

1997 BILL 215

Fifth Session, 23rd Legislature, 46 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 215

**CONFLICTS OF INTEREST
AMENDMENT ACT, 1997**

MR. BRUSEKER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 215
Mr. Bruseker

BILL 215

1997

CONFLICTS OF INTEREST AMENDMENT ACT, 1997

(Assented to , 1997)

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

1 The Conflicts of Interest Act is amended by this Act.

2 Section 1 is amended

(a) in subsection (1)

(i) by adding the following after clause (a):

(a.1) "former Leader" means a person who has ceased
to be the Leader;

(ii) by adding the following after clause (b):

(b.1) "Leader" means the Leader of Her Majesty's
loyal opposition;

(iii) by adding the following after clause (h):

(h.1) "public office holder" means

(i) a Member,

Explanatory Notes

- 1** Amends chapter C-22.1 of the Statutes of Alberta, 1991.

(ii) a public official appointed by the Crown or the Legislative Assembly and having a classification of executive manager or higher, or

(iii) an executive assistant or other staff member of a Member or Minister directly appointed by the Member or Minister;

(b) *in subsection (7) by repealing clause (c) and substituting the following:*

(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 public office holder from having any knowledge of the specific investments in the trust at any time after a deposit in the trust,

(iii) requires the trustee to give the public office holder a written report stating the value, but not the nature, of the assets in the trust,

(iv) requires the trustee to give the public office holder sufficient information to permit the Member to submit returns as required by the *Income Tax Act* (Canada) and to give the same information to Revenue Canada,

(v) requires the trustee to give the Ethics Commissioner copies of all information and reports given to the public office holder, and

(vi) permits the public office holder, at any time, to instruct the trustee to liquidate all or part of the trust and pay over the proceeds to the public office holder.

Section 1(7) presently reads:

(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.*

3 The following is added after Part 1:

PART 1.1

OBJECT AND PRINCIPLES

Object

1.1 The object of this Act is to enhance public confidence in the integrity of public office holders and the decision making process in government

- (a) while encouraging experienced and competent persons to seek and accept public office,
- (b) while facilitating interchange between the private and the public sector,
- (c) by establishing clear rules of conduct respecting conflict of interest for all public office holders, and
- (d) by minimizing the possibility of conflicts arising between the private interests and public duties of public office holders and providing for the resolution of such conflicts in the public interest should they arise.

Principles

1.2 Every public office holder shall conform to the following principles:

- (a) public office holders shall act with honesty and uphold the highest ethical standards so that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced;
- (b) public office holders have an obligation to perform their official duties and arrange their private affairs in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law;
- (c) public office holders, in fulfilling their official duties and responsibilities, shall make decisions in the public interest and with regard to the merits of each case;

- (d) public office holders shall not have private interests, other than those permitted pursuant to this Act, that would be affected particularly or significantly by government actions in which they participate;
- (e) on appointment to office, and thereafter, public office holders shall arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interest from arising but if such conflict does arise between the private interests of a public office holder and the official duties and responsibilities of that public office holder, the conflict shall be resolved in favour of the public interest;
- (f) public office holders shall not solicit or accept transfers of economic benefit, other than incidental gifts, customary hospitality, or other benefits of nominal value, unless the transfer is pursuant to an enforceable contract or property right of the public office holder;
- (g) public office holders shall not step out of their official roles to assist private entities or persons in their dealings with the government where this would result in preferential treatment to any person;
- (h) public office holders shall not knowingly take advantage of, or benefit from, information that is obtained in the course of their official duties and responsibilities and that is not generally available to the public;
- (i) public office holders shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for anything other than officially approved activities;
- (j) public office holders shall not act, after they leave public office, in such a manner as to take improper advantage of their previous office.

4 Section 2 is repealed and the following is substituted:

2(1) A public office holder breaches this Act if the public office holder takes part in a decision in the course of carrying out the public office holder's office or powers knowing that the decision might further a private interest of

4 Section 2 presently reads:

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.

- (a) the public office holder,
- (b) a person directly associated with the public office holder,
- (c) the public office holder's minor child, or
- (d) except in the performance of public duties, any other person.

(2) A public office holder who has reasonable grounds to believe that the public office holder, the public office holder's minor child or a person directly associated with the public office holder has a private interest in a matter that is before the Executive Council, a committee of the Executive Council, the Legislative Assembly or a committee appointed by a resolution of the Legislative Assembly, shall, if present at a meeting considering the matter

- (a) disclose the general nature of the interest, and
- (b) withdraw from the meeting without voting or participating in the consideration of the matter.

(3) Where a public office holder has complied with subsection (1), the Clerk of the Legislative Assembly or secretary of the meeting shall record

- (a) the disclosure,
- (b) the general nature of the conflict of interest disclosed, and
- (c) the withdrawal of the public office holder from the meeting.

