

**PUBLIC PERSONS (DECLARATION OF ASSETS, LIABILITIES  
AND BUSINESS INTERESTS) ACT, 2016**

(Act 26 of 2016)

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**PUBLIC PERSONS (DECLARATION OF ASSETS,  
LIABILITIES AND BUSINESS INTERESTS)  
ACT, 2016;**

(Act 26 of 2016)

*I assent*



Danny Faure  
President

30th December, 2016

**AN ACT to provide for the declaration of assets, liabilities and business interests by public persons set out in this Act in order to promote public confidence and to ensure integrity, honesty, accountability, responsibility, fairness, transparency, the rule of law and impartiality and matters connected therewith or incidental thereto.**

**ENACTED** by the President and the National Assembly.

**PART I - PRELIMINARY**

1.(1) This Act may be cited as the Public Persons (Declaration of Assets, Liabilities and Business Interests) Act, 2016.

Short title and commencement

(2) It shall come into operation on 1st January, 2017.

## Interpretation

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

“agent” means any person who acts for, or on behalf of, or in the name of, any public person, and includes a trustee or an administrator;

“assets” means holdings of value, whether tangible or intangible, movable or immovable, including cash, property, goods, savings, investments, equipment, pre-paid expenses, or goodwill;

“business interests” means participation with any individual in a commercial enterprise or venture, or participation in any association, institution, organisation or entity, whether of a commercial nature or otherwise, regardless of whether a pecuniary benefit or other assets are derived from such participation;

“close associate” means any person, whether related or unrelated by blood or marriage, who holds or will hold any financial interest, or any power, for or on behalf of a public person;

“Commissioner” means the Public Persons (Declaration of Assets, Liabilities and Business Interests) Commissioner appointed under Section 3;

“declaration” means a declaration of assets, liabilities and business interests in accordance with this Act;

“liabilities” means a present obligation of the public person, his or her spouse or member of his or her immediate family arising from past events the settlement of which is expected to result in an outflow from the public person, his or her spouse or member of his or her immediate family, of

resources embodying tangible or intangible benefits;

“member of immediate family” in relation to a public person, includes the public person's spouse, any biological or adoptive child who is below the age of eighteen or any biological or adoptive child whose means of support is wholly or partially from a public person, irrespective of age;

“Minister” means the minister responsible for Legal Affairs;

“public persons” means any person in the service of the Republic by virtue of his or her election to the office of President, Vice-President or to the National Assembly or appointment as a Minister and includes all or any of the public persons listed in the First Schedule.

## **PART II - COMMISSIONER AND FILING OF DECLARATIONS**

3.(1) There shall be appointed a Public Persons (Declaration of Assets, Liabilities and Business Interests) Commissioner to carry out the provisions of the Act.

Appointment of  
the  
Commissioner

(2) The Commissioner shall not, in the performance of his or her functions, be subject to the direction or control of any person or authority.

(3) The Commissioner shall be appointed by the President subject to the approval of the National Assembly.

(4) A person who has held or is qualified to hold the post of a Judge of the Supreme Court or Justice of Appeal and has shown outstanding distinction in the practice of law, and

can efficiently, competently and impartially discharge the functions of the office of a Judge or Justice of Appeal shall be qualified for appointment as Commissioner.

Resignation of  
the  
Commissioner  
and vacancy  
of office

4.(1) The Commissioner may resign upon giving a two month's written notice to the President.

(2) The office of the Commissioner shall become vacant—

(a) if the Commissioner is adjudged bankrupt;

(b) if the Commissioner is convicted of an offence under any written law punishable with imprisonment for a term of six months, without the option of a fine;

(c) if the Commissioner is declared to be of unsound mind; or

(d) upon the Commissioner's death.

Termination of  
Appointment

5.(1) Subject to the provisions of subsections (2) and (3) the President may remove the Commissioner on the ground of gross misbehavior.

(2) Where a complaint, allegation or report of misbehavior against the Commissioner is received and the President is prima facie satisfied that it shall be enquired into, the President shall refer the matter to the Chief Justice of the Supreme Court for enquiry and report.

(3) Where the question of removing the Commissioner is referred to the Chief Justice, the President may suspend the Commissioner from performing the functions of the Commissioner but the suspension shall cease to have effect if

the Chief Justice recommends to the President that the Commissioner ought not to be removed from office.

(4) The Chief Justice shall on reference made under subsection (2) hold an enquiry and recommend to the President whether the Commissioner ought to be removed on such ground and the President shall act accordingly.

