

## *Conflict of Interest Act*

### **Information Notice on Post-employment**

A public office holder's obligations under the *Conflict of Interest Act* (the Act) do not end with his or her departure from office. The Act includes a number of post-employment rules and related administrative procedures.

The post-employment rules in Sections 33 and 34 apply to all former **public office holders** (POHs), while sections 35 to 42 apply only to former **reporting public office holders** (RPOHs). This latter group is mainly composed of ministers, parliamentary secretaries, full-time ministerial staff, deputy ministers, heads of agencies and Crown corporations and full-time members of federal boards and tribunals.

All former POHs are expressly prohibited from taking improper advantage of their previous public office (section 33). They may not "switch sides" by acting for or on behalf of any person or organization in matters relating to a specific procedure, transaction, negotiation or case in which they previously acted for or provided advice to the government (subsection 34(1)). They are also prohibited from providing advice to any person or organization using information obtained while in public office that is not available to the public (subsection 34(2)). There is no time limit on these prohibitions.

Sections 35 and 36 of the Act require that former RPOHs observe what is commonly known as a "cooling-off period" following their departure from public office. The cooling-off period is two years for former ministers of the Crown and ministers of state and one year for all other former RPOHs (section 36).

During this period a former RPOH may not contract with, sit on the board of directors of, or accept employment with any entity outside the federal government with which he or she had direct and significant official dealings during the one year immediately prior to leaving public office (subsection 35(1)). In addition, he or she may not make representations for or on behalf of another person to any department, organization, board, commission or tribunal with which he or she had direct and significant official dealings during that past year (subsection 35(2)). For ministers, this prohibition extends to former cabinet colleagues (subsection 35(3)).

During the cooling-off period a former RPOH must also let the Conflict of Interest and Ethics Commissioner know when he or she has conducted any lobbying activities referred to in paragraphs 5(1)(a) or (b) of the *Lobbying Act* (section 37). These paragraphs involve:

- communicating with a public office holder regarding
  - legislation, regulation and policy and program development,
  - the introduction, amendment, passage or defeat of a Bill or resolution in Parliament, and
  - the awarding of contracts, grants, contributions and other financial benefits; and
- arranging meetings between a public office holder and any other person.

When a request is made in writing, the Commissioner may, by exception, consider reducing or waiving any of the restrictions that apply to a former RPOH during the cooling-off period (sections 38 and 39). The Act sets out a number of factors to be considered in deciding whether to grant the request. No one, however, can be exempted from the general rules that apply to all POHs related to switching sides, insider information and taking improper advantage of previous public office.

The post-employment section of the Act relies mainly on the voluntary compliance of former public office holders. The Commissioner can, however, conduct an examination into alleged breaches. The findings of all examinations are made public once completed. If the Commissioner determines that a former RPOH is not complying with his or her post employment obligations she can also order current POHs not to have official dealings with that person.

The Office of the Conflict of Interest and Ethics Commissioner provides confidential advice to all current and former public office holders who want to understand how the Act applies in their particular situation. To speak with an advisor, please call 613-995-0721.