

THE CORRUPTION PREVENTION ACT

ARRANGEMENT OF SECTIONS

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5. Functions and powers of Commission.
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SCHEDULE











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Commission may require further information and conduct enquires.

7.—(1) Where the Commission, upon examination of a statutory declaration furnished pursuant to section 4, is of the opinion that further information or investigation is necessary, it may, in writing—

- (a) request the public servant concerned to furnish such other documents, information, or otherwise as may be specified, within such time as may be specified; or
- (b) require the public servant to attend on the Commission at such time as may be specified by the Commission to be heard by the Commission on any matter relating to the declaration.

(2) A public servant required to attend on the Commission pursuant to subsection (1), may—

- (a) be accompanied and represented by an attorney-at-law and a registered public accountant; and
- (b) require the Commission to summon such witnesses as he thinks necessary.

Issue of summons.

8.—(1) Any summons to attend, to give evidence or to produce documents before the Commission shall be served on the person required to attend or to produce the documents and shall be issued under the hand of the secretary or any member of the Commission.

Form B  
Second  
Schedule.

(2) A summons under this section shall be in the form set out as Form B in the Second Schedule and shall be served on the person mentioned therein either by delivering to him a copy thereof or by substituted service as may be ordered by the Commission.

(3) A summons under this section may be served by any person deputed by the Commission or by a constable.

Witness may be examined on oath.

9. The Commission may—

- (a) require that any facts, matters or things relating to the subject of enquiry be verified or otherwise ascertained by the oral examination of witnesses; and

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- (b) cause any such witnesses to be examined upon oath which the Chairman or the secretary is hereby authorized to administer.

10.—(1) All persons summoned to attend and give evidence or to produce any paper, book, record or document before the Commission— Duty and privileges of witnesses.

- (a) shall be bound to obey the summons served upon them;
- (b) shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document, to the same right or privilege as before a court of law;
- (c) shall be entitled, on attending, to be paid their expenses, including travelling expenses, at the rates prescribed by the Witnesses' Expenses Act for witnesses who are entitled to have their expenses paid from public funds:

Provided that the Commission may disallow the whole or any part of such expenses in any case, if it thinks fit.

(2) Any person who—

- (a) without sufficient cause, fails or refuses to attend before the Commission in obedience to summons issued under this Act, or fails or refuses to produce any paper, book, record or document which he was required by such summons to produce;
- (b) being a witness, leaves a meeting of the Commission without the permission of the Commission; or
- (c) being a witness, refuses without sufficient cause, to answer any question put to him by or with the permission of the Commission; or
- (d) wilfully obstructs or interrupts the proceedings of the Commission,



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shall be liable on conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars or in default of payment thereof to imprisonment for a term not exceeding six months.

Protection  
of dis-  
closures  
to the  
Commission.

**11.** The records of the Commission and any information revealed by the evidence of a witness before the Commission shall not be produced or disclosed to any court other than to such extent as may be necessary for the purposes of proceedings relating to a charge under section 6, 10 or 14 of this Act or under the Perjury Act.

Commission  
to make  
report.

**12.—(1)** Where—

- (a) any person fails to furnish the Commission with a statutory declaration which he is required to furnish in accordance with this Act; or
- (b) the Commission examines a statutory declaration and any related information or documents, or conducts an enquiry into any such statutory declaration, and is not satisfied with any aspect thereof,

the Commission shall report the matter to the appropriate Service Commission, Board, Body or other Authority and the Director of Public Prosecutions, setting out such details and particulars as it thinks fit.

(2) The Commission shall report any act of corruption to the appropriate Service Commission Board, Body or other Authority and to the Director of Public Prosecutions.

(3) The appropriate Service Commission, Board or other Authority may take such disciplinary action in relation to a report made pursuant to subsection (1) as it thinks appropriate in any particular case.

