

## CONFLICTS OF INTEREST ACT

### CHAPTER C-22.1

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

PART 1

INTERPRETATION

Interpretation

1(1) In this Act,

- (a) "Crown" means the Crown in right of Alberta and includes a Provincial agency;
- (b) "former Minister" means a person who has ceased to be a member of the Executive Council;
- (c) "Member" means a Member of the Legislative Assembly and includes a Minister whether or not the Minister is a Member of the Legislative Assembly;
- (d) "Minister" means a member of the Executive Council;
- (e) "minor child" includes a minor to whom a Member has demonstrated a settled intention to treat as a child of his family;
- (f) "private corporation" means a corporation none of whose shares are publicly-traded securities;

(g) "private interest" does not include the following:

(i) an interest in a matter

(A) that is of general application,

(B) that affects a person as one of a broad class of the public, or

(C) that concerns the remuneration and benefits of a Member;

(ii) an interest that is trivial;

(iii) an interest of a Member relating to publicly-traded securities in the Member's blind trust;

(h) "Provincial agency" means a Provincial agency as defined in the *Financial Administration Act* but does not include a corporation enumerated in section 2(5) of that Act;

(i) "publicly-traded securities" means

(i) securities of a corporation that are listed or posted for trading on a recognized stock exchange, or

(ii) securities of a corporation that has more than 15 shareholders and any of whose issued securities were part of a distribution to the public;

(j) "securities" means

(i) shares of any class or series of shares of a corporation, or

(ii) bonds, debentures, notes or other evidence of indebtedness or guarantees of a corporation, whether secured or unsecured,

but does not include shares or units in a mutual fund;

(k) "senior officer" means, with reference to a corporation,

(i) the president, vice-president, secretary, comptroller, treasurer or general manager of the corporation, or

(ii) any other person who performs functions for the corporation similar to those normally performed by persons holding the offices referred to in subclause (i);

(i) "spouse" includes a party to a relationship between a man and a woman who are living together on a bona fide domestic basis but does not include a spouse who is living apart from the Member if the Member and spouse have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order;

(m) "Standing Committee" means the Standing Committee on Legislative Offices.

(2) For the purposes of this Act, securities of a corporation

(a) issued on a conversion of other securities, or

(b) issued in exchange for other securities

are deemed to be securities that are part of a distribution to the public if those other securities were part of a distribution to the public.

(3) Subject to subsection (4), for the purposes of this Act, securities of a corporation

(a) are part of a distribution to the public if, in respect of the securities, there has been a filing of a prospectus, statement of material facts, registration statement, securities exchange take-over bid circular or similar document under the laws of Canada or a province or of a jurisdiction outside Canada, or

(b) are deemed to be part of a distribution to the public if the securities have been issued and a filing referred to in clause (a) would be required if the securities were being issued currently.

(4) On the application of a Member who owns or is a beneficial owner of securities of a corporation, the Ethics Commissioner may determine, for the purposes of this Act, whether or not the

securities of the corporation are or were part of a distribution to the public.

(5) For the purposes of this Act, a person is directly associated with a Member if that person is

(a) the Member's spouse,

(b) a corporation having share capital and carrying on business or activities for profit or gain and the Member is a director or senior officer of the corporation,

(c) a private corporation carrying on business or activities for profit or gain and the Member owns or is the beneficial owner of shares of the corporation,

(d) a partnership having not more than 20 partners

(i) of which the Member is a partner, or

(ii) of which one of the partners is a corporation directly associated with the Member by reason of clause (b) or (c),

or

(e) a person or group of persons acting as the agent of the Member and having actual authority in that capacity from the Member.

(6) Subsection (5)(c) does not apply where the corporation is

(a) an association as defined in the *Co-operative Associations Act*,

(b) a credit union continued or incorporated under the *Credit Union Act*,

(c) a co-operative credit society incorporated by or under an Act of the Parliament of Canada, or

(d) The United Farmers of Alberta Co-Operative Limited.

(e) repealed 1992 c21 s9.

(7) For the purposes of this Act, a trust is a "blind trust" if it meets the following criteria:

- (a) a Member is the settlor of the trust;
- (b) the trustee is approved as trustee by the Ethics Commissioner after the Ethics Commissioner is satisfied that there is no relationship between the Member and the trustee that would affect or would appear to affect the discharge of the trustee's duties;
- (c) the terms of the trust, in the opinion of the Ethics Commissioner,

- (i) give the trustee sole power over investment decisions,

- (ii) preclude the Member from having any knowledge of the specific investments in the trust at any time after a deposit in the trust,

- (iii) require that the Member may deposit in the trust only securities verified by the Ethics Commissioner as being publicly-traded securities, and

- (iv) require the trustee to invest only in publicly-traded securities or in certificates of deposit, deposit receipts or other evidence of indebtedness given by a bank, trust company, credit union or treasury branch in consideration of a deposit made with the bank, trust company, credit union or treasury branch.

1991 cC-22.1 s1; 1992 c21 s9

## PART 2

### OBLIGATIONS OF MEMBERS

2(1) A Member breaches this Act if the Member takes part in a decision in the course of carrying out the Member's office or powers knowing that the decision might further a private interest of the Member, a person directly associated with the Member or the Member's minor child.

(2) Where a matter for decision in which a Member has reasonable grounds to believe that the Member, the Member's minor child or a person directly associated with the Member has

Influence

a private interest is before a meeting of the Executive Council or a committee of the Executive Council or the Legislative Assembly or a committee appointed by resolution of the Legislative Assembly, the Member must declare that interest and must withdraw from the meeting without voting on or participating in the consideration of the matter.

(3) A Member who fails to comply with subsection (2) breaches this Act.

(4) If a matter referred to in subsection (1) requires a decision of a Minister, the Minister may request another Minister to act in the Minister's stead in connection with the decision and the Minister to whom it is referred may act in the matter for the period of time necessary.

3 A Member breaches this Act if the Member uses the Member's office or powers to influence or to seek to influence a decision to be made by or on behalf of the Crown to further a private interest of the Member, a person directly associated with the Member or the Member's minor child.

Decisions  
furthering  
private  
interests

Holder  
information

4 A Member breaches this Act if the Member uses or communicates information not available to the general public that was gained by the Member in the course of carrying out the Member's office or powers to further or seek to further a private interest of the Member, a person directly associated with the Member or the Member's minor child.

Conspicuous  
matters

5 A Member does not breach this Act if the activity is one in which a Member of the Legislative Assembly normally engages on behalf of constituents.

Office and  
employment

6(1) A Member breaches this Act if the Member

(a) is at the time of being sworn in as a Member, or becomes at any time after being sworn in as a Member,

(i) an employee of the Crown in right of Canada, whether the employment is permanent or temporary or on a full-time or part-time basis, or

(ii) the holder of an office by reason of an appointment by or at the nomination of the Governor in Council or a Minister of the Crown in right of Canada, and to which a salary is attached,

or

(b) becomes at any time while a Member

(i) an employee of the Crown, whether the employment is permanent or temporary or on a full-time or part-time basis, or

(ii) the holder of any of the offices set out in the Schedule.

(2) If a person is, immediately before becoming a Member,

(a) an employee of the Crown, whether the employment is permanent or temporary or on a full-time or part-time basis, or

(b) the holder of any of the offices set out in the Schedule, that person, on becoming a Member, ceases to be an employee of the Crown or the holder of the office, as the case may be, notwithstanding any other Act or law in force in Alberta.

(3) A Member does not breach this section by reason of being appointed to an office set out in the Schedule in the Member's capacity as a Minister if the Member receives no remuneration as the holder of that office other than reasonable travelling and living expenses incurred in the course of serving in that office.

(4) Employment with the Crown held pursuant to a contract of employment shall be governed by this section and not by section 8.

Gifts, benefits  
from person  
other than Crown

7(1) A Member breaches this Act if the Member or, to the knowledge of the Member, the Member's spouse or minor child accepts from a person other than the Crown a fee, gift or other benefit that is connected directly or indirectly with the performance of the Member's office.