6. The functions of the Commissioner are—

Functions of the  
Commissioner

- (a) to receive and acknowledge declarations received under the Act;
- (b) to maintain and upkeep the declarations received on an individual basis and keep proper folders and records thereof;
- (c) to retain records of declarations as prescribed in section 9;
- (d) to examine, issue, or refuse the details of declarations sought under section 10;
- (e) to investigate or cause to be investigated any matter required under the Act; and
- (f) to make reports or recommendations to the Government through the Minister.

7.(1) Every public person listed in the First Schedule shall, not later than three months after assuming his or her office as a public person listed therein, submit his or her declaration to the Commissioner.

Submission  
of declaration

(2) A declaration specified in subsection (1) shall be in the form set out in the Second Schedule.

(3) A public person shall submit to the Commissioner—

- (a) an annual declaration update within thirty days after the commencement of each financial year;
- (b) a declaration not less than three months before the expiry of his or her term as a public person unless a declaration specified in subsection (1), and (3)(a) was filed within three months prior to the date of ceasing as a public person;

(4) The declarations specified in subsection (3) shall be in the form set out in the Third Schedule.

(5) Where a public person ceases to be a public person either by effluxion of time or by termination or on resignation, the Commissioner may order that a declaration be submitted within thirty days from the date of such effluxion of time of the term, termination or resignation, unless the declarations specified in subsections (1), and (3) (a) was filed within three months prior to the cessation date.

(6) A public person shall submit his or her signed declaration forms directly to the Commissioner and retain a copy for his or her personal records.

Information to  
be specified to  
declaration

8. A declaration submitted by public persons under section 7 shall specify—

- (a) the name, surname, place of residence and details of members of his or her immediate family;
- (b) the office or position held as a public person;
- (c) the date of election, appointment or selection to the office or position;
- (d) information on any previous office or position held before submission of the declaration;

(e) assets, including information on —

- (i) any asset in which he or she or any member of his or her immediate family has a full or part ownership interest, and the description of the asset, its location, the date of acquisition, the amount paid for the asset, the current valuation of the asset, the contact details of the person or entity where the asset was acquired;
- (ii) any asset which he or she or any member of his or her immediate family has sold, relinquished or otherwise transferred within twenty-four months prior to the date of filing the declaration, and the description of the asset, the date the asset was sold, relinquished or transferred, the value of the asset at the time of sale, relinquishment or transfer, and the consideration received in exchange;
- (iii) any other asset which he or she or any member of his or her immediate family has financed, or owns in any other name than his or her own name and the description of the asset, its location, the date of acquisition, the amount paid for the asset, the current valuation of the asset, and the name or names in which the asset is held or owned;
- (iv) income which he or she or any member of his or her immediate family has received within the previous twelve months, and the source, amount, date and explanation of such income;

- (v) any bank account, wherever located, held in his or her name or held jointly with any member of his or her immediate family, close associate, agent or business partner, and the name of the account holder, the name of the banking institution, the type of account, the account number, and the balance of the account; and
- (vi) shares in any company, any government stocks, bonds, treasury bills, any life insurance policy or related schemes held in his or her name or held jointly with any member of his or her immediate family, agent or business partner, and a description of the location and value of such shares, stocks, bonds, treasury bills, life insurance policy or related assets;
- (f) liabilities and debts which he or she owes or which any member of his or her immediate family owes, and the name and address of the individual or entity to which the debt or the liability is owed, the amount and nature of the debt or liability, and the date and circumstances under which it was incurred;
- (g) business interests, including information on any commercial or entrepreneurial activity in which he or she or any member of his or her immediate family has engaged in the last twenty-four months, and the nature, location and dates of the commercial or entrepreneurial activity; and
- (h) the date on which the declaration is submitted and his or her signature.

9.(1) The Commissioner shall keep declarations submitted under this Act for a period of seven years after the person ceases to be a listed public person.

Retention of  
declaration

(2) Notwithstanding subsection (1), the Commissioner may, where there is an investigation, keep the declaration which is the subject matter of the investigation for a longer period than seven years.

10.(1) The declarations made under this Act shall be treated as public information and may be accessible to members of the public upon application to the Commissioner in the form set out in the Fourth Schedule.

Public  
Access to  
declaration

(2) The Commissioner may, if there are reasonable grounds taking into account the objectives of this Act, refuse access to declarations.

(3) Where the Commissioner refuses access to declarations, it shall, within fourteen days from receipt of the application, notify the requesting party in writing stating the grounds for its refusal.