(4) The Director of Public Prosecutions may take such action in relation to a report made pursuant to subsection (1) as he

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thinks appropriate in any particular case and without prejudice to the generality of the foregoing, may authorize any person having an official duty under this Act or being employed in the administration of this Act to furnish information to any officer of the court, the police or any other person specified by the Director of Public Prosecutions.

13.—(1) The Minister, after consultation with the Commission, may make regulations prescribing any matter or thing in respect of which it may be expedient to make regulations for the purpose of carrying this Act into effect and without prejudice to the generality of the foregoing may make regulations—

- (a) prescribing the amount of total emoluments for the purposes of section 4 (3) (b);
- (b) prescribing the manner in which enquiries may be carried out and matters incidental to or consequential on such enquiries;
- (c) amending the form specified in the Second Schedule;
- (d) prescribing the period within which any information required by the Commission should be furnished;
- (e) prescribing the types of gifts and the categories of relatives for the purposes of section 4 (9).

(2) Regulations made under subsection (1) shall be subject to affirmation resolution.

14.—(1) A public servant commits an act of corruption if he—

- (a) corruptly solicits or accepts, whether directly or indirectly, any article or money or other benefit, being a gift, favour, promise or advantage for himself or another person for doing any act or omitting to do any act in the performance of his public functions;

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- (b) in the performance of his public functions does any act or omits to do any act for the purpose of obtaining any illicit benefit for himself or any other person;
- (c) fraudulently uses or conceals any property derived from any such act or omission to act.

(2) A person commits an act of corruption if he offers or grants, directly or indirectly, to a public servant any article, money or other benefit, being a gift, favour, promise or advantage to the public servant or another person, for doing any act or omitting to do any act in the performance of the public servant's public function.

(3) A person commits an act of corruption if he instigates, aids, abets or is an accessory after the fact or participates in whatsoever manner in the commission or attempted commission of or conspires to commit any act of corruption referred to in subsection (1) or (2).

(4) Any citizen or resident of Jamaica or any corporation, either aggregate or sole, any club, society or other body of one or more persons, who offers or grants, directly or indirectly, to a person performing a public function in a foreign state, any article or money or other benefit, being a gift, favour, promise or advantage in connection with any economic or commercial transaction for any act to be performed by or for the omitting to do any act by that person in the performance of that person's public functions, commits an act of corruption.

(5) Where a public servant—

- (a) owns assets disproportionate to his lawful earnings; and
- (b) upon being requested by the Commission or any person duly authorized to investigate an allegation of corruption against him, to provide an explanation as to how he came by such assets, he—
  - (i) fails to do so; or

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- (ii) gives an explanation which is not considered to be satisfactory,

he shall be liable to prosecution for the offence of illicit enrichment, and on conviction thereof, to the penalties specified in section 15 (1).

(5A) It shall be a defence to a person charged with an offence of illicit enrichment to show the court that he came by the assets by lawful means.

(6) Any public servant who improperly uses for his own benefit or that of a third party—

- (a) any classified or confidential information that he obtains as a result of or in the course of the performance of his functions; or
- (b) any property belonging to the Government or any statutory body or authority or any government company or any body providing public services to which he has access as a result of or in the course of the performance of his functions,

commits an act of corruption.

(7) Any person who is or is acting as an intermediary or through a third person who seeks to obtain a decision from any Ministry or Department of the Government or any statutory body or authority or any government company or any body providing public services whereby he illicitly obtains for himself or for another person any benefit or gain (whether or not the act or omission to act from which the benefit or gain is derived is detrimental to the Government) commits an act of corruption.

(8) Any public servant who for his own benefit or for that of a third person, diverts any property belonging to the Government or any other person, which is in his custody for the due administration of his duties commits an act of corruption.

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(9) Where a citizen of Jamaica commits in another State, an act of corruption specified in subsection (1), (2), (3), (4), (5), (6), (7) or (8), he shall be liable to be prosecuted and tried for such act as if he had committed the act in Jamaica.

