

CONFLICT OF INTEREST ACT

SUMMARY OF RULES THAT APPLY TO ALL MINISTERIAL EXEMPT STAFF (MES) (REPORTING PUBLIC OFFICE HOLDERS)

This summary, prepared by the Office of the Conflict of Interest and Ethics Commissioner, is intended as a quick reference for Reporting Public Office Holders; the Act itself is the final authority.

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Conflict of Interest: public office holders are in a conflict of interest when they exercise an official power, duty or function that provides an opportunity to further their private interests or those of their relatives or friends, or that improperly furthers another person's private interests. (Section 4)

General Duties (Part 1)

All public office holders must:

- **arrange their private affairs** to prevent a conflict of interest (section 5);
- **abstain from participation in decisions** that would involve a conflict of interest (subsection 6.(1)); and
- **not take any action** aimed at circumventing the *Conflict of Interest Act* (section 18).

Prohibited activities while holding office (Part 1):

- **Preferential treatment:** of any person or organization based on the identity of the person or organization representing them (section 7);
- **Insider Information:** using information that is not available to the public to further one's private interests or the private interests of relatives or friends, or to improperly further another person's private interests (section 8);
- **Influence:** using one's position to influence a decision to further private interests (section 9);
- **Offers of employment:** being influenced in exercising one's duties by offers of outside employment (section 10);
- **Gifts:** accepting any gift or other advantage that might reasonably be seen to influence the exercise of one's official duties (section 11);
- **Travel:** accepting travel on non-commercial chartered or private aircraft for any purpose unless required in an official capacity as a public office holder or in exceptional circumstances or with the prior approval of the Commissioner (section 12);
- **Contracting with family:** entering into a contract or employment relationship, in the exercise of one's official duties, with a spouse, common-law partner, child, sibling or parent or permitting the entity for which one works to do so (section 14);

- **Outside employment:** This includes:
 - engaging in employment or the practice of a profession;
 - managing or operating a business or commercial activity;
 - continuing as or becoming a director or officer in a corporation or an organization;
 - holding office in a union or professional association;
 - serving as a paid consultant; or
 - being an active partner in a partnership (subsection 15.(1)).

The Commissioner may allow a public office holder to continue as a director or officer of a Crown corporation (subsection 15.(2)) or an organization of a philanthropic, charitable or non-commercial nature (subsection 15.(3)) if the Commissioner is of the opinion that it is not incompatible with the public duties of the public officer holder.

Political activities are excluded from this prohibition (subsection 15.(4)).

- **Fundraising:** personally soliciting funds if it would place the public office holder in a conflict of interest (section 16).

Recusal (Part 2)

- All public office holders must recuse themselves from any discussion, decision, debate or vote if they would be in a conflict of interest (section 21).

Confidential Report and Divestment of Controlled Assets (Part 2)

- All reporting public office holders must submit a Confidential Report within 60 days after their appointment relating to their assets, liabilities and certain activities.

Disclosure

Ministerial Exempt Staff (Reporting Public Office Holders) are to disclose to the Commissioner:

- **Gifts and Other Advantages:** exceeding \$200 value in a 12-month period from any one source, other than from relatives and friends, must be disclosed to the Commissioner within 30 days of accepting the gift or other advantage (section 23);
- **Firm Offers of Outside Employment:** must be disclosed in writing to the Commissioner within 7 days after the offer. If the offer is accepted, the Commissioner is to be notified within seven days. At the same time, Ministers and Minister of State are to notify the Prime Minister, Deputy Heads -- the Clerk of the Privy Council and Parliamentary Secretaries and Ministerial Advisors -- the appropriate Minister (section 24).

Public Declarations

Reporting Public Office Holders are required to publicly declare:

- any recusals made pursuant to section 21 within 60 days after the recusal (subsection 25.(1));
- all assets that are neither controlled nor exempt, within 120 days after appointment (subsection 25.(2));
- outside activities approved by the Commissioner, referred to in subsection 15.(2) or (3), within 120 days following appointment (subsection 25.(4));
- gifts or other advantages if the value is \$200 or more other than from a relative or friend, within 30 days after accepting the gift (subsection 25.(5)) ; and
- travel that has been accepted in accordance with section 12, from any source within 30 days after the acceptance, providing sufficient detail to identify the source and the circumstances under which the travel was accepted (subsection 25.(6)).

A public declaration is made by signing a form provided by the Commissioner's office which is then posted on the Public Registry on the Commissioner's website.

Post-Employment – Prohibited Activities (Part 3)

- acting in a manner that takes improper advantage of one's previous office (section 33);
- acting for or on behalf of any person or organization in connection with any specific proceeding, transaction, negotiation or case where the Crown is a party and where one had acted for, or provided advice to, the Crown while in public office (subsection 34.(1));
- providing advice to clients, business associates or employers using information that was acquired in the course of one's official duties and that is not available to the public (subsection 34.(2)); and
- entering into a contract with, accepting employment with or accepting an appointment to a board, or making representations for or on behalf of any organization, with which one had direct and significant official dealings during the period of one year preceding or before one's last day in office (section 35).

Post-Employment – Reporting on Lobbying Activities

- For one year after leaving office, all former reporting public office holders must report to the Commissioner any communication or meeting as defined in paragraphs 5.(1)(a) and (b) of the *Lobbying Act* (section 37).

Administration and Enforcement (Part 4)

- The Commissioner may conduct an examination:
 - on the written request of a member of the Senate or House of Commons who has reasonable grounds to believe that a public officer holder or a former public office holder has contravened the Act (section 44); or
 - on her own initiative if she has reason to believe that a public office holder or a former public office holder has contravened the Act (section 45).
- Monetary penalties may be imposed for a failure to comply with certain provisions of Part 2 of the Act (section 52).