

# SANTA LUCIA

## CHAPTER IX

### *Parliamentary Commissioner*

110. (1) There shall be a Parliamentary Commissioner for Saint Lucia who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any other occupation for reward.

(2) The Parliamentary Commissioner shall be appointed by the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, for a term not exceeding five years.

(3) Before entering upon the duties of his office, the Parliamentary Commissioner shall take and subscribe the oath of office before the Speaker.

(4) Subject to the provisions of subsection (7) of this section the Parliamentary Commissioner shall vacate his office at the expiration of the term for which he was appointed:

Provided that he shall vacate his office

(a) if he is appointed as a Senator or with his consent he is nominated as a candidate for election to the House; or

(b) if he is appointed to any other office of emolument or engages in any other occupation for reward.

(5) If the office of Parliamentary Commissioner becomes vacant, an appointment to fill the office shall be made within ninety days of the occurrence of the vacancy:

Provided that the House may by resolution extend that period for further periods not exceeding in the aggregate one hundred and fifty days.

(6) A person holding the office of Parliamentary Commissioner may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehavior and shall not be so removed except in accordance with the provisions of this section.

(7) The Parliamentary Commissioner shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under subsection (8) of this section and the tribunal has recommended to the Governor-General that he ought to be removed for inability as aforesaid or for misbehavior.

(8) If the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, considers that the question of removing the Parliamentary Commissioner under this section ought to be investigated

(a) the Governor-General shall appoint a tribunal which shall consist of a chairman and not less than two other members selected by the Chief Justice from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

(b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend

to him whether the Commissioner ought to be removed under this section.

(9) If the question of removing the Parliamentary Commissioner has been referred to a tribunal under this section, the Governor-General, acting after consultation with the Prime Minister and the Leader of the Opposition, may suspend the Commissioner from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Commissioner should not be removed.

111. (1) There shall be a Deputy Parliamentary Commissioner and the provisions of section 110 of this Constitution shall apply in relation to the Commissioner and his office as they apply in relation to the Parliamentary Commissioner and his office.

(2) The Deputy Parliamentary Commissioner shall assist the Parliamentary Commissioner in the performance of the functions of his office and whenever that office is vacant or the holder of the office is for any reason unable to perform those functions, the Deputy Parliamentary Commissioner shall perform those functions.

112. (1) Subject to the provisions of this section and sections 113 and 114 of this Constitution, the principal function of the Parliamentary Commissioner shall be to investigate any decision or recommendation made including any advice given or recommendation made to a Minister, or any act done or omitted by any department of government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

(2) The Parliamentary Commissioner shall be provided with a staff adequate for the efficient discharge of his

functions and the offices of the members of his staff shall be public offices.

(3) The Parliamentary Commissioner may investigate any such matter in any of the following circumstances

(a) where a complaint is duly made to the Commissioner by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;

(b) where a Senator or a member of the House request the Commissioner to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice; and

(c) in any other circumstances in which the Commissioner considers that he ought to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.

(4) The authorities other than departments of government to which this section applies are

(a) local authorities or other bodies established for purposes of the public service or of local government;

(b) authorities or bodies the majority of whose members are appointed by the Governor-General or by a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds;

(c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of the Government; and<sup>8</sup>

(d) such other authorities as may be prescribed by Parliament.

113 (1) In investigating any matter leading to, resulting from or connected with the decision of a Minister, the Parliamentary

Commissioner shall not inquire into or question the policy of the Minister in accordance with which the decision was made.

(2) The Parliamentary Commissioner shall have power to investigate complaints of administrative injustice under section 112 notwithstanding that such complaints raise questions as to the integrity or corruption of the public service or any department or office of the public service and may investigate any conditions resulting from, or calculated to facilitate or encourage, corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals.

(3) Where in the course of an investigation it appears to the Parliamentary Commissioner that there is evidence of any corrupt act by any public officer or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.

(4) The Parliamentary Commissioner shall not investigate

(a) any action in respect of which the complainant has or had

(i) a remedy by way of proceedings in a court of law; or

(ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a court of law; or

(b) any such action, or action taken with respect to any matter, as is described in Schedule 3 to this Constitution.