(10) An agent commits an act of corruption if he—

- (a) corruptly accepts or obtains, or agrees to accept or attempts to obtain from any person, for himself or for any other person any gift or consideration as an inducement or reward for doing or for forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or
- (b) knowingly uses with intent to deceive his principal, any receipt, account, or other document—
  - (i) in respect of which the principal is interested;
  - (ii) which contains any statement which is false or erroneous or defective in any material particular; and
  - (iii) which, to the knowledge of the agent, is intended to mislead the principal.

(11) A person commits an act of corruption if he—

- (a) corruptly gives, or agrees to give or offers, any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his principal's affairs or business or for showing or forbearing to show favour or disfavour to any person in relation to his principal's affairs or business; or

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- (b) knowingly gives to any agent, any receipt, account, or other document—
- (i) in respect of which the principal is interested;
  - (ii) which contains any statement which is false or erroneous or defective in a material particular; and
  - (iii) which, to the knowledge of that person, is intended to mislead the principal.

(12) For the purposes of subsections (10) and (11)—

"agent" includes any person employed by or acting for another;

"consideration" includes valuable consideration of any kind;

"principal" includes an employer.

**15.—(1) Any person who commits an act of corruption commits an offence and is liable—**

- (a) on summary conviction in a Resident Magistrate's Court—
  - (i) in the case of a first offence to a fine not exceeding one million dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment; and
  - (ii) in the case of a second or subsequent offence to a fine not exceeding three million dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment;
- (b) on conviction in a Circuit Court—
  - (i) in the case of a first offence to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

## CORRUPTION PREVENTION

- (ii) in the case of a second or subsequent offence to a fine not exceeding ten million dollars or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.

(2) Any person who—

- (a) fails, without reasonable cause, to furnish to the Commission a statutory declaration which he is required to furnish in accordance with the provisions of this Act;
- (b) knowingly makes any false statement in any such statutory declaration;
- (c) fails, without reasonable cause, to give such information as the Commission may require under section 7;
- (d) fails, without reasonable cause, to attend an enquiry being conducted by the Commission under section 7 or knowingly gives false information at such enquiry,

commits an offence, and shall on summary conviction in a Resident Magistrate's Court be liable to a fine not exceeding two hundred thousand dollars, or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) Where the offence involves the deliberate non-disclosure of a public servant's property the Court may, subject to determining the beneficial interest of innocent third parties in addition to the imposition of a fine or term of imprisonment or both—

- (a) if the property involved is situated within the Island, order that it be forfeited to the Crown;
- (b) if the property involved is situated outside the Island, order that an amount equivalent to the value of such property (the value to be assessed as directed by the Court), be paid by the public servant concerned, to the Crown.

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(4) Payment of all sums due to the Crown pursuant to paragraph (b) of subsection (3) may be enforced in like manner as a debt due to the Crown and any proceedings thereon on behalf of the Crown may be taken summarily in a Resident Magistrate's Court, without limit of amount.

(5) In considering whether an order for forfeiture of a public servant's property should be made under subsection (3) (a), the Court shall have regard to the right and interests, if any, of third parties in that property.

(6) A person who claims an interest in any property referred to in subsection (5) may—

- (a) during the proceedings for the offence referred to in subsection (3); or
- (b) within a period of six months after the day on which a forfeiture order is made in respect of that property or such longer period as the Court may, having regard to all the circumstances allow,

apply to the Court for an order under subsection (7).

(7) Where an application is made under subsection (6) the Court shall take account of the representations made by the applicant in relation to the property and shall make an order declaring the nature and extent of the applicant's interest, if any, in the property.

(8) The Court may—

- (a) where subsection (6) (a) applies, decide that the property or the part thereof to which the applicant's interest relates should not be forfeited to the Crown;
- (b) where subsection (6) (b) applies, order that—
  - (i) the property or the part thereof to which the applicant's interest relates, be returned to the applicant; or



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- (ii) an amount equal to the value of the applicant's interest, as declared in the order under subsection (7), be paid to the applicant.