(4) The Clerk of the Legislative Assembly or secretary of the meeting shall file the information recorded under subsection (3) with the Ethics Commissioner

- (a) in the case of a meeting of the Legislative Assembly or a committee of the Legislative Assembly, as soon as practicable, and
- (b) in the case of a meeting of the Executive Council or

(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 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.

a committee of the Executive Council, as soon as practicable after the Executive Council's decision on the matter which has been the subject of the disclosure is made public.

(5) The Ethics Commissioner shall keep all information filed under subsection (4) in a central record kept for that purpose and shall

- (a) make the central record available for inspection by any person without charge during normal business hours, and
- (b) on request by any person provide a copy of the record or portion of it on payment of a reasonable copying charge.

(6) A public office holder who fails to comply with subsection (2) breaches this Act.

(7) 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.

5 *Section 3 is repealed and the following is substituted:*

3 A public office holder breaches this Act if the public office holder uses the public office holder's office or powers to influence or seek to influence a decision to be made by or on behalf of the Crown to further a private interest of

- (a) the public office holder,
- (b) a person directly associated with the public office holder,
- (c) the public office holder's minor child, or
- (d) except in the performance of public duties, any other person.

6 *Section 4 is repealed and the following is substituted:*

5 Section 3 presently reads:

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.

6 Section 4 presently reads:

4 A public office holder breaches this Act if the public office holder uses or communicates information not available to the general public that was gained by the public office holder in the course of carrying out the public office holder's office or powers to further or seek to further a private interest of

- (a) the public office holder,
- (b) a person directly associated with the public office holder,
- (c) the public office holder's minor child, or
- (d) except in the performance of public duties, any other person.

7 *Section 9(2) is repealed and the following is substituted:*

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

- (a) in the case of a Member, 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) in the case of a public office holder other than a Member, the payment is made to the public office

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.

7 Section 9(2) presently reads:

9(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**

holder pursuant to the *Public Service Act* or any other enactment,

- (c) 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,
- (d) 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

- (e) the payment is made under a contract that may be entered into without the public office holder being in breach of section 8.

8 *Section 11(1) is repealed and the following is substituted:*

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

- (a) in the case of a Member,
 - (i) within 60 days of becoming a Member of the Legislative Assembly, and
 - (ii) within 60 days of being appointed to the Executive Council if the Member has not filed a current disclosure statement as a Member of the Legislative Assembly,

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.*

8 Section 11(1) presently reads:

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.*

- (b) in the case of a public office holder other than a Member, within 60 days of becoming a public office holder, and
- (c) in the case of all public office holders, in each subsequent year at the time specified by the Ethics Commissioner.

9 Section 12 is amended

(a) by repealing clause (a) and substituting the following:

- (a) shall include a statement, as of a date determined by the Ethics Commissioner, of the assets, liabilities and financial interests of the public office holder, so far as known to the public office holder after the public office holder has made reasonable efforts to discover them, of
 - (i) the public office holder's spouse and minor children, and
 - (ii) any private corporation controlled by the public office holder and the public office holder's spouse and minor children, or any one or more of them,

but not including investments in a blind trust,

(b) by striking out "and" after clause (c), by adding "and" at the end of clause (d) and by adding the following after clause (d):

- (e) shall include a list of all fees, gifts and benefits received from a person in a calendar year that exceeds \$200.00.

10 Section 14 is amended

(a) in clause (3) by striking out "and" after clause (a), by adding "and" at the end of clause (b) and by adding the following after clause (b):

9 Section 12 presently reads:

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).*

10 Section 14 presently reads in part:

14(3) Except as provided in this section, a public disclosure statement shall identify

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

- (c) the fees, gifts and benefits disclosed pursuant to section 12(e),

11 Section 15(4) is repealed and the following is substituted:

- (4) Where a person ceases to be a public office holder
 - (a) that person shall, within 30 days after ceasing to be a public office holder 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 public office holder, that person shall, within 60 days after again becoming a public office holder, furnish a return to the Ethics Commissioner showing
 - (i) the name and address of each person with whom the public office holder became directly associated or with whom the public office holder 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.

12 Section 16(4) is amended by

- (a) *repealing clause (a) and substituting the following:*

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.

11 Section 15(4) presently reads:

(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.*

12 Section 16(4) presently reads in part:

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

- (a) in the case of Members, payments made to or on behalf of the Member pursuant to Part 3 of the *Legislative Assembly Act*,
- (b) *by adding the following after clause (a):*
 - (a.1) in the case of public office holders other than Members, payments made to or on behalf of a public office holder pursuant to the *Public Service Act*,

13 *Part 4 is repealed and the following is substituted:*

PART 4

MEMBERS OF THE EXECUTIVE COUNCIL AND THE LEADER OF HER MAJESTY'S OFFICIAL OPPOSITION

19(1) In this Part,

- (a) "commodity" means, whether in the original or a processed state, any agricultural or forest product, mineral, metal, hydrocarbon fuel, currency or other article of trade;
- (b) "futures contract" means a futures contract as defined in the *Securities Act*, and includes a contract to make or take delivery of a specified quantity, quality, grade or size of a commodity.