(4) The application to access declarations under this section shall be confidential unless the applicant —

- (a) upon accessing the declarations, misuses or otherwise abuses the information; or
- (b) upon being refused access to the declarations, applies for a judicial review of the decision of the Commissioner.

### PART III - OFFENCES AND PENALTIES

11.(1) A listed public person who, without reasonable cause, fails to submit the required declaration within the time specified in this Act commits an offence.

Offences

(2) A listed public person who files a declaration which he or she knows or believes to be inaccurate or misleading, or does not believe to be true, commits an offence and shall be liable on conviction to a fine of SR 500,000 and imprisonment for two years or to both such fine and imprisonment.

(3) The Commissioner may, notwithstanding any penalty imposed under this section, order the listed public person to submit the required declaration:

Disqualification from public office and reference for investigation

12.(1) The court which convicts any person under section 11, shall for the purpose of this section forward a copy of the judgement to the Electoral Commission.

(2) In addition to the penalties prescribed under section 11, every listed public person, who without reasonable cause, fails to submit a declaration or who knowingly submits an inaccurate or misleading declaration, shall —

- (a) in the case of failure to submit a declaration, be disqualified from registering as a voter for a period of three years and his or her name shall be struck off by the Electoral Commission from the register of voters; and
- (b) in the case of submitting an inaccurate or misleading declaration and upon conviction, be disqualified from registering as a voter for a period of seven years and his or her name shall be struck off by the Electoral Commission from the register of voters;

Whistleblowers

13.(1) Any person who reasonably believes or suspects that a listed public person has submitted a false or inaccurate declaration or has otherwise not complied with this Act, (hereinafter referred to as a whistleblower) may report the violation to the Commissioner.

(2) No information relating to a whistleblower shall be admitted in evidence in any administrative, civil or criminal proceeding, and no person shall be obliged or permitted to

disclose the name or address of such whistleblower, or state any matter which might lead to his or her discovery.

(3) If any documents, records or files which are in evidence or liable to inspection in any administrative, civil or criminal proceeding contain any entry in which the whistleblower is named or described or which might lead to his or her discovery, the Commissioner or the court before which the proceeding is heard shall cause all such passages to be deleted so far as is necessary to protect the whistleblower from discovery.

(4) If the Commissioner or any court, after full inquiry into the case, determines that the whistleblower provided information to the Commissioner which he or she knew or believed to be false, or did not believe to be true, the Commissioner or court may require full disclosure concerning the whistleblower.

(5) Any person who, knowing that a whistleblower has informed the Commissioner of an alleged or suspected violation of this Act or other offence connected therewith, does any action to punish or victimise the whistleblower in any way commits an offence and shall be liable on conviction to a fine of SCR250,000 and to imprisonment for two years.

14. Any person who discloses the identity of a whistleblower commits an offence and shall be liable on conviction to a fine of SCR200,000 and to imprisonment for one year.

Penalty for disclosing the identity of whistleblowers

15. Any whistleblower who provides the Commissioner with information which he or she knows or believes to be false, or does not believe to be true, commits an offence and shall be liable on conviction to a fine of SCR 250,000 and to imprisonment for two years.

Penalty for false information by whistleblowers

#### PART IV - FINANCE, ACCOUNTS AND REPORT

16. Any expenditure incurred by the Commissioner in connection with the implementation of the provisions of this

Expenditure for implementing the Act

Act shall be paid from the monies allocated by an Appropriation Act.

Accounts  
and Audit

17.(1) The financial year of the Commissioner shall be the calendar year.

(2) The Commissioner shall maintain proper accounts and other relevant records and prepare a statement of accounts in the form and manner approved by the Auditor-General.

(3) The account of the Commissioner shall be audited by the Auditor-General in accordance with Article 158 of the Constitution.

(4) Where the accounts and the statement of accounts of the Commissioner in respect of a financial year have been audited, the Commissioner shall furnish, not later than 3 months after the end of the financial year, to the Minister together with a copy of the statement and a copy of any report by the Auditor-General on the statement of accounts or on the accounts of the Commissioner.

Annual Report

18. The Commissioner shall, as soon as possible after the expiration of each financial year and in any event not later than the 31st day of March in any year, submit to the Minister an annual report dealing generally with the administration and his or her activities during the preceding financial year and the Minister shall cause the report to be laid before the National Assembly.

**PART V - ADMINISTRATION AND  
MISCELLANEOUS PROVISIONS**

Staff of the  
Commissioner

19.(1) There shall be a Secretary to the Commissioner appointed by the Minister on such terms and conditions as the Minister may determine.