Expenses incurred in preparation of statutory declarations, etc., tax deductible.

**16.** For the purposes of subsection (1) of section 13 of the Income Tax Act any disbursement made and expenses incurred in a year of assessment by a public servant in connection with the preparation of a statutory declaration or other document required to be furnished by him for the purposes of this Act shall be deemed to be made or incurred by him wholly and exclusively in acquiring his income for that year of assessment.

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## FIRST SCHEDULE

(Section 3)

1. The Commission shall consist of—
- (a) the Auditor-General;
- (b) four other persons (thereafter referred to as "appointed members") appointed by the Governor-General, after consultation with the Prime Minister and the Leader of the Opposition from the following categories of persons—
- (i) members of the Privy Council;
- (ii) retired Judges of Appeal or retired Judges of the Supreme Court;
- (iii) persons who, in the opinion of the Governor-General, are persons of high integrity and are able to exercise competence, diligence and sound judgement in fulfilling their responsibilities under this Act.
2. The appointed members shall be appointed by instrument in writing and shall, subject to the provisions of this Schedule, hold office for a period of seven years.
3. Every appointed member shall be eligible for re-appointment.
- 4.—(1) The Governor-General shall appoint one of the members to be Chairman of the Commission.
- (2) The Chairman shall preside at all meetings of the Commission at which he is present, and in the case of the Chairman's absence from any meeting, the members present and forming a quorum shall elect one of their number to preside at that meeting.
5. If any member is absent or unable to act, the Governor-General may appoint any person to act in the place of that member, so, however, that such appointment shall be made in the same manner and from among any of the categories of persons as would be required in the case of a substantive appointment.
- 6.—(1) Any appointed member other than the Chairman may, at any time resign his office by instrument in writing addressed to the Governor-General and transmitted through the Chairman and from the date of receipt by the Governor-General of such instrument, that person shall cease to be a member.
- (2) The Chairman may at any time resign his office by instrument in writing addressed to the Governor-General and such resignation shall take effect as from the date of receipt by the Governor-General of that instrument.
- 7.—(1) The Governor-General after consultation with the Prime Minister and the Leader of the Opposition may at any time revoke the membership of any appointed member.

Constitu-  
tion of  
Commis-  
sion.Tenure of  
office.Re-appoint-  
ment.

Chairman.

Acting  
appoint-  
ments.Resigna-  
tion.Revocation  
of appoint-  
ment.

## CORRUPTION PREVENTION

(2) Without prejudice to the generality of sub-paragraph (1), a recommendation of that sub-paragraph shall have regard to any representation made by a public servant showing cause why a person should not remain a member of the Commission.

Filling of vacancies.

8. If any vacancy occurs in the membership of the appointed members, such vacancy shall be filled by the appointment of another appointed member, so, however, that such appointment shall be made in the same manner and from any of the categories of persons as would be required in the case of the original appointment.

Gazetting of membership.

9. The names of all members of the Commission as first constituted and every change therein, shall be published in the *Gazette*.

Funds of Commission.

10. The funds of the Commission shall consist of funds as may from time to time be placed at their disposition for the purposes of this Act by Parliament, and such other moneys as may be lawfully paid to the Commission.

Account and audit.

11. The Commission shall keep proper accounts of their receipts, payments, assets and liabilities and such accounts shall be audited annually by an auditor appointed in each year by the Commission with the approval of the Minister.

Annual reports and estimates.

12.—(1) The Commission shall, in each year and at such time as the Minister shall direct, prepare and forward to the Minister a report of its activities during the preceding financial year, including a statement of its accounts audited in accordance with paragraph 11.

(2) A copy of the report together with the auditor's report shall be laid on the Table of the House of Representatives and of the Senate.

(3) The Commission shall on or before the 31st day of October in each year submit to the Minister for approval, its estimates of revenue and expenditure in respect of the ensuing financial year.

Staff of Commission.