(2) Subsection (1) does not apply to a fee, gift or other benefit that is accepted by the Member or the Member's spouse or minor child as an incident of protocol or of the social obligations that normally accompany the responsibilities of the Member's office if

(a) the total value of the fees, gifts and benefits given from the same source to the Member and the Member's spouse and minor children in any calendar year is \$2000 or less, or

(b) the Member applies to the Ethics Commissioner

(i) as soon as practicable after the fee, gift or benefit is received by the Member, or

(ii) as soon as practicable after the Member has knowledge that the fee, gift or benefit has been accepted by the Member's spouse or minor child,

and either obtains the Ethics Commissioner's approval for its retention, on any conditions the Ethics Commissioner prescribes, or, if the approval is refused, takes such steps as the Ethics Commissioner directs with respect to the disposition of the fee, gift or benefit.

(3) The Ethics Commissioner may give an approval under subsection (2)(b) only where the Ethics Commissioner is satisfied that there is no reasonable possibility that retention of the fee, gift or other benefit will create a conflict between a private interest and the public duty of the Member.

Contracts with  
the Crown

8(1) A Member breaches this Act if, while being a Member, the Member or a person directly associated with the Member becomes a party to a contract within any of the following classes:

(a) a contract under which the Member or the person directly associated with the Member borrows money from a treasury branch;

(b) a contract under which the Member or the person directly associated with the Member conveys or agrees to convey to the Crown any interest in land otherwise than

(i) by consenting to the acquisition by the Crown of the interest under section 30 of the *Expropriation Act* and executing a conveyance under that section, or

(ii) with the approval of the Ethics Commissioner on certification that the consideration for the conveyance is fair and reasonable;

(c) a contract to which the Crown is also a party and that is for the construction, demolition, alteration or repair of a public work;

(d) a contract under which the Agriculture Financial Services Corporation lends money to, or guarantees a debt of, the Member or the person directly associated with the Member.

(e) a contract under which the Alberta Opportunity Company lends money to, or guarantees a debt of, the Member or the person directly associated with the Member.

(f) a contract to which the Crown is also a party, other than a contract referred to in clauses (a) to (e), if the Member or the person directly associated with the Member receives a preference from the Crown on entering into the contract or receives a benefit under the contract not available to other members of the public under contracts of the same class.

(2) Subsection (1)(f) does not prevent a Member or a person directly associated with the Member from becoming a party to a contract with the Crown if the contract provides for a payment or benefit permitted under section 9(2)(a), (b) or (c).

(3) A Member does not breach subsection (1) in respect of a renewal or renegotiation of a contract to which that subsection would otherwise apply if

(a) at the time of becoming a Member, the Member or the person directly associated with the Member was a party to the contract.

(b) the contract is to be renewed according to the provisions of the contract or is to be renegotiated.

(c) the contract is not within any of the classes mentioned in subsection (1)(a) to (e), and

(d) the Ethics Commissioner, before the renewal is made or the replacement contract is executed by the Member or the person directly associated with the Member, gives an opinion that

(i) the provisions of the renewal or the replacement contract are fair and reasonable in the circumstances, having regard to the provisions of the existing contract or previous contract.

(ii) in the case of a renewal, the renewal will be effected in accordance with the provisions of the contract pertaining to its renewal, and

(iii) the Member or the person directly associated with the Member has not received any preference from the Crown in relation to the renewal or in negotiating the replacement contract and will not

Payments  
from the  
Crown

receive a benefit under the renewal or replacement contract not available to other members of the public under a contract of the same class.

1991 cC-22.1 s8; 1994 c23 s10

9(1) A Member breaches this Act if, while being a Member, the Member or a person directly associated with the Member accepts a payment of public money from the Crown or a person acting on behalf of the Crown otherwise than as permitted by subsection (2).

(2) A Member or a person directly associated with the Member may accept a payment of public money from the Crown or a person acting on behalf of the Crown if

(a) the payment is made to the Member pursuant to Part 3 or 4 of the *Legislative Assembly Act* or otherwise in the Member's capacity as a Member of the Legislative Assembly, as a member of the Executive Council or as the holder of an office to which the Member is elected by the Legislative Assembly or appointed by or at the nomination of the Lieutenant Governor in Council or a Minister of the Crown in right of Alberta, and the payment is authorized by or pursuant to

(i) the *Legislative Assembly Act* or any other enactment,

(ii) a resolution or order of the Legislative Assembly, or

(iii) a supply vote or Heritage Fund vote as defined in the *Financial Administration Act*.



(b) the recipient is, according to the enactment authorizing the payment, entitled to the payment as a matter of right or subject only to compliance with the requirements of that enactment that are conditions precedent to the payment,

(c) the recipient of the payment

(i) is, according to the enactment under which the payment is authorized, eligible to apply for the payment and complies with the requirements of that enactment that are conditions precedent to the payment,

(ii) in respect of the recipient's application is given no preference not available to others, and

(iii) receives no special benefit in relation to the recipient's application or the payment,

or

(d) the payment is made under a contract that may be entered into without the Member being in breach of section 8.

10 If a person ceases to be a Member of the Legislative Assembly by reason of dissolution of the Legislature or otherwise and again becomes a Member of the Legislative Assembly by reason of being elected in the succeeding general election or by-election, as the case may be, then, for the purposes of sections 8 and 9, the person is deemed to be a Member of the Legislative Assembly during the intervening period.

### PART 3 DISCLOSURE

#### Disclosure statements

11(1) Every Member shall file with the Ethics Commissioner a disclosure statement in the form provided by the Ethics Commissioner

(a) within 60 days after becoming a Member of the Legislative Assembly,

(b) within 60 days after being appointed to the Executive Council if the Member has not filed a current disclosure statement as a Member of the Legislative Assembly, and

(c) in each subsequent year at the time specified by the Ethics Commissioner.

(2) Every person who is a Member on the coming into force of this section shall file a disclosure statement within 60 days of the coming into force of this section.

(3) A Member shall, within 30 days after the occurrence of any material changes to the information contained in a current disclosure statement, file with the Ethics Commissioner an amending disclosure statement in the form provided by the Ethics Commissioner setting out the changes.

#### Content of disclosure statement

12 A disclosure statement

(a) shall include a statement, as of a date determined by the Ethics Commissioner, of the assets, liabilities and financial interests of the Member and, so far as known to the Member, of



- (i) the Member's spouse and minor children, and
- (ii) any private corporation controlled by the Member and the Member's spouse and minor children, or any one or more of them,

but not including investments in a blind trust,

- (b) need not include obligations being incurred for ordinary living expenses that will be discharged in the ordinary course of the Member's affairs,

- (c) shall include a statement of the income that the Member and, so far as known to the Member, any other person mentioned in clause (a), has received in the preceding 12 months or expects to receive in the next 12 months and, to the extent required by the Ethics Commissioner, the sources of the income, and

- (d) shall include a list of all fees, gifts and benefits approved for retention under section 7(2)(b).

Meeting with  
Members

- 13 The Ethics Commissioner shall, as soon as practicable after a Member has filed a disclosure statement, meet with the Member and the Member's spouse, if available, to ensure that the Member has made adequate disclosure and to advise about the Member's obligations under this Act.

Public disclosure  
statements

- 14(1) After meeting with the Member, and with the Member's spouse if the spouse is available, the Ethics Commissioner shall prepare a public disclosure statement.

- (2) Where a Member files an amending disclosure statement, the Ethics Commissioner, after consulting the Member and the Member's spouse, if available, shall, if the Ethics Commissioner considers it necessary, prepare either a new public disclosure statement or a supplementary public disclosure statement, which shall form part of the Member's public disclosure statement.

- (3) Except as provided in this section, a public disclosure statement shall identify

- (a) the assets, liabilities, financial interests and sources of income, and

- (b) the fees, gifts or benefits approved for retention under section 7(2)(b),

as disclosed in the Member's disclosure statement, but shall not state the amount or value of them.

- (4) The following shall be excluded from a public disclosure statement unless the Ethics Commissioner is of the opinion that disclosure of the asset, liability, financial interest, source of income or information is likely to be material to the determination of whether or not a Member is or is likely to be in breach of this Act:

- (a) assets, liabilities or interests having a value of less than \$1000;
- (b) a source of income of less than \$1000 per year;

- (c) information identifying a home or recreational property occupied by the Member or one of the Member's family;

- (d) things used personally by a Member or one of the Member's family;

- (e) unpaid taxes;

- (f) support obligations.