(2) The Secretary shall, in the performance of the functions and duties of his or her office, be responsible to the Commissioner.

(3) The Secretary shall be responsible for the day to day administration, upkeep of records, providing annual reports and any other matter as may be directed by the Commissioner in carrying out the provisions of the Act.

(4) The Minister may provide such other number of staff as may be considered necessary to carry out the functions of the Commissioner.

20.(1) The seal of the Commissioner shall be such device as may be determined by the Commissioner and shall be kept by the Secretary.

Seal of the Commissioner

(2) The affixing the seal shall be authenticated by the Commissioner.

21.(1) The Minister may, on the recommendation of the Commissioner, and by notice in the *Gazette*, make regulations for carrying out of the provisions of the Act.

Regulations

(2) The Minister may, by regulations, amend any Schedule.

22. At the commencement of this Act, any person serving as a public person shall be required to submit a declaration in the form set out in the second schedule within a period of 3 months.

Transitional provisions

**FIRST SCHEDULE**

[Section 7(1)]

**PUBLIC PERSONS REQUIRED TO MAKE DECLARATIONS**

1. President
2. Vice President
3. Speaker of the National Assembly
4. Designated Minister
5. Ministers
6. Leader of Government Business

7. Leader of the Opposition
8. Deputy Speaker of the National Assembly
9. Members of the National Assembly
10. Mayor of Victoria
11. Councillors of District Councils

## SECOND SCHEDULE

*[Section 7(2) and Section 22]*

### DECLARATION OF ASSETS, LIABILITIES AND BUSINESS INTERESTS INITIAL DECLARATION FORM

#### 1. PERSONAL PARTICULARS:

- (a) Surname: .....
- (b) Other Names: .....
- (c) Date of Birth: .....
- (d) National Identity Number: .....
- (e) Present position: .....
- (f) Date of Appointment/Election: .....

#### 2. HOUSES IN PUBLIC PERSON'S NAME:

Location	Parcel No. and Address	Year Built or Purchased	Actual/ Estimated Cost	Source of Finance













**(f) Insurance Policies Owned by Members of Immediate Family:**

Number and Details of Insurance Policies	Price Paid	Date Acquired	Current Status (i.e. sold or being used)	Source of Finance	Estimated Current Value

**11. Other Sources of Income:**

- (a) Have you in the last twelve months received income from other sources, e.g. dividends, shares bonuses, etc?

*YES or NO (delete whichever does not apply)*

If YES, please give details below:

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Total Value.....





**13. ASSETS IN OTHER NAMES:**

- (a) Do you or any member of your immediate family have any assets in any name other than in your own or in the name of a member of immediate family e.g. close associate, relative or agent?

*YES or NO (delete whichever does not apply)*

If YES, please give details below:

.....  
.....  
.....  
.....  
.....  
.....

- (b) Do you or any member of your immediate family have any assets jointly owned with another person other than a member of immediate family, e.g., close associate, relative or agent?

*YES or NO (delete whichever does not apply)*

If YES, please give details below:

.....  
.....  
.....  
.....  
.....

- (c) Have you or any member of your immediate family financed assets but which are in the names of people other than a member of immediate family, e.g., close associates, agents or relatives?

*YES or NO (delete whichever does not apply)*

If YES, please give details below:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

- (d) Have you or any member of your immediate family sold or transferred any asset(s) previously owned by you or the member of immediate family in the last twenty four months?  
**YES or NO (delete whichever does not apply)**

If YES, please give details below:

.....  
.....  
.....  
.....  
.....  
.....  
.....

- (e) Are you or a member of your immediate family owed any debt(s)?

**YES or NO (delete whichever does not apply)**

If YES, please give details as follows:

- (i) Debts in favour of Public Person:

Short-Term:

Amount and Name of Public Person:

.....  
.....  
.....  
.....  
.....  
.....

Long-Term:

Amount and Name of Public Person:

.....  
.....  
.....  
.....  
.....

(ii) Debts in favour of immediate family:

Short-Term:

Amount and Name of immediate family member:

.....  
.....  
.....  
.....  
.....

Long-Term:

Amount and Name of immediate family member:

.....  
.....  
.....  
.....  
.....

**14. LIABILITIES:**

(a) Do you or a member of your immediate family have any liabilities?

**YES or NO (delete whichever does not apply)**

If YES, please give details as follows:

(i) Liabilities against the Public Person:

Short-Term:

Amount and Name of immediate family member:

.....  
.....  
.....  
.....