13.—(1) The Commission shall appoint and employ at such remuneration and on such terms and conditions as they think fit a Secretary and such other officers and employees as they think necessary for the proper carrying out of the provisions of the Act:

Provided that no salary in excess of seven hundred and fifty thousand dollars per annum shall be assigned to any post without the prior approval of the Minister.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any officer in the service of the Government to any office with the Commission and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and in relation to other rights as a public officer, be treated as continuing in the service of the government.

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14.—(1) The seal of the Commission shall be kept in the custody of the Chairman and shall be affixed to instruments pursuant to a resolution of the Commission in the presence of the Chairman and any other member.

Seal and execution of documents.

(2) The seal of the Commission shall be authenticated by the signatures of the Chairman and one other member.

(3) All documents other than those required by law to be under seal may be and all decisions of the Commission may be signified under the hand of the Chairman or the Secretary.

15.—(1) The Commission shall meet at such times as may be expedient for the carrying out of its functions and such meetings shall be held on such days and at such places as the Chairman may determine.

Proceedings and meetings.

(2) A quorum of the Commission shall be three.

(3) The decision of the Commission shall be by a majority of votes and, in addition to an original vote, the Chairman shall have a casting vote in any case in which the voting is equal.

(4) Minutes in proper form of each meeting of the Commission shall be kept.

(5) The validity of the proceedings of the Commission shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of any member thereof.

16. No member shall be personally liable for any act or default of the Commission done or omitted to be done in good faith in the course of the operations of the Commission.

Protection of members.

17. There shall be paid from the funds of the Commission to the Chairman and members such remuneration, whether by way of honorarium, salary or fees, and such allowances as may be approved by resolution of the House of Representatives and the Senate.

Remuneration of members.

18. The Office of Chairman or an appointed member shall not be a public office for the purposes of Chapter V of the Constitution.

Office of the Chairman or member not public office.

19. Where, pursuant to the provisions of this Schedule, the Governor-General is required to act after consultation with the Leader of the Opposition and—

Provisions applicable when no Leader of Opposition.

- (a) there is no person holding the office of Leader of the Opposition; or
- (b) the holder of that office is unwilling or, by reason of his illness or absence from Jamaica, unable to perform his functions in that regard,

those provisions shall be construed as if the reference to the Leader of the Opposition were a reference to such person as the Governor-General, in his discretion, considers appropriate.

**CORRUPTION PREVENTION**

SECOND SCHEDULE (Sections 4, 8 and 13)

FORM A

**STATUTORY DECLARATION OF ASSETS, LIABILITIES AND INCOME**

**THE CORRUPTION (PREVENTION) ACT**

Declaration of assets and liabilities at.....  
*(Declaration Date)*

and of income for the period of twelve months (or other period where appropriate) ending on that date.

**NOTE:**

- (a) Where any property is held by the declarant, declarant's spouse or the declarant's child or children in trust for any other person, this should be indicated by a note to that effect.
- (b) The declaration date should be the date as at which pursuant to section 4 the declaration is to be made.
- (c) Where the space in this Form is inadequate a separate sheet of paper may be used and signed by the declarant.

Name of Declarant	Address of Declarant
Name of Declarant's Spouse	Address of Declarant's Spouse
Maiden Name (of Spouse)	

**PARTICULARS OF DECLARANT'S CHILDREN**

Names	Date of Birth	Addresses

.....  
*Signature of Declarant*

## CORRUPTION PREVENTION

PARTICULARS OF ASSETS HELD BY DECLARANT'S, SPOUSE  
AND CHILDREN

## BANK ACCOUNTS

1. TO BE SUPPORTED BY BANK STATEMENT OR LETTER FROM BANK CONFIRMING BALANCES.

Name and Address of Banks	In Whose Name Held	Balance in Account

2. CASH IN EXCESS OF FIVE HUNDRED THOUSAND DOLLARS HELD OTHER THAN IN BANK BY DECLARANT, SPOUSE AND CHILDREN

Where Held	In Whose Name Held	Amount

3. BONDS, STOCKS, SHARES AND SIMILAR INVESTMENTS INCLUDING ANY SUCH PROPERTY OVER WHICH A RIGHT OF DISPOSITION RESIDES IN THE DECLARANT, SPOUSE AND CHILDREN