- (5) The Ethics Commissioner may from time to time establish other categories of matters to be excluded from public disclosure statements on the grounds that they are of little or no importance and are not likely to be material to the determination of whether or not a Member is or is likely to be in breach of this Act.

- (6) If in the opinion of the Ethics Commissioner disclosure of the amount or value of an asset, liability, financial interest or source of income is likely to be material to the determination of whether or not a Member is or is likely to be in breach of this Act, the amount or value shall be included in the public disclosure statement.

- (7) The Ethics Commissioner may exclude from the public disclosure statement a source of income received by a Member's spouse or minor child or a private corporation if

- (a) the income is or will be received in respect of services or things that are customarily provided on a confidential basis, or

- (b) the possibility of serious harm to a business of the spouse, minor child or private corporation justifies a departure from the general principle of public disclosure.

- (8) Information included in a disclosure statement or amending disclosure statement of a Member to the Ethics Commissioner and not included in the Member's public disclosure statement is confidential unless it is relevant to a proceeding under Part 5.

- (9) On completion of a public disclosure statement or a supplementary disclosure statement, the Ethics Commissioner shall file it with the Clerk of the Legislative Assembly.

Returns relating  
to persons  
directly  
associated

- 15(1) Every person who is a Member at the date of the coming into force of this section shall, not later than 60 days after this section comes into force, furnish to the Ethics Commissioner a return showing

- (a) the name and address of each person with whom the Member was directly associated on the date this Act came into force and of the persons with whom the Member became associated after that date and before the date of the return, and

- (b) if the Member's direct association with any person referred to in clause (a) terminated before the date of the return, the date of the termination.

- (2) Every person who becomes a Member after the coming into force of this section shall, within 60 days after becoming a Member, furnish to the Ethics Commissioner a return showing

- (a) the name and address of each person with whom the Member was directly associated on the day of becoming a Member and with whom the Member became directly associated after that date and before the date of the return, and

(b) if the Member's direct association with any person referred to in clause (a) terminated before the date of the return, the date of the termination.

(3) Every Member shall furnish to the Ethics Commissioner

(a) a return showing

(i) the name and address of each person with whom the Member became directly associated on or after the date of the Member's initial return under subsection (1) or (2), and

(ii) the date on which the direct association began,

within 30 days after the direct association began, and

(b) a return showing the date on which the Member's direct association with any person terminated, within 30 days after that date.

(4) Where a person ceases to be a Member by reason of dissolution of the Legislature or otherwise,

(a) that person shall, within 30 days after ceasing to be a Member, furnish a return to the Ethics Commissioner showing

(i) the name and address of each person with whom the person became directly associated or with whom that person ceased to be directly associated on or after the date of that person's last return under this section, and

(ii) the date on which the direct association began or terminated, as the case may be,

and

(b) if that person again becomes a Member in the succeeding general election or by-election, as the case may be, that person shall, within 60 days after again becoming a Member, furnish a return to the Ethics Commissioner showing

(i) the name and address of each person with whom the Member became directly associated or with whom the Member ceased to be directly associated in the intervening period, and

(ii) the date on which the direct association began or terminated, as the case may be.

(5) In a return under this section, a Member is not required to show the name and address of any person who is or was directly associated with the Member by reason of section 1(5)(c) unless that person, during the period of the direct association and as the agent of the Member with actual authority from the Member,

(a) became a party to a contract to which the Crown was also a party, or

(b) received a payment of public money from the Crown or from a person acting on behalf of the Crown, otherwise than pursuant to a contract.

(6) A return under this section may be in the form prescribed by the Ethics Commissioner.

Provincial  
Treasurer's  
report

(7) On receipt of a return under this section, the Ethics Commissioner shall file a copy of the return with the Clerk of the Legislative Assembly and provide a copy to the Provincial Treasurer.

16(1) The Provincial Treasurer shall, after the end of each Government fiscal year, prepare a report showing in respect of each person who was a Member during that fiscal year

(a) the names of the persons directly associated with the Member in that fiscal year and the period of the direct association, as indicated by the returns furnished under section 15,

(b) information relating to payments made by the Crown to the Member in that fiscal year, and

(c) information relating to payments made by the Crown in that fiscal year to the respective persons directly associated with the Member in that fiscal year, as indicated by the returns furnished under section 15.

(2) Each Provincial agency shall, in accordance with the directions of the Provincial Treasurer, furnish to the Provincial Treasurer after the end of each Government fiscal year such information as the Provincial Treasurer requires for the purposes of a report under subsection (1) for that fiscal year insofar as it relates to payments made by that Provincial agency in that fiscal year to Members and to the persons directly associated with Members according to the returns furnished under section 15.

(3) The Provincial Treasurer, in providing the information referred to in subsection (1)(b) and (c) in a report under that subsection,

(a) may classify payments in any manner the Provincial Treasurer considers appropriate,

(b) shall show in respect of each class of payments the aggregate amount of the payments of that class made to each Member and to each person directly associated with the Member in the fiscal year, and

(c) shall show in respect of each person who was a Member in the fiscal year to which the report relates the aggregate amount of all payments of all classes made to that Member and the aggregate amount of all payments of all classes made to each person directly associated with the Member in the fiscal year.

(4) A report prepared under subsection (1) shall not include

(a) payments made to or on behalf of the Member pursuant to Part 3 or 4 of the *Legislative Assembly Act*,

(b) payments required to be included in a report under section 43 of the *Legislative Assembly Act*,

(c) payments of benefits under the *Alberta Health Care Insurance Act*,

(d) payments of social allowances or handicap benefits under the *Social Development Act*.

(e) payments of handicap benefits under the *Assured Income for the Severely Handicapped Act*,

(f) payments under the *Seniors Benefit Act*,

(g) pensions under the *Widows' Pension Act*,

(h) compensation paid under the *Workers' Compensation Act* or *Blind Workers' Compensation Act*,

(i) payments made by way of student financial assistance under the *Students Finance Act*,

(j) senior citizen renter assistance grants under the *Property Tax Reduction Act*,

(k) payments made by way of refunds, or

(l) any other class of payments by the Crown if the disclosure in the report of the identity of the recipients would contravene any law in force in Alberta that contains confidentiality requirements in respect of that class of payments.

(5) When a report is prepared under subsection (1), the Provincial Treasurer shall lay the report before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

1991 cC-22.1 s16:1994 cS-13.3 s9

Filing of public disclosure statement

## 17 The Clerk of the Legislative Assembly

(a) shall retain each Member's public disclosure statements, supplementary public disclosure statements and returns,

(b) shall make the public disclosure statements, any supplementary public disclosure statements and returns available for examination by any person who wishes to examine them, and

(c) may, to the extent that the Clerk considers reasonable in view of the facilities available to the Clerk and on payment of reasonable reproduction costs, provide on request to any person copies of any public disclosure statements, supplementary public disclosure statements or returns.

18 A Member breaches this Act if the Member does not file a disclosure statement, an amending disclosure statement or a return within the time provided by section 11 or section 15, as the case may be, or if the Member knowingly gives false or misleading information in a statement or return.

Failure to file

## PART 4

### MEMBERS OF THE EXECUTIVE COUNCIL

Restriction on holdings

19(1) A Minister breaches this Act if the Minister, after the expiration of the relevant period referred to in section 21, owns or has a beneficial interest in publicly-traded securities.

(2) Subsection (1) does not apply to publicly-traded securities held in the Minister's blind trust in accordance with this Act.

(3) A Minister does not breach subsection (1) if

(a) the Minister acquires ownership of or a beneficial interest in publicly-traded securities with the prior approval of the Ethics Commissioner, or

(b) the Minister

(i) applies, prior to the expiration of the relevant period referred to in section 21, to the Ethics Commissioner for approval to retain ownership of or a beneficial interest in publicly-traded securities, and

(ii) either obtains the Ethics Commissioner's approval or, if the approval is refused, takes such steps as the Ethics Commissioner directs with respect to the disposition of the ownership or beneficial interest.

