not exceeding \$500,000 or to a term of imprisonment not exceeding six (6) months & the Court may make an order mandating the person to comply with the requirement in respect of which the offence was committed.
Failing to Attend an Inquiry of the Director of Investigation	Integrity Commission Act s. 43(1)(c)	Summary Conviction: Fine not exceeding \$500,000 or to a term of imprisonment not exceeding six (6) months & the Court may make an order mandating the person to comply with the requirement in respect of which the offence was committed.

# Offences Under the Integrity Commission Act

Knowingly Makes a False Statement in a Statutory Declaration	Integrity Commission Act s. 43(2)(a)	Summary Conviction: Fine not exceeding \$2,000,000 or to a term of imprisonment not exceeding two (2) years & the Court may make such orders as it thinks fit.
Knowingly Gives False Information at an Enquiry Conducted by the Director of Investigation	Integrity Commission Act s. 43(2)(b)	Summary Conviction: Fine not exceeding \$2,000,000 or to a term of imprisonment not exceeding two (2) years & the Court may make such orders as it thinks fit.

# Offences Under the Corruption (Prevention) Act

Soliciting or Accepting Benefit  
for Act or Omission in Public  
Office

The Corruption (Prevention)  
Act  
s. 14(1)(a)

## On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence – Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

## Conviction in Circuit Court:

First offence – Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence – Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.

# Offences Under the Corruption (Prevention) Act

Act or Omission in Public  
Office for Benefit to Himself or  
Another

The Corruption (Prevention)  
Act  
s. 14(1)(b)

## On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence - Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

## Conviction in Circuit Court:

First offence - Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence - Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.

# Offences Under the Corruption (Prevention) Act

Fraudulent Use or Concealment  
of Property Derived from  
Corrupt Act or Omission

The Corruption (Prevention)  
Act  
s. 14(1)(c)

## On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence – Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

## Conviction in Circuit Court:

First offence – Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence – Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.

# Offences Under the Corruption (Prevention) Act

Offering Money or Other  
Benefit to a Public Servant for  
Act or Omission in Public  
Office

The Corruption (Prevention)  
Act  
s. 14(2)

## On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence – Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

## Conviction in Circuit Court:

First offence – Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence – Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.

# Offences Under the Corruption (Prevention) Act

Aiding, Abetting, or Otherwise Participating in the Commission or Attempted Commission of Offences under s. 14(1) or (2)

The Corruption (Prevention) Act  
s. 14(3)

## On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence – Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

## Conviction in Circuit Court:

First offence – Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence – Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.

# Offences Under the Corruption (Prevention) Act

Citizen, Resident or  
Corporation of Jamaica  
Offering or Granting Benefit to  
a Person Performing a Public  
Function in a Foreign State

The Corruption (Prevention)  
Act  
s. 14(4)

## On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence - Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

## Conviction in Circuit Court:

First offence - Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence - Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.



# Offences Under the Corruption (Prevention) Act

## Illicit Enrichment:

Assets Owned

Disproportionate to Lawful  
Earnings [In the absence of a  
satisfactory explanation]

The Corruption (Prevention)  
Act

s. 14(5)

## On Summary Conviction:

First offence- Fine not exceeding two (2)  
million dollars or imprisonment not exceeding  
two (2) years, or both such fine and  
imprisonment.

Second Offence - Fine not exceeding three (3)  
million dollars or imprisonment not exceeding  
(3) years, or both such fine & imprisonment.

## Conviction in Circuit Court:

First offence - Fine not exceeding fifteen (15)  
million dollars or imprisonment not exceeding  
five (5) years or both such fine &  
imprisonment.

Second offence - Fine or imprisonment for a  
term not exceeding ten (10) years or both such  
fine & imprisonment.

# Offences Under the Corruption (Prevention) Act

Use of Classified or  
Confidential Information for  
Own Benefit or Benefit of a  
Third Party

The Corruption (Prevention)  
Act  
s. 14(6)(a)

## On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence - Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

## Conviction in Circuit Court:

First offence - Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence - Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.

# Offences Under the Corruption (Prevention) Act

Use of Property Belonging to  
the Government for Own  
Benefit or Benefit of a Third  
Party

The Corruption (Prevention)  
Act  
s. 14(6)(b)

## On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence – Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

## Conviction in Circuit Court:

First offence – Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence – Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.

