

1989 BILL 201

First Session, 22nd Legislature, 38 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 201

CODE OF ETHICS AND CONDUCT ACT

MR. MARTIN

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 201
Mr. Martin

BILL 201

1989

CODE OF ETHICS AND CONDUCT ACT

(Assented to , 1989)

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

Definitions

1 In this Act,

(a) "asset" means any property of value, including land or any interest in land, personal or intellectual property, shares in a company, interest in a business, any security or interest therein or a directorship in a company doing business in Alberta, but shall not include

(i) any residence actually used as such by a person or his family,

(ii) any part of a farm or business premises which are actually used as a residence by a person or his family,

(iii) any recreational home used by a person or his family,

(iv) any personal household effects or other property, including the normal physical contents of a residence or recreational home used for ordinary living and enjoyment by a person or his family including vehicles, boats or aircraft,

(v) cash and bank or savings accounts,

(vi) bonds or securities of any level of government in Canada or of any agency of any such government,

- (vii) a registered retirement savings plan,
 - (viii) a registered home ownership savings plan,
 - (ix) land or any interest therein or physical personal property located outside Alberta,
 - (x) any interest or directorship in a business or a company doing business only outside Alberta,
 - (xi) any security given by a company doing business only outside Alberta or given on assets located outside Alberta,
 - (xii) an insurance policy or benefit, or
 - (xiii) a pension, annuity or interest therein;
- (b) "blind trust" means a trust over which the beneficiary has no control, other than by way of receipt of income;
- (c) "business" means a profession, trade, occupation or undertaking of any kind whatever and includes an office or employment;
- (d) "conflict of interest" means a situation where an individual's private interests conflict with his public duty;
- (e) "executive staff member" means a deputy minister, assistant deputy minister or a person appointed by a Minister to serve on his executive staff, and who is paid out of public funds, but does not include secretarial or clerical staff;
- (f) "family" means a spouse, sibling, parent or dependent relative living with a person;
- (g) "head of a Crown Corporation" means the chief executive officer of a Crown Corporation listed in the Schedule;

(h) "shareholder" means a person holding directly or beneficially, otherwise than through a blind trust, more than 0.5% of the issued share capital of a company.

CONFLICT OF INTEREST

Fee to
perform
official
duty

2 No member of the Legislative Assembly, Minister or executive staff member shall request or accept payment or other benefit for functions which are part of their public duties other than the remuneration and benefits accruing to his position.

Conflict-
ing
outside
activities

3 No member of the Legislative Assembly may take supplementary employment other than as authorized by or pursuant to any Act,

(a) which is performed in such a way as to appear to be an official act, or to directly represent the Government of Alberta; or

(b) which unduly interferes with his responsibilities as a member.

Restriction on
Ministers'
outside activities

4 No Minister may carry on business other than as a Minister, except

(a) a family farm, or

(b) a business carried on through a blind trust.

Restrictions on
members' outside
activities

5 No member shall engage in or be a director, officer or shareholder of a company engaged in any contract or agreement with Her Majesty under which any public money of the Province is expended for any service or work, matter or thing.

Restriction on
officials' outside
business
activities

6 No executive staff member or head of a Crown Corporation shall

(a) carry on any business other than as an executive staff member or head of a Crown Corporation, except

(i) a family farm, or

(ii) a business carried on through a blind trust, or

(b) be a person, or be a director, officer or shareholder of a company, holding or engaged in any contract or agreement with Her Majesty under which any public money of the Province is expended for any service or work, matter or thing other than the contract under which he holds his position as an executive staff member or head of a Crown Corporation.

EMPLOYMENT FOLLOWING PUBLIC OFFICE

Outside positions
after official
employment

7(1) Every executive staff member and head of a Crown Corporation shall

(a) disclose to his Minister all serious offers of positions outside Government service which would put him in a position of conflict of interest;

(b) disclose to his Minister any job offer under serious consideration that has been received from an individual, organization or interest group with a commercial orientation in the private sector and with which he has had official dealings.