(4) The Ethics Commissioner may

(a) give an approval in respect of any publicly-traded securities under subsection (3)(a) or (b) if the Ethics Commissioner is of the opinion that they are securities of a corporation the interests of which are not likely to be affected by decisions of the Government,

or

(b) give an approval in respect of any publicly-traded securities under subsection (3)(b) if the Ethics Commissioner is of the opinion that disposition of the securities will cause financial loss to the Minister and the public interest does not require disposition by the Minister.

(5) An approval or direction given by the Ethics Commissioner under subsection (3) may be subject to any conditions prescribed by the Ethics Commissioner.

Employment  
restrictions

20(1) A Minister breaches this Act if the Minister, after the expiration of the period referred to in section 21,

(a) engages in employment or in the practice of a profession,

(b) carries on a business, or

(c) holds an office or directorship other than in a social club, religious organization or political party,

that creates or appears to create a conflict between a private interest of the Minister and the Minister's public duty.

(2) A Minister may carry on an activity referred to in subsection (1) in a way approved by the Ethics Commissioner if

(a) the Minister has disclosed the material facts to the Ethics Commissioner, and

(b) the Ethics Commissioner is satisfied that the activity, if carried on in a way approved by the Ethics Commissioner, will not create or appear to create a conflict between a private interest of the Minister and the Minister's public duty.

(3) For the purposes of this section, the management of routine personal financial interests does not constitute carrying on a business.

Time for compliance

21(1) For the purposes of sections 19(1) and 20(1),

(a) with respect to a person who becomes a Minister after this Part comes into force, the period is 60 days after being appointed to the Executive Council, and

(b) with respect to a person who is a Minister on the coming into force of this Part, the period is 60 days after the coming into force of this Part,

or such longer period as may be prescribed by the Ethics Commissioner.

(2) For the purposes of section 19(1), with respect to a Minister who acquires ownership of or a beneficial interest in publicly-traded securities by gift or inheritance, the period is 60 days after receiving the gift or inheritance or such longer period as may be prescribed by the Ethics Commissioner.

## PART 5

### INVESTIGATIONS INTO BREACHES

Requests for investigation

22(1) Any person may request in writing that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by a Member.

(2) A request under subsection (1) must be signed by the person making it and must identify the person to the satisfaction of the Ethics Commissioner.

(3) A Member may request, in writing, that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by the Member.

(4) The Legislative Assembly may, by resolution, request that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by a Member.

(5) The Executive Council may request that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by a Minister.

(6) Where a matter has been referred to the Ethics Commissioner under subsection (1), (3) or (4), neither the Legislative Assembly nor a committee of the Assembly shall inquire into the matter.

Investigation and inquiry

23(1) On receiving a request under section 22 or where the Ethics Commissioner has reason to believe that a Member has acted or is acting in contravention of advice, recommendations or directions or any conditions of any approval or exemption given by the Ethics Commissioner to the Member under this Act, and on giving the Member concerned reasonable notice, the Ethics Commissioner may conduct an investigation with or without conducting an inquiry.

(2) When conducting an inquiry under this section, the Ethics Commissioner has the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.

(3) If an inquiry is held, it shall be held in public unless the Ethics Commissioner, in the interests of justice, decides that it is to be held in private.

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(4) The Ethics Commissioner may refuse to investigate or may cease to investigate an alleged breach under this Act if the Ethics Commissioner is of the opinion that

(a) the request is frivolous or vexatious or was not made in good faith, or

(b) there are no or insufficient grounds to warrant an investigation or the continuation of an investigation.

(5) If the Ethics Commissioner refuses to investigate or ceases to investigate an alleged breach, the Ethics Commissioner shall so inform

(a) the Member against whom the allegation was made, and

(b) the Speaker of the Legislative Assembly, the President of the Executive Council or the person who made the request under section 22, as the case may be.

(6) Where the request is made under section 22(1), (3) or (4), the Ethics Commissioner shall report his findings to the Speaker of the Legislative Assembly.

(7) The Ethics Commissioner may, before reporting his findings to the Speaker of the Legislative Assembly under subsection (6), provide a copy of the report

(a) to the Member against whom the allegation was made, and

(b) to the leader in the Legislative Assembly of the political party to which the Member belongs.

(8) Where the request is made under section 22(5), the Ethics Commissioner shall report his findings to the President of the Executive Council.

(9) If the Ethics Commissioner is of the opinion

(a) that a request made by a Member under section 22(1) was frivolous or vexatious or was not made in good faith, or

(b) that a request was made under section 22(1) by a person at the request of a Member and that the request was frivolous or vexatious or was not made in good faith,

the Ethics Commissioner may state that in a report to the Speaker of the Legislative Assembly.

(10) The Speaker of the Legislative Assembly shall lay the report referred to in subsection (9) before the Legislative Assembly and the Legislative Assembly, after considering the report, may

(a) find the Member referred to in subsection (9) in contempt of the Legislative Assembly pursuant to section 10 of the *Legislative Assembly Act*, or

(b) order the Member referred to in subsection (9) to pay to the Member against whom the allegation was made the costs of the proceeding incurred by the Member against whom the allegation was made,

or both.



Confidentiality

**24(1)** Except as provided in this section, the Ethics Commissioner or any former Ethics Commissioner or a person who is or was employed or engaged by the Office of the Ethics Commissioner shall maintain the confidentiality of all information and allegations that come to their knowledge in the course of the administration of this Act.

(2) Allegations and information to which subsection (1) applies may be

- (a) disclosed to the Member whose conduct is the subject of proceedings under this Part;
- (b) disclosed by a person conducting an investigation to the extent necessary to enable that person to obtain information from another person;
- (c) adduced in evidence at an inquiry under this Part;
- (d) disclosed in a report made by the Ethics Commissioner under this Part.

Ethics Commissioner's report

**25(1)** A report by the Ethics Commissioner to the Speaker of the Legislative Assembly under section 23(6) shall set out

- (a) the facts found by the Ethics Commissioner, and
  - (b) the Ethics Commissioner's findings as to whether or not the Member has breached this Act and, if so,
    - (i) the nature of the breach, and
    - (ii) the Ethics Commissioner's recommendation for the sanction, if any, that the Legislative Assembly may impose on the Member for the breach.
- (2) The Ethics Commissioner may recommend any one of the following sanctions:
- (a) that the Member be reprimanded;
  - (b) that a penalty be imposed on the Member in an amount recommended by the Ethics Commissioner;
  - (c) that the Member's right to sit and vote in the Legislative Assembly be suspended for a stated period or until the fulfilment of a condition;

(d) that the Member be expelled from membership of the Legislative Assembly;

and may also recommend the alternative of a lesser sanction or no sanction if the Member carries out recommendations in the report for the rectification of the breach.

(3) If the Ethics Commissioner is of the opinion that the breach was trivial, inadvertent or committed in good faith, the Ethics Commissioner may recommend that no sanction be imposed.

(4) Where it appears to the Ethics Commissioner that a report may adversely affect a Member, the Ethics Commissioner shall inform the Member of the particulars and give the Member the opportunity to make representations, either orally or in writing at the discretion of the Ethics Commissioner, before the Ethics Commissioner completes the report.

1991 c.C-22.1 s.25:1992 c.21 s.9

Tabling of report

**26(1)** On receiving a report from the Ethics Commissioner under section 23(6), the Speaker of the Legislative Assembly shall lay the report before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

(2) If the Legislative Assembly is not sitting when the Ethics Commissioner reports his findings to the Speaker of the Legislative Assembly under section 23(6), the Speaker shall make copies of the report available to the public.

(3) The Legislative Assembly shall deal with a report of the Ethics Commissioner within 60 days after the tabling of the report, or such other period determined by a resolution of the Legislative Assembly.

Powers of the Legislative Assembly

**27** The Legislative Assembly may accept or reject the findings of the Ethics Commissioner or substitute its own findings and may if it determines that there is a breach

- (a) impose the sanction recommended by the Ethics Commissioner or any other sanction referred to in section 25(2) it considers appropriate, or
- (b) impose no sanction.