# Offences Under the Corruption (Prevention) Act

<p>Using or Acting as Intermediary to Obtain Decision whereby Benefit Obtained</p>	<p>The Corruption (Prevention) Act s. 14(7)</p>	<p><u>On Summary Conviction:</u>            First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.            Second Offence – Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine &amp; imprisonment.</p> <p><u>Conviction in Circuit Court:</u>            First offence – Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine &amp; imprisonment.            Second offence – Fine or imprisonment for a term not exceeding ten (10) years or both such fine &amp; imprisonment.</p>
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# Offences Under the Corruption (Prevention) Act

Diverting Property for Own  
Benefit or Benefit of a Third  
Party

The Corruption (Prevention)  
Act  
s. 14(8)

On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence - Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

Conviction in Circuit Court:

First offence - Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence - Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.

# Offences Under the Corruption (Prevention) Act

Agent Corruptly Accepting or Attempting to Accept Gift or Consideration for Act or Omission in Principal's Affairs

The Corruption (Prevention) Act  
s. 14(10)(a)

## On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence – Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

## Conviction in Circuit Court:

First offence – Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence – Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.

# Offences Under the Corruption (Prevention) Act

Agent Knowingly Using  
Document with Intent to  
Deceive Principal

The Corruption (Prevention)  
Act  
s. 14(10)(b)

## On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence – Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

## Conviction in Circuit Court:

First offence – Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence – Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.

# Offences Under the Corruption (Prevention) Act

Offering Gift or Consideration  
to Agent for Act or Omission in  
Principal's Affairs

The Corruption (Prevention)  
Act  
s. 14(1)(a)

On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence – Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

Conviction in Circuit Court:

First offence – Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence – Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.



# Offences Under the Corruption (Prevention) Act

Knowingly Giving to Agent  
Document to Mislead Principal

The Corruption (Prevention)  
Act  
s. 14(11)(b)

On Summary Conviction:

First offence- Fine not exceeding two (2) million dollars or imprisonment not exceeding two (2) years, or both such fine and imprisonment.

Second Offence - Fine not exceeding three (3) million dollars or imprisonment not exceeding (3) years, or both such fine & imprisonment.

Conviction in Circuit Court:

First offence - Fine not exceeding fifteen (15) million dollars or imprisonment not exceeding five (5) years or both such fine & imprisonment.

Second offence - Fine or imprisonment for a term not exceeding ten (10) years or both such fine & imprisonment.

# Discharge of Liability: Section 43(3) of the ICA

- Section 43(3) of the Integrity Commission Act provides that:
- The Director of Information & Complaints with the approval of the Director of Corruption Prosecution may serve upon any person in breach of section 43(1)(a) or 43(1)(b) a notice in writing in the prescribed form offering that person the opportunity to discharge liability to conviction of that offence by payment of a fixed penalty in the amount of \$250,000 and by submitting the statutory declaration or required information to the Director of Information & Complaints.

# Discharge of Liability: Section 43(3) of the ICA

- On payment of this penalty that person shall not be liable to be convicted of the offence, for which payment has been made and the requirement in respect of which the offence is committed is complied with, before the expiration of twenty-one (21) days following the date of service of the notice or such longer period (if any) as may be specified in the notice.

# Discharge of Liability: Section 43(3) of the ICA

- Section 43(8) details the requirements of the notice, which shall:
  - (a) specify the offence alleged;
  - (b) give such particulars of the alleged offence as are necessary for giving reasonable information;
  - (c) state –
    - (i) the period (whether 21 days or a longer period) during which criminal proceedings will not be taken for the offence;
    - and
    - (ii) the amount of the fixed penalty and the Collector of Taxes to whom, and the address at which, it may be paid.

# The Protected Disclosures Act

- The Integrity Commission, as the assigned Designated Authority under the Protected Disclosures Act, would be responsible for monitoring compliance with that statute in addition to carrying out detailed functions as stipulated under section 21(3) of the Protected Disclosures Act.
- Section 23 of the Act details offences and penalties, the prosecution of which would be undertaken by the Corruption Prosecution Division.

# The Protected Disclosures Act

- These offences are as follows:
- 23.-(1) A person commits an offence if he-
  - (a) prevents, restrains or restricts any employee from making a protected disclosure;
  - (b) intimidates any employee who has made or intends to make a protected disclosure;
  - (c) induces any person by threats, promises or otherwise to contravene this Act; or

# The Protected Disclosures Act

- (d) being an employer-
  - (i) subjects an employee or former employee of that person to occupational detriment as a consequence of the employee or former employee making a protected disclosure;
  - (ii) refuses, in bad faith, to receive a disclosure or carry out an investigation in relation to a disclosure;
- (e) being an employee, purports to make a disclosure under this Act knowing that it contains a statement that is false or misleading, or reckless as to whether the statement is false or misleading;
- (f) aids, abets, procures or conspires with any other person to contravene this Act.