(5) Notwithstanding the provisions of subsection (4) of this section the Parliamentary Commissioner

(a) may investigate a matter notwithstanding that the complainant has or had a remedy by way of proceedings in a court of law if satisfied that in the particular circumstances

it is not reasonable to expect him to take or to have taken such proceedings;

(b) is not in any case precluded from investigating any matter by reason only that it is open to the complainant to apply to the High Court for redress under section 16 of this Constitution (which relates to the enforcement of the fundamental rights and freedoms).

114. In determining whether to initiate, continue or discontinue an investigation, the Parliamentary Commissioner shall, subject to the provisions of sections 112 and 113 of this Constitution, act in his discretion and, in particular and without prejudice to the generality of this discretion, the Commissioner may refuse to initiate or may discontinue an investigation where it appears to him that

(a) a complaint relates to action of which the complainant has knowledge for more than twelve months before the complaint was received by the Commissioner;

(b) the subject matter of the complaint is trivial;

(c) the complaint is frivolous or vexatious or is not made in good faith; or

(d) the complainant has not a sufficient interest in the subject matter of the complaint.

115(1) Where a complaint or request for an investigation is duly made and the Parliamentary Commissioner decides not to investigate the matter or where he decides to discontinue an investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision.

(2) Upon the completion of an investigation the Parliamentary Commission shall inform the department of government or the authority concerned of the results of the investigation and if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he

shall inform the department of government or the authority of the reasons for his opinion and make such recommendations as he thinks fit.

(3) The Parliamentary Commissioner may in his original recommendations, or at any later stage if he thinks fit, specify the time within which the injustice should be remedied.

(4) Where the investigation is undertaken as a result of a complaint or request, the Parliamentary Commissioner shall inform the person who made the complaint or request of his findings.

(5) Where the matter is in the opinion of the Parliamentary Commissioner of sufficient public importance or where the Commissioner has made a recommendation under subsection (2) of this section and within the time specified by him no sufficient action has been taken to remedy the injustice, then the Commissioner shall make a special report to the Senate and the House on the case.

(6) The Parliamentary Commissioner shall make annual reports to the Senate and the House on the performance of his functions which shall include statistics in such form and in such detail as may be prescribed by law of the complaints received by him and the results of his investigations.

116(1) The Parliamentary Commissioner shall have the powers of the High Court to summon witnesses to appear before him and to compel them to give evidence on oath and to produce documents relevant to the proceedings before him and all persons giving evidence at those proceedings shall have the same duties and liabilities and enjoy the same privileges as in the High Court.

(2) The Parliamentary Commissioner shall have power to enter and inspect the premises of any department of government or any authority to which section 112 applies, to call for, examine and where necessary retain any document

kept on such premises and there to carry out any investigation in pursuance of his functions.

117(1) There shall be such provision as may be made by Parliament

(a) for regulating the procedure for the making of complaints and request to the Parliamentary Commissioner and for the exercise of his functions:

(b) for conferring such powers on the Commissioner and imposing duties on persons in connection with the due performance of his functions; and

(c) generally for facilitating the performance by the Commissioner of his functions.

(2) The Parliamentary Commissioner may not be empowered to summon a Minister or a Parliamentary Secretary to appear before him or to compel a Minister or a Parliamentary Secretary to answer any questions relating to any matter under investigation by the Commissioner.

(3) The Parliamentary Commissioner may not be empowered to summon any witness to produce any Cabinet papers or to give any confidential income tax information.

(4) No complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Parliamentary Commissioner.

(5) No proceedings, civil or criminal, may lie against the Parliamentary Commissioner, or against any person holding an office or appointment under him, for anything he may do or report or say in the course of the exercise or intended exercise of the functions of the Commissioner under this Constitution, unless it is shown that he acted in bad faith.

(6) The Parliamentary Commissioner, and any person holding office or appointment under him, may not be called to



give evidence in any court of law, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.

(7) Anything said or any information supplied or any document, paper, or thing produced by any person in the course of any enquiry by or proceedings before the Parliamentary Commissioner under this Constitution shall be privileged in the same manner as if the enquiry or proceedings were proceedings in a court of law.

(8) No proceedings of the Parliamentary Commissioner may be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Commissioner shall be liable to be challenged, reviewed, quashed or called in question in any court of law.