Offences

**28** A breach of this Act by a Member is not an offence to which the *Provincial Offences Procedure Act* applies.

# PART 6

## FORMER MINISTERS

Deals with Government by former Ministers

29(1) Except in accordance with subsection (3), a former Minister shall not, for a period of 6 months after ceasing to be a member of the Executive Council,

- (a) on behalf of himself or any other person, solicit or accept a contract or benefit from a department of the public service or a Provincial agency with which the former Minister had significant official dealings during the former Minister's last year of service as a Minister,
  - (b) accept employment with a person or entity, or appointment to the board of directors or equivalent body of an entity, with which the former Minister had significant official dealings during the former Minister's last year of service as a Minister, or
  - (c) act on a commercial basis in connection with any ongoing matter in connection with which the former Minister, while in office, directly acted for or advised a department of the public service or a Provincial agency involved in the matter.
- (2) For the purposes of subsection (1), a former Minister has had significant official dealings with a department of the public service, Provincial agency, person or entity if the former Minister, while in office, was directly and substantively involved with the department, Provincial agency, person or entity in an important matter.
- (3) Subsection (1) does not apply

- (a) to any contract with or benefit from the Crown if the conditions on which and the manner in which the contract or benefit is awarded, approved or given are the same for all persons similarly entitled, or if the award, approval or grant results from an impartially administered process open to a significant class of persons, or
  - (b) to an activity, contract or benefit if the Ethics Commissioner has exempted the activity, contract or benefit from the operation of subsection (1) and the former Minister observes and performs any conditions on which the Ethics Commissioner has granted the exemption.
- (4) A former Minister who contravenes this section and who at the time of the contravention is a Member of the Legislative Assembly breaches this Act.

(5) A former Minister who contravenes this section and who at the time of the contravention is not a Member of the Legislative Assembly is guilty of an offence and liable on summary conviction to a fine not exceeding \$20 000.

Breach for awarding contracts

30 A Minister breaches this Act if the Minister knowingly awards or approves a contract or gives a benefit to a former Minister who is acting in contravention of section 29.

# PART 7

## ETHICS COMMISSIONER

Appointment

31(1) There shall be appointed, as an officer of the Legislature, by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly, an Ethics Commissioner to carry out those duties and functions set out in this Act or any other enactment prescribed by the Lieutenant Governor in Council.

(2) The Ethics Commissioner may not be a Member of the Legislative Assembly.

(3) The Ethics Commissioner may be appointed on either a full-time or part-time basis.

1991 cC-22.1 s31; 1995 c17 s19

Term of office

32(1) Unless the office sooner becomes vacant, a person appointed as Ethics Commissioner holds office for 5 years

(a) from the date of that person's appointment under section 31, or

(b) from the date on which that person's appointment under section 35 or 45 is confirmed under that section.

(2) A person holding office as Ethics Commissioner continues to hold office after the expiry of that person's term of office until that person is reappointed, a successor is appointed or a period of 6 months has expired, whichever occurs first.

Resignation

33 The Ethics Commissioner may at any time resign from office by delivering a written resignation to the Clerk of the Legislative Assembly.



Suspension or removal

34(1) On the recommendation of the Legislative Assembly, the Lieutenant Governor in Council may, at any time, suspend or remove the Ethics Commissioner from office for cause or incapacity.

(2) At any time the Legislative Assembly is not sitting the Lieutenant Governor in Council, on the recommendation of the Standing Committee, may suspend the Ethics Commissioner from office for cause or incapacity, but the suspension shall not continue in force beyond the end of the next sitting of the Legislative Assembly.

1991 cC-22.1 s34:1993 c17 s19

Vacancy

35(1) If the Ethics Commissioner dies, retires, resigns or is removed from office, the vacancy created shall be filled in accordance with section 31 or this section.

(2) If the vacancy occurs while the Legislative Assembly is sitting, but no recommendation is made by the Legislative Assembly before the close of that sitting, subsection (3) applies as if the vacancy had occurred while the Legislative Assembly was not sitting.

(3) If the vacancy occurs while the Legislative Assembly is not sitting, the Lieutenant Governor in Council, on the recommendation of the Standing Committee, may appoint an Ethics Commissioner to fill the vacancy and unless the office sooner becomes vacant, the person so appointed holds office until the appointment is confirmed by the Legislative Assembly.

(4) If an appointment under subsection (3) is not confirmed within 30 days after the commencement of the next sitting, the appointment lapses and there is deemed to be another vacancy in the office of Ethics Commissioner.

Remuneration

36 The Ethics Commissioner shall be remunerated as determined by the Standing Committee, and it shall review that remuneration at least once a year.

Oath

37(1) Before commencing the duties of office, the Ethics Commissioner must take an oath to faithfully and impartially perform the duties of the office and not, except as provided in this Act, to disclose any information received by the Office of the Ethics Commissioner under this Act.

(2) The oath shall be administered by the Speaker of the Legislative Assembly or the Clerk of the Legislative Assembly.

Office of the Ethics Commissioner

38(1) There shall be a department of the public service of Alberta called the Office of the Ethics Commissioner consisting of the Ethics Commissioner and those persons employed pursuant to the *Public Service Act* as are necessary to assist the Ethics Commissioner in carrying out the Ethics Commissioner's duties and functions under this or any other enactment.

(2) The Ethics Commissioner may engage the services of any persons as are necessary to assist the Ethics Commissioner in carrying out the Ethics Commissioner's duties and functions.

(3) On the recommendation of the Ethics Commissioner, the Standing Committee may order that

(a) any regulation, order or directive made under the *Financial Administration Act*, or

(b) any regulation, order, directive, rule, procedure, direction, allocation, designation or other decision under the *Public Service Act*.

be inapplicable to, or be varied in respect of, the Office of the Ethics Commissioner or any particular employee or class of employees in the Office of the Ethics Commissioner.

(4) An order made under subsection (3)(a) in relation to a regulation, order or directive made under the *Financial Administration Act* operates notwithstanding that Act.

(5) The *Regulations Act* does not apply to orders made under subsection (3).

(6) The chair of the Standing Committee shall lay a copy of each order made under subsection (3) before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

(7) Every person employed or engaged by the Office of the Ethics Commissioner shall, before beginning to perform that person's duties under this Act, take an oath, to be administered by the Ethics Commissioner, not to disclose any information received by that person under this Act except as provided in this Act.

(8) If the Ethics Commissioner or any former Ethics Commissioner or a person who is or was employed or engaged by the Office of the Ethics Commissioner discloses information that is confidential under section 14(8), 24(1) or 41(3), that person is guilty of an offence and is liable to a fine not exceeding \$20 000.

Financing of  
operations

39(1) The Ethics Commissioner shall submit to the Standing Committee in respect of each fiscal year an estimate of the sum that will be required to be provided by the Legislature to defray the several charges and expenses of the Office of the Ethics Commissioner in that fiscal year.

(2) The Standing Committee shall review each estimate submitted pursuant to subsection (1) and, on the completion of the review, the chair of the Committee shall transmit the estimate to the Provincial Treasurer for presentation to the Legislative Assembly.

(3) If at any time the Legislative Assembly is not sitting the Standing Committee, or if there is no Standing Committee, the Provincial Treasurer,

(a) reports that the Ethics Commissioner has certified that in the public interest, an expenditure of public money is urgently required in respect to any matter pertaining to his office, and

(b) reports that either

(i) there is no supply vote under which an expenditure with respect to that matter may be made, or

(ii) there is a supply vote under which an expenditure with respect to that matter may be made but the authority available under the supply vote is insufficient,

the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the expenditure of the amount estimated to be required.

(4) When the Legislative Assembly is adjourned for a period of more than 14 days, the Legislative Assembly is deemed, for the purposes of subsection (3), not to be sitting during the period of the adjournment.

(5) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(i), the authority to spend the amount of money specified in the special warrant for the purpose specified in the special warrant is deemed to be a supply vote for the purposes of the *Financial Administration Act* for the fiscal year in which the special warrant is signed.

(6) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(ii), the authority to spend the amount of money specified in the special warrant is, for the purposes of the *Financial Administration Act*, added to and deemed to be part of the supply vote to which the report relates.