No. and Description	Organization in which held	In Whose Name Held	Face Value	Cost of Acquisition Where Known or Market Value

.....  
*Signature of Declarant*



## CORRUPTION PREVENTION

6. PARTICULARS OF MOTOR VEHICLES OWNED BY, OR ON HIRE FOR ANY PERIOD TO, OR ON LOAN FOR A PERIOD IN EXCESS OF TWO MONTHS TO THE DECLARANT, SPOUSE OR CHILDREN

Description	Owner's Name	Age of Vehicle	Terms of Hireage (if hired)	Purchase Price

7. VALUES HELD IN SAFETY DEPOSIT BOXES BY DECLARANT, SPOUSE AND CHILDREN

Where Held	Owner's Name	Contents	\$ Value

.....  
*Signature of Declarant*

8. INSURANCE POLICIES HELD BY DECLARANT, SPOUSE AND CHILDREN

Insurance Company	Type of Policy	Date Issued	Date of Maturity	Name of Insured	Annual Premium	Face Value	Sur-render Value



## CORRUPTION PREVENTION

## 9. ANY OTHER PROPERTY OWNED BY DECLARANT, SPOUSE AND CHILDREN

Description	Owner's Name	By Whom Being Held	In What capacity Being Held	Estimated Market Value

## 10. OTHER PROPERTY OWNED BY DECLARANT, SPOUSE AND CHILDREN, BEING HELD BY A PERSON OTHER THAN OWNER, WHETHER IN TRUST OR OTHERWISE

Description	Owner's Name	By Whom Being Held	In What Capacity Being Held	Estimated Market Value

.....  
*Signature of Declarant*

## 11. PARTICULARS OF INCOME, FROM ALL SOURCES OF DECLARANT, SPOUSE AND CHILDREN (INCLUDING PERQUISITES SUCH AS HOUSE, ENTERTAINMENT ALLOWANCES, RENTALS, etc.)

Type of Income	Recipient's Name	Source	Gross Amount for Period Under Review

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**12. PARTICULARS OF LIABILITIES (INCLUDING GUARANTEES) OF DECLARANT, SPOUSE AND CHILDREN**

**CERTIFICATE FROM CREDITOR OR PARTY TO WHICH GUARANTEE GIVEN SHOULD BE PROVIDED**

Nature of Liability	Person Liable	To Whom Liable	Amount

.....  
*Signature of Declarant*

**13. PARTICULARS OF ANY PROPERTY ACQUIRED OR DISPOSED OF BY DECLARANT, SPOUSE AND CHILDREN DURING PERIOD OF 12 MONTHS OR OTHER PERIOD WHERE APPROPRIATE ENDING ON .....**

Description of Property	Acquisition or Disposal	Cost of Acquisition	Price of Disposal

I do solemnly and sincerely declare that the particulars given by me herein are, to the best of my knowledge, true, accurate and complete.

.....  
*Signature of Declarant*

Signed at  
this.....day of.....before.....  
*Justice of the Peace for the parish*  
of.....

CORRUPTION PREVENTION

FORM B

(Section 8)

THE CORRUPTION PREVENTION ACT  
SUMMONS TO WITNESS

To.....  
*(Name of person summoned, and*

.....  
*his address and calling, if known)*

You are hereby summoned to appear before the Corruption Commission  
on the ..... day of .....  
at .....  
*(place)*

19....., at ..... o'clock and to give evidence respecting  
.....  
*(State matter being enquired into)*

And you are required to bring with you.....  
.....  
*(Specify papers, books, records and documents required)*

Therefore fail not at your peril.

Given under the hand of

Secretary/Member of the

Corruption Commission this

day of ..... 200