# The Protected Disclosures Act

- Section 23(2):

A person who, without reasonable excuse, fails to comply with a requirement imposed by the designated authority in the lawful exercise of the functions of the authority under this Act, commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three months.



# The Protected Disclosures Act

- Section 23(3):

A person who commits an offence under subsection (1) is liable upon-

(a) summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment; or

(b) conviction on indictment in a Circuit Court to a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

# The Protected Disclosures Act

- Section 24(1):

Every person receiving, investigating or otherwise dealing with a disclosure under this Act shall regard and deal with as secret and confidential-

- (a) the identity of the employee making the disclosure and any disclosure made; and
- (b) any statement given, or document, information or thing provided, to the person in the carrying out of an investigation, except that any statement given, or document, information or thing provided, given in furtherance of an investigation or any legal or disciplinary proceedings shall not be regarded as being inconsistent with the obligation for secrecy and confidentiality.

# The Protected Disclosures Act

- Section 24(2):

A person who contravenes subsection (1) commits an offence and is liable upon summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars or to imprisonment to a term not exceeding two years or to both such fine and imprisonment.

# Common Law Offences

- *Misconduct in Public Office*

Two basic principles underpin the offence of Misconduct in Public Office:

1. That “a man accepting an office of trust concerning the public, especially if attended with profit, is answerable criminally ... for misbehaviour in his office” [*Bembridge (1783)* 3 *Doug* 327]; and
2. “Where there is breach of trust, fraud, or imposition in a matter concerning the public ... it is indictable”.

# Common Law Offences

- *Misconduct in Public Office*

The case law with respect to this offence establishes that the offence may take many forms and may involve either an improper act or an omission, but the misconduct must be willful and the offender must (whether remunerated or not) be a public officer acting as such.

Further, there must be an element of culpability which is not restricted to corruption or dishonesty but must be of such a degree that the misconduct impugned is calculated to injure the public interest so as to call for condemnation and punishment.

# Common Law Offences

- *Misconduct in Public Office*

This offence may also capture circumstances not specifically provided for under statute, such as acts of 'nepotism' and 'cronyism', which are not explicitly criminalized under the Integrity Commission Act or any other statute within our jurisdiction.

A prosecution for such acts may nevertheless be undertaken, whether under the common law or other relevant statutory provision, provided that the circumstances of the offending conduct satisfy the required elements of the offence contemplated.

# Common Law Offences

- *Bribery*
- The common law offence of Bribery is relevant to our jurisdiction in the absence of any statutory provision seeking to sanction this offence.
- While there is no conclusive definition for the offence at common law, it has been commonly accepted that it consists of:
  - offering, giving or receiving
  - any undue reward
  - by or to any person whatsoever in a public office
  - in order to influence his behaviour in office and incline him to act contrary to the known rules of honesty and integrity.
- More succinctly, Bribery is committed by a public official who unlawfully and intentionally offers, gives or receives any consideration, in return for action or inaction by him in an official capacity, contrary to the known rules of honesty and integrity.

# In Closing:

In the conduct of prosecutorial responsibilities, whether permitted through statute or under the common law, a prosecutor is to be mindful of his role as a minister of justice. The Prosecutor's Manual reinforces the position in detailing as follows:

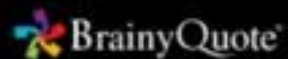
“It cannot be over emphasized that the purpose of a criminal prosecution is not to obtain a conviction; it is to lay before a jury what the Crown considers to be credible evidence relevant to what is alleged to be a crime. Counsel has a duty to see that all available legal proof of the facts is presented; it should be done firmly and pressed to its legitimate strength, but it must also be done fairly. The role of the Prosecutor excludes any notion of winning or losing; his function is a matter of public duty that which in civil life there can be none charged with greater personal responsibility. It is to be efficiently performed with an ingrained sense of the dignity, the seriousness and the justness of judicial proceedings.”





**One of the truest tests of  
integrity is its blunt refusal to be  
compromised.**

Chinua Achebe



**Thank You**

Questions ?