(7) When a special warrant has been prepared and signed pursuant to this section, the amounts authorized by it are deemed to be included in, and not to be in addition to, the amounts authorized by the Act, not being an Act for interim supply, enacted next after it for granting to Her Majesty sums of money to defray certain expenditures of the Public Service of Alberta.

General duties of  
Ethics  
Commissioner

40(1) It is a function of the Ethics Commissioner to promote the understanding by Members of their obligations under this Act by

(a) personal discussions with Members, and in particular when interviewing them about disclosure statements,

(b) commissioning the preparation and dissemination of written information about the obligations, and

(c) continuing contact with party caucuses and advising them as to what programs they might institute.

(2) Where this Act provides for the doing of anything by a time or within a prescribed period of time, the Ethics Commissioner may, prior to the expiration of the time, extend the time for the doing of that thing under this Act.

Binding advice  
and  
recommendations

41(1) A Member or former Minister may request the Ethics Commissioner to give advice and recommendations on any matter respecting obligations of the Member or former Minister under this Act.

(2) The Ethics Commissioner may in writing provide the Member or former Minister with advice and recommendations, which

(a) shall state the material facts either expressly or by incorporating facts stated by the Member or former Minister.

(b) shall be based on the facts referred to in clause (a), and

(c) may be based on any other considerations the Ethics Commissioner considers appropriate.

(3) Advice and recommendations under this section are confidential until released by or with the Member's or former Minister's consent.

(4) The Ethics Commissioner may make such inquiries as the Ethics Commissioner considers appropriate in order to provide advice and recommendations under this section.

(5) If a Member or former Minister has, with respect to advice and recommendations under this section,

(a) communicated the material facts to the Ethics Commissioner, and

(b) complied with any recommendations contained in the advice and recommendations of the Ethics Commissioner,

no proceeding or prosecution shall be taken against the Member or former Minister under this Act by reason only of the facts so communicated and the Member's or former Minister's compliance with the recommendations.

42(1) The Ethics Commissioner may give advice and recommendations of general application to Members or former Ministers or a class of Members or former Ministers on matters respecting obligations of Members and former Ministers under this Act, which may be based on the facts set out in the advice and recommendations or on any other considerations the Ethics Commissioner considers appropriate.

(2) With respect to advice and recommendations given under subsection (1), no proceeding or prosecution shall be taken against a Member or former Minister under this Act by reason only of the facts and considerations stated in the advice and recommendations and the Member's or former Minister's compliance with the advice and recommendations.

43(1) No action lies against the Ethics Commissioner or any former Ethics Commissioner or any other person who is or was employed or engaged by the Office of the Ethics Commissioner for anything done in good faith under this Act.

(2) No action lies against a person who in good faith provides information or gives evidence in a proceeding under Part 5 to the Ethics Commissioner or to a person employed or engaged by the Office of the Ethics Commissioner.

44(1) The Ethics Commissioner shall, at any times that the Ethics Commissioner considers appropriate, and at least annually, report in writing to the Speaker of the Legislative Assembly

(a) the names of Members who, in the opinion of the Ethics Commissioner,

September 1, 1991

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(i) have not filed disclosure statements or returns within the time limited by section 11 or 15, as the case may be, or

(ii) have not made the full disclosure required by section 12.

and

(b) generally on the affairs of the Office of the Ethics Commissioner.

(2) The Speaker of the Legislative Assembly shall lay a copy of the report before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

## PART 8

### TRANSITIONAL, CONSEQUENTIAL AND COMMENCEMENT

Appointment of  
first Ethics  
Commissioner

45 For the purposes of appointing the first Ethics Commissioner, if the Legislative Assembly is not sitting, the Lieutenant Governor in Council on the recommendation of the Standing Committee may appoint an Ethics Commissioner, and unless the office sooner becomes vacant, the person so appointed holds office until the appointment is confirmed by the Legislative Assembly.

Breaks prior to  
coming into force  
of Act

46(1) Subject to subsection (2), no proceeding may be commenced under this Act in respect of an alleged breach of this Act commenced prior to the coming into force of Part 5.

(2) Where a Member is liable to disqualification under section 27(1)(b) or (c), 28 or 29 of the Legislative Assembly Act before the coming into force of Part 5 of this Act and no proceeding has been commenced under the Legislative Assembly Act, the proceeding shall be commenced in accordance with Part 5 of this Act.

Blind trusts

47(1) In this section, "prior trust" means

(a) a blind trust under the Legislative Assembly Act, or

(b) a trust established before the coming into force of section 1(7) under the "Premier's Guidelines" tabled in the Legislative Assembly on May 2, 1973.

(2) A Member who has a prior trust and wishes to establish a blind trust under this Act may within 60 days after this section comes into force apply to the Ethics Commissioner for advice and recommendations relating to the transfer of publicly-traded securities from the prior trust to a blind trust established in accordance with this Act.

(3) A Member does not breach this Act if a prior trust contains securities in a private corporation that on the coming into force of section 1(7) would put the Member in breach of this Act, if the Member takes such steps as the Ethics Commissioner recommends to remove the grounds of the breach as soon as the Ethics Commissioner considers practicable in the circumstances.

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September 1, 1991

48 to 53 (These sections make consequential amendments to other Acts. The amendments have been incorporated in those Acts.)

Coming into  
force

54. This Act, except sections 1(1)(c), (d) and (m), 45, 51 and 53(a) and Part 7, comes into force on Proclamation.

(NOTE: Proclaimed in force March 1, 1993.)

## SCHEDULE

### DISQUALIFYING OFFICES

#### Part 1

##### Judicial Offices

1. Judges of the Provincial Court of Alberta

#### Part 2

##### Offices of the Legislature

1. The Auditor General of Alberta under the Auditor General Act
2. The Ombudsman under the Ombudsman Act
3. The Chief Electoral Officer under the Election Act
4. The Ethics Commissioner under the Conflicts of Interest Act
5. The Information and Privacy Commissioner

#### Part 3

##### Other Disqualifying Offices

The office of chairman or member of any of the following:

Agriculture Financial Services Corporation  
Alberta Agricultural Products Marketing Council  
Alberta Apprenticeship and Industry Training Board under  
the Apprenticeship and Industry Training Act  
Alberta Automobile Insurance Board  
Alberta Building Standards Council  
Alberta Cancer Board  
Alberta Dairy Control Board  
Alberta Educational Communications Corporation  
Alberta Electric Energy Marketing Agency  
Alberta Sport Council  
Alberta Gaming Commission appointed under section  
207 of the Criminal Code (Canada)  
The Alberta Government Telephones Commission  
Alberta Human Rights Commission  
The Alberta Liquor Control Board  
Alberta Social Housing Corporation  
Alberta Motion Picture Development Corporation  
Alberta Motor Transport Board  
Alberta Municipal Financing Corporation  
Alberta Order of Excellence Council  
Alberta Petroleum Marketing Commission  
Alberta Racing Commission  
Alberta Securities Commission  
Appeal board under section 537 of the Insurance Act