(2) In seeking or negotiating a position outside Government service every executive staff member and head of a Crown Corporation shall ensure that such endeavours do not interfere with his official duties or place him in conflict of interest.

Related positions
forbidden for 4
years

8(1) No Minister, executive staff member or head of a Crown Corporation shall, for a period of 4 years following his employment in that capacity

(a) accept a directorship of a company which was in a special relationship with the department or agency with which he was last employed, whereby the company was subject to regulation by the department or agency, or received subsidies, loans or other financial assistance from the department or agency,

(b) act for or on behalf of any person in connection with any specific proceeding, transaction, cause or other matter to which the Government of Alberta is a party and with which he had a personal and substantial involvement on behalf of a department or agency of the Government, or

(c) lobby on behalf of any person before any department or agency with which he was employed or with which he had a direct and substantial official position during the period of 4 years prior to the termination of his employment or position.

(2) No member of the Legislative Assembly shall accept a directorship of or employment with a company, or in any way act for on or behalf of a company, if

(a) that company was created by a Private Act, and

(b) the member of the Legislative Assembly was a member of the Standing Committee of the Legislative Assembly on Private Bills at any time during the Committee's dealings with the Bill for the Act which created the company,

for a period of 4 years following the commencement of the Act creating the company.

(3) This section does not apply in the case of a company that is formed for charitable purposes and operates on a non-profit basis.

Related positions
forbidden for 2
years

9 No Minister, executive staff member or head of a Crown Corporation shall, within a period of 2 years following employment in that capacity,

(a) accept employment with a person with whom he had significant direct official dealings during the last year of his employment,

(b) act for or on behalf of any person in connection with any specific proceeding, transaction, cause or other matter which came under authority of his department or Crown Corporation during the period of 1 year prior to the termination of his employment, or

- (c) give advice on the programs or policies of the department or agency with which he was employed or with which he had a direct, substantial relationship during the period of 1 year prior to the termination of his employment, where the advice is to be used for commercial purposes.

Subsequent
public service
appointments

10(1) No former Minister, executive staff member or head of a Crown Corporation shall be appointed to a position in the public service of Alberta

- (a) within 2 years of leaving office, or
- (b) after the expiry of 2 years after leaving office unless the position has been publicly advertised and open to public competition.

(2) When a former Minister, executive staff member or head of a Crown Corporation is appointed to a position in the public service of Alberta pursuant to subsection (1)(b), the appointment shall be confirmed by order of the Lieutenant Governor in Council which shall certify that proper and full consideration of all other qualified applicants was undertaken.

Exemption for
statutory benefits

11 Sections 5, 6 and 8(1)(a) do not apply to a payment of public money where

- (a) the person or company was, 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, or
- (b) the person or company receiving the payment
 - (i) was, according to the enactment under which the payment was authorized, eligible to apply for the payment and complied with the requirements of that enactment that were conditions precedent to the payment,
 - (ii) in respect of the application was given no preference not available to others, and
 - (iii) received no special benefit in relation to the application for payment.

Regulations

12 The Lieutenant Governor in Council may make regulations establishing procedures for carrying out the purposes of this Act.

Penalties

13 Any person who violates a provision of this Act is guilty of an offence, and liable on summary conviction to be removed from his capacity as Minister, executive staff member or a head of a Crown Corporation and remain ineligible for appointment to any such position for up to 7 years or to be declared ineligible to be a member of the Legislative Assembly for up to 7 years, as the case may be, and to a fine of up to \$10 000.

SCHEDULE

Pacific Western Airlines Corporation

Alberta Energy Company

Alberta Agricultural Development Corporation

Alberta Educational Communications Corporation

Alberta Government Telephones

Alberta Hail and Crop Insurance Corporation

Alberta Mortgage and Housing Corporation

Alberta Municipal Financing Corporation

Alberta Oil Sands Technology and Research Authority

Alberta Opportunity Company

Alberta Research Council

Alberta Resources Railway Corporation

Vencap Equities Alberta Ltd.