Long-Term:

Amount and Name of immediate family member:

.....  
.....  
.....  
.....

(ii) Liabilities against a member of immediate family:

Short-Term:

Amount and Name of immediate family member:

.....  
 .....  
 .....

Long-Term:

Amount and Name of immediate family member:

.....  
 .....  
 .....

**15. BUSINESS INTERESTS:**

(a) Do you have any business interest?

**YES or NO (delete whichever does not apply)**

If YES, please give details as follows:

(i) Those owned by Public Person:

Nature of Business	Source of Funding	Partners	Estimated Income/Year

(ii) Those owned by the members of immediate family:

Nature of Business	Source of Funding	Partners	Estimated Income/Year

(iii) Those owned by a close associate or agent:

Nature of Business	Source of Funding	Partners	Estimated Income/Year

(b) Are you affiliated in any way with any other institution, organisation or entity, whether or not you derive income or assets from such affiliation?

**YES or NO (delete whichever does not apply)**

If YES, please give details as follows:

Nature of Institution, Organisation or Entity	Nature of Affiliation	Estimated Income/Year (if any)	Period of Affiliation

**DECLARATION**

- (a) I declare that the information I have provided above is a correct account of my situation with regard to assets, liabilities and business interests that could be attributed to my name;
- (b) I have no objection to the Commissioner verifying the above information;
- (c) I make this solemn declaration conscientiously believing the same to be true and correct.

Declared at:.....  
 this..... day of..... }  
 Signature of Public Person

Before me:.....  
 Commissioner

**FOR THE COMMISSIONER'S USE ONLY**

Received by:.....

Signature: .....

Title: .....

Date: .....

**THIRD SCHEDULE**

[Section 7(4)]

**Declaration of Assets, Liabilities and Business Interests**

**Annual Declaration Form**

**1. Personal Particulars**

- (a) Surname: .....
- (b) Other Names: .....
- (c) Date of Birth: .....
- (d) National Identity Number: .....
- (e) Present position: .....
- (f) Date of Appointment/Election: .....

**2. Period of Declaration:**

**3. Description any additional assets acquired or sold over stated period:**

.....  
.....  
.....  
.....

**4. Describe any additional liabilities incurred over the stated period:**

.....  
.....  
.....  
.....

5. Describe any additional business interests acquired over the stated period:

.....  
.....  
.....  
.....

6. Any other material information:

.....  
.....  
.....  
.....

DECLARATION

- (a) I declare that the information I have provided above is a correct account of my situation with regard to assets, liabilities and business interests that could be attributed to my name;
- (b) I have no objection to the Commissioner verifying the above information;
- (c) I make this solemn declaration conscientiously believing the same to be true and correct.

Declared at:.....  
this..... day of.....

}  
.....  
Signature of Public Person

Before me:.....  
Commissioner

FOR THE COMMISSIONER'S USE ONLY

Received by: .....  
Signature: .....  
Title: .....  
Date:.....

**FOURTH SCHEDULE**

*(Section 10)*

**Declaration of Assets, Liabilities and Business Interests  
by Public Persons**

**Application Form**

**Particulars of Applicant:**

- (a) Surname:.....
- (b) Other Names:.....
- (c) National Identity Number:.....
- (d) Date of Birth:.....
- (e) Occupation: .....
- (f) Contact Details: .....

  - (i) Residential Address: .....
  - (ii) Postal Address: .....
  - (iii) Telephone Number: .....
  - (iv) Cellular Phone Number: .....
  - (v) Fax Number: .....
  - (vi) Email Address:.....

I, the bearer of the above particulars, DO HEREBY apply for access to the details of the declaration made by:.....

*(state particulars of the Public Person)* submitted to the office of the Commissioner pursuant to section 10(1). I would like to have access to the following information .....

.....  
.....  
.....

(specify the details being sought) for the following reasons:.....

I DECLARE that the personal details provided above are correct and that I shall use the information sought, for the furtherance of the objectives of this Act only.

I make this solemn declaration conscientiously believing the contents hereof to be true to the best of my knowledge and information and I am further aware that I will be committing an offence under this Act should I use the information requested in any way other than for the furtherance of the objectives of the Act.

Declared at:.....  
this..... day of.....

}  
.....  
Signature of Public Person

Before me:.....  
Commissioner

FOR THE COMMISSIONER'S USE ONLY

Received by: .....  
Signature: .....  
Title: .....  
Date:.....

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 27th December, 2016.

Ms. Jutta Alexis  
Acting Clerk to the National Assembly