- Appeal board under the Farm Implement Act  
 Appeal board under the Freehold Mineral Rights Tax Act  
 Appeal board under the Mortgage Brokers Regulation Act  
 Appeal board under the Real Estate Agents' Licensing Act  
 Appeal panel under the Dependent Adults Act  
 Board of Censors under the Amusements Act  
 Board of Directors of the Alberta General Insurance Company  
 Board of Directors of the Alberta Opportunity Company  
 Board of Examiners in Podiatry  
 Board of governors of a public college under the Colleges Act  
 Board of governors of a technical institute under the Technical Institutes Act  
 Board of governors of a university under the Universities Act  
 Board of Governors of the Banff Centre for Continuing Education  
 Board of a hospital district incorporated under section 8 of the Hospitals Act  
 Board of review under section 619 of the Criminal Code (Canada)  
 Board of trustees of Northland School Division No. 61  
 Body incorporated under section 6 of the Universities Act  
 The Crimes Compensation Board  
 Driver Control Board  
 Energy Resources Conservation Board  
 Fatality Review Board  
 Health Disciplines Board  
 Hospital Privileges Appeal Board  
 Interim governing authority of a technical institute under the Technical Institutes Act  
 Interim governing body or governing authority of a university under the Universities Act  
 Irrigation Council  
 Judicial Council for the Judges of the Provincial Court  
 Labour Relations Board  
 Land Compensation Board  
 Land Conservation and Reclamation Council  
 Law Enforcement Appeal Board  
 Local Authorities Pension Plan Board of Trustees  
 Management Employees Pension Board  
 Members of the Legislative Assembly  
 Pension Plan Board  
 Municipal Government Board  
 Natural Resources Conservation Board  
 Occupational Health and Safety Council  
 Ophthalmic Dispensers Examining Board  
 Private Vocational Schools Advisory Council under the Private Vocational Schools Act  
 Provincial Health Board under the Regional Health Authorities Act  
 Public Emergency Tribunal under the Burial of the Dead Act  
 Public Health Advisory and Appeal Board  
 Public Service Pension Board  
 Public Utilities Board  
 Regional Health Authority under the Regional Health Authorities Act  
 Review panel under the Mental Health Act  
 Safety Codes Council under the Safety Codes Act  
 School Buildings Board  
 Special Areas Board  
 Special Forces Pension Board  
 Students Finance Board  
 Surface Rights Board  
 Teaching Profession Appeal Board under the Teaching Profession Act  
 Universities Academic Pension Board  
 The Workers' Compensation Board  
 1991 cC-22.1 Sched; 1992 c21 s9; 1993 cP-30.7 s10; 1994 cA-30.1 s39(1); 1994 cF-18.5 s94; 1994 cM-26.1 s642(11); 1994 cR-9.07 s25(6); 1994 cI9 s3; 1994 c23 s10; 1995 cI5 s3; 1995 c24 s100; 1995 c28 s66



FEB 04 1993



## MEMORANDUM

### DEPARTMENT OF JUSTICE

Room 227, Bowker Building  
9833 - 109 Street

FROM: R. S. (Dick) Fowler, Q.C.  
Minister of Justice & Attorney General  
320 Legislature Building

OUR FILE REFERENCE:

YOUR FILE REFERENCE:

TO: Deputy Ministers and Senior Officials

DATE: February 3, 1993

TELEPHONE: 427-2339

SUBJECT:

### FINANCIAL DISCLOSURE AND CONFLICTS OF INTEREST

Since 1975 all addressees of this memorandum (herein the Senior Officials) have been required, by the Premier's Guidelines, to make full disclosure of their land holdings and business interests.

In 1989 a panel chaired by Chief Judge Wachowich was commissioned by Order-in-Council to investigate and report on conflict of interest rules applicable to members of the Executive Council, the Legislative Assembly and senior public servants in Alberta. As a result of the recommendations contained in the Wachowich report the Conflicts of Interest Act (the "Act") was assented to, and those portions of the Act establishing the Office of the Ethics Commissioner were proclaimed in force, on June 25, 1991. The remaining portions of the Act will come into force on March 1, 1993.

Cabinet has decided that certain recommendations of the Wachowich report, relating to Senior Officials, should be implemented. This will involve a wider scope of financial disclosure and additional provisions, directed at preventing actual or perceived conflicts of interest, and will replace the Premier's Guidelines as they pertain to Senior Officials.

The system of financial disclosure to be implemented by this memorandum will be similar to that to which Ministers of the Crown and Members of the Legislative Assembly will become subject on the effective date of the Act and will also be in addition to the obligations now imposed upon all public servants by the Code of Conduct and Ethics (the "Code") or any other standard of conduct and ethics applicable to you. However, unlike Ministers and Members, the financial disclosure to be required of Senior Officials will not be made public.

Senior Officials will be required to complete and file with the Ethics Commissioner disclosure statements, in a form approved from time to time by the Ethics Commissioner, regarding their assets, liabilities and financial interests and, so far as known to the Senior Official, the assets, liabilities and financial interests of their spouse, each minor child and any private corporation controlled by any one or more of them.

Spouse includes a party to a relationship between a man and a woman who are living together on a bona fide domestic basis but does not include a spouse who is living apart from a Senior Official if the Senior Official and the spouse have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order.

It will not be necessary to disclose obligations being incurred for ordinary living expenses that will be discharged in the ordinary course of the Senior Official's affairs.

It will be necessary to include in the disclosure statements to be filed a statement of the income that the Senior Official and, so far as is known to the Senior Official any other person mentioned above, has received in the preceding 12 months or expects to receive in the next twelve months and, to the extent required by the Ethics Commissioner, the sources of such income.

A copy of the disclosure statement which has been approved by the Ethics Commissioner is attached for your information. Disclosure statements for each person included in the scope of this policy must be filed within 60 days of a date to be determined by the Ethics Commissioner, within 60 days after becoming a Senior Official, in each subsequent year at the time specified by the Ethics Commissioner and within 30 days of the occurrence of any material change to the information contained in a then current disclosure statement. Senior Officials will also be required to notify the Ethics Commissioner of any new or changed responsibilities. Copies of the form of disclosure statements to be completed and filed will be forwarded to you under separate cover by the Ethics Commissioner, who will also advise of the process to be followed.

Completed disclosure statements will be filed with, and reviewed by, the Ethics Commissioner. The Ethics Commissioner may also meet with any Senior Official and their spouse, if available, to ensure that adequate disclosure has been made and be available to offer advice to the Senior Official if requested to do so. Senior officials will be protected when acting in accordance with recommendations made by the Ethics Commissioner, after full disclosure of relevant facts.

The Ethics Commissioner will report any concerns that he might have concerning the disclosure statements or matters arising from them to both the Minister of Justice and Attorney General and the responsible Minister, if he is unable to resolve such concerns with the Senior Official involved.



In addition effective April 1, 1993 Senior Officials will be prohibited from:

- (a) owning publicly traded securities (as that term is defined in the Act) if the business of the corporation that issues such securities could reasonably be materially affected by decisions made by the Senior Official in the course of carrying out their duties, unless such securities are held in a blind trust approved by the Ethics Commissioner;
- (b) taking part in a decision in the course of carrying out the Senior Officials's duties where the Senior Official has reasonable grounds to believe that the decision might further a private interest of the Senior Official, the spouse or minor child of a Senior Official, or a private corporation controlled by any one or more of them;
- (c) using their office or powers to influence or to seek to influence a decision made or to be made by or on behalf of the Crown that might further a private interest of the Senior Official, the spouse or minor child of a Senior Official, or a private corporation controlled by any one or more of them;
- (d) using or communicating information not available to the general public that was gained by the Senior Official in the course of carrying out the Senior Official's office or powers to further a private interest of the Senior Official, the spouse or minor child of a Senior Official, or a private corporation controlled by any one or more of them

The prohibitions in subsection (b), (c) and (d) will apply without limiting the provisions of any applicable code of conduct and ethics that might also be applicable to the Senior Official.

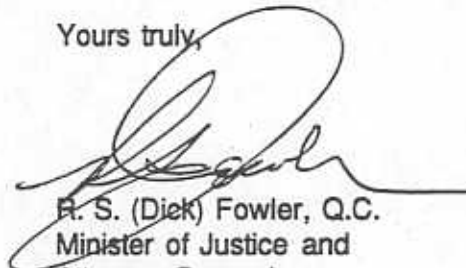
For the purposes of the prohibition set out above a "private interest" will not include an interest in a matter (a) that is of general application, (b) that affects a person as one of a broad class of the public, (c) that affects the remuneration or benefits of a Senior Official, (d) that is trivial, or (e) an interest of a Senior Official relating to publicly-traded securities in the Senior Official's blind trust if made or instituted after one hundred and eighty (180) days of the date that such securities are placed in the blind trust. The terms and conditions, including the trustee, of blind trusts must be approved by the Ethics Commissioner.

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The Ethics Commissioner may also investigate complaints received, after notifying the Senior Official, the responsible Minister and the Minister of Justice and Attorney General of the complaint. Recommendations arising from such investigations will be made to the responsible Minister.

In implementing these enhanced requirements I wish to point out that the Wachowich report specifically stated that the review panel did not see "... any evidence of a conflict of interests crisis among elected or appointed officials in Alberta today". The review panel went on to state that "an adequate conflicts of interests system is necessary. Given responsible elected and appointed officials, and given a public which is conscious of the need for integrity in government, such a system can guard against abuses and maintain public confidence in the institutions of government." These new measures will continue the leadership role that Alberta has taken regarding this matter.

Yours truly,



R. S. (Dick) Fowler, Q.C.  
Minister of Justice and  
Attorney General

Enclosure

# A CODE OF CONDUCT AND ETHICS FOR THE PUBLIC SERVICE OF ALBERTA

## 1. Introduction

The people of Alberta have a right to public service which is conducted with efficiency, impartiality and integrity. It is this special obligation which demands that there not be, nor seem to be, any conflict between the private interests of employees and their responsibility to the public.

The range and complexity of government activities is such that it is not possible to produce a list of prohibitions which permits uniform application; the following sections are therefore issued as guidelines to departmental administrators and employees. The sections are not intended to be exhaustive and if other questions arise, they should be settled in accordance with the general principles in this code.

## 2. Administration

### 2.1 This code applies to:

- (a) all employees appointed pursuant to section 17 of the Public Service Act (R.S.A. 1980) including deputy ministers, and
- (b) all persons hired as wage employees pursuant to section 26 of The Public Service Act (R.S.A. 1980), and
- (c) all persons employed on a contractual basis pursuant to section 29 of the Public Service Act (R.S.A. 1980), unless exemptions are specifically

made in the contract of employment, and the term "employee" wherever it is used in this code shall include all of the above.

2.2 The responsibility for administration of this code, and for issuing the instructions necessary to implement it rests with the deputy head of each department.

2.3 The responsibility for administration of this code with respect to deputy heads rests with the Executive Council.

2.4 A deputy head may issue instructions, to employees of his department, which modify, vary or add to matters dealt with in this code, provided that they are not more permissive than this code.

## 3. Outside Employment

3.1 Employees may take supplementary employment, including self-employment, unless such employment:

- (a) causes an actual or apparent conflict of interest, or
- (b) is performed in such a way as to appear to be an official act, or to represent a Government opinion or policy, or
- (c) unduly interferes through telephone calls, or otherwise, with regular duties, or
- (d) involves the use of Government premises, equipment, or supplies, unless such use is otherwise authorized.

3.2 Where it is evident that a conflict of interest might arise in taking supplementary employment, it is the duty of employees to notify their supervisor in writing as to the nature of the employment.

3.3 Employees shall not accept monetary or other payment in addition to normal salary or expenses for duties which they perform in the course of their public service employment.

3.4 Employees may, with the consent of their deputy head, teach courses at institutions for a fee during normal working hours provided that:

- (a) acceptable arrangements can be made for the employee to perform all regular duties, and
- (b) course preparation and marking is done on the employee's own time, and
- (c) no other conflict arises.

3.5 Where infringement upon normal duties is unavoidable the deputy head may require that all or part of the fee received under 3.4 be paid to the Provincial Treasurer.

## 4. Investment and Management of Private Assets

4.1 Where the business or financial interests of employees, their spouses or of their children under the age of eighteen, are affected or appear to be affected by actions taken or decisions made in the course of their public service employment, the employees shall disclose those interests to their deputy head, in writing.

4.2 If an actual or potential conflict of interest situation exists as a result of disclosure under 4.1 the business or financial interests may, with the approval of the deputy head, be placed in a blind trust.

4.3 A deputy head may require that

employees in specific positions disclose specific types of business interest which would, in the opinion of the deputy head, create a conflict of interest.

4.4 No employee who is involved in the decision making process for the acquisition or sale of assets for the Crown or for the provision of services to the Crown, shall acquire such assets from or sell such assets to the Crown or provide such services to the Crown unless the Treasury Board approves the transaction.

## 5. Political Activity

5.1 Subject to sections 5.2 and 5.3 there is no restriction upon participation in political activity by employees save that they must not participate directly in the solicitation of contributions within the meaning of the Election Finances and Contributions Disclosure Act, the Election Expenses Act (Canada), or the Canada Elections Act.

5.2 Employees who occupy positions in the Executive Manager classes of the Management Compensation Plan and those referred to in O.C. 709/82 as amended, may not seek nomination as a candidate in a federal or provincial election nor hold office in a political party or constituency association.

5.3 Employees who wish to run as candidates in a provincial or federal election must take leave of absence without pay commencing on the day after the writ for the election is issued or on the day that their candidacy is publicly announced whichever is the later, and the restriction of solicitation in section 5.1 shall not apply to such employees once a public declaration of candidacy has been made.

5.4 An employee who is elected to federal or provincial office shall resign effective the last day before the commencement of leave of absence without pay.

5.5 An employee who seeks election and is not elected shall be entitled to return to the same or similar employment, effective the day after the election.

5.6 An employee who is a candidate for municipal office shall, if elected, be subject to the provisions of this code regarding outside employment.

5.7 Employees described in section 5.2 may be permitted to be candidates in a municipal election if the Commissioner, having regard to the general principles of this code, so approves.

## **6. Public Statements**

6.1 Employees who speak or write publicly are responsible for ensuring that they do not release information in contravention of the oath of office set out in section 20 of the Public Service Act (RSA 1980).

6.2 The responsibility for maintaining the confidentiality of information or documents includes the responsibility for ensuring that such information or documents are not directly or indirectly made available to unauthorized persons.

## **7. Acceptance of Gifts**

7.1 An employee shall not accept a gift, favour or service from any individual, organization or corporation, other

than: the normal exchange of gifts between friends; the normal exchange of hospitality between persons doing business together; tokens exchanged as part of protocol; or the normal presentation of gifts to persons participating in public functions.

## **8. Dealings with Relatives**

8.1 Employees who exercise a regulatory, inspectional, or other discretionary control over others shall, wherever possible, disqualify themselves from dealing with relatives, including parents, parents-in-law, brothers and sisters, and grandparents, with respect to those functions.

## **9. Penalties**

9.1 This code is additional to any statute pertaining to the actions of employees.

9.2 An employee who does not comply with any provisions of this code may be subject to dismissal or other disciplinary action pursuant to section 25 of the Public Service Act (RSA 1980).

## **10. Review of Decision**

10.1 Where a difference of opinion exists as to whether a conflict of interest exists as a result of a declaration under section 3.2 or 4.1, or under a similar section of a departmental code an employee may request that the decision of the deputy head be reviewed by the Treasury Board.



Code of conduct and ethics for the public service of Alberta

## THE PANELISTS

**PATRICIA NEWMAN** is Mayor of Innisfail, a post she has held for three terms. She is active in her community and in local government organizations in Alberta.

**FRANCIS M. SAVILLE, QC**, practices law at Milner/Fenerty in Calgary. He is extensively involved in community work and is a director of Canadian Occidental Petroleum, Hughes Aircraft of Canada and Mullen Trucking.

**ALLAN TUPPER** is Professor of Political Science and Associate Vice-President (Government Relations) at the University of Alberta where he has taught since 1976.

## LIST OF INTERVIEWS

### **December 6 1995**

Ms. Karen South (Senior Administrator), Mr. Frank Work (Director and General Counsel), Office of the Ethics Commissioner, Province of Alberta, Edmonton.

### **December 7 1995**

Mr. J. E. Dixon, Public Service Commissioner, Mr. Neil McCrank QC, Deputy Attorney-General, Mr. Vance A. MacNichol, Deputy Minister to Executive Council, and Mr. A. D. O'Brien, Deputy Provincial Treasurer (Management and Control), (via conference call).

### **December 8 1995**

Hon. Ralph Klein, MLA Calgary Elbow, Premier of Alberta, Edmonton.

### **December 10 1995**

Mr. Robert Clark, Ethics Commissioner, Province of Alberta, Calgary.

### **December 12 1995**

Mr. Ted Hughes, Conflict of Interest Commissioner, Province of British Columbia, (via conference call).

### **December 12 1995**

Mr. Howard Wilson, Ethics Counsellor, Government of Canada (via conference call).

## LIST OF INTERVIEWS

January 4, 1996

Professor John Langford, University of Victoria (telephone call with Allan Tupper).