(2) A Minister or the Leader breaches this Act if the Minister or the Leader, after the expiration of the relevant period referred to in section 21, holds or trades in publicly-traded securities, futures contracts or commodities.

(3) Subsection (2) does not apply to publicly-traded securities, futures contracts or commodities held or traded by a Minister or the Leader, as the case may be, in a blind trust in accordance with this Act.

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

13 Part 4 presently reads:

PART 4

MEMBERS OF THE EXECUTIVE COUNCIL

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*

20(1) A Minister or the Leader breaches this Act if the Minister or the Leader, 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 or the Leader and the Minister's or the Leader's public duty.

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

- (a) the Minister or the Leader has disclosed the 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 or the Leader and the Minister's or the Leader's public duty.

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

21(1) For the purposes of sections 19(2) 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,
- (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,
- (c) with respect to a person who becomes the Leader after

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.

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.

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*

this Part comes into force, the period is 60 days after becoming the Leader, and

- (d) with respect to a person who is the Leader 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(2), with respect to a Minister or Leader who acquires ownership of or a beneficial interest in publicly-traded securities, futures contracts or commodities 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.

14 Section 23 is repealed and the following is substituted:

23(1) On receiving a request under section 22 or where the Ethics Commissioner has reason to believe that a public office holder 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 public office holder under this Act, and on giving the public office holder concerned reasonable notice, the Ethics Commissioner may

- (a) order a preliminary investigation into the facts alleged to be conducted, or
- (b) order that a formal hearing be conducted.

(2) Upon receipt of the report of a preliminary investigation, the Ethics Commissioner may order a formal hearing to be conducted.

(3) The Ethics Commissioner may

- (a) retain an investigator to conduct a preliminary investigation,
- (b) retain a hearing officer to conduct a formal hearing,

- (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.

14 Section 23 presently reads:

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.

(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

- (c) appoint a member of the Ethics Commissioner staff to conduct a preliminary investigation, or
 - (d) act as a hearing officer to conduct a formal hearing.
- (4) When conducting a formal hearing under this section, the hearing officer has the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.
- (5) If a formal hearing is held, it shall be held in public unless the Ethics Commissioner decides, in the interest of justice, that it is to be held in private.
- (6) The Ethics Commissioner may refuse to order a preliminary investigation or a formal hearing of 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 a preliminary investigation or a formal hearing or the continuation of a preliminary investigation or a formal hearing.
- (7) If the Ethics Commissioner refuses to order a preliminary investigation or a formal hearing, the Ethics Commissioner shall so inform
- (a) the public office holder 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.
- (8) Where the request is made under section 22, the Ethics Commissioner shall report his findings
- (a) in the case of allegations against a public office holder who is a Member, to the Speaker of the Legislative Assembly,
 - (b) in the case of allegations against a public office holder who is an executive assistant or other staff member of

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,*

the Leader, to the Leader, and

- (c) in the case of all other public office holders, to the President of the Executive Council.

(9) The Ethics Commissioner may, before reporting his findings to the Speaker of the Legislative Assembly under subsection (8)(a), to the Leader under subsection 8(b), or to the President of the Executive Council under subsection (8)(c), provide a copy of the report to

- (a) the public office holder against whom the allegation was made, and
- (b) in the case of a Member, to the leader in the Legislative Assembly of the political party to which the Member belongs.

(10) If the Ethics Commissioner is of the opinion

- (a) that a request made by a public office holder 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 the public office holder and that the request was frivolous or vexatious or was not made in good faith,

the Ethics Commissioner may

- (c) in the case of a public office holder who is a Member, state that in a report to the Speaker of the Legislative Assembly, and
- (d) in the case of a public office holder who is an executive assistant or other staff member of the Leader, state that in a report to the Leader, and
- (e) in the case of a public office other than a Member, state that in a report to the President of the Executive Council.

(12) Where the Speaker of the Legislative Assembly receives a report from the Ethics Commissioner pursuant to subsection

or both.

(11), the Speaker shall lay the report before the Legislative Assembly and the Legislative Assembly may, after considering the report,

- (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.

(13) Where the President of the Executive Council receives a report from the Ethics Commissioner pursuant to subsection (11), the President of the Executive Council may take such appropriate measures as may be determined by the President of the Executive Council including, where applicable, discharge or termination of appointment.

15 Section 25(1) and (2) are repealed and the following is substituted:

25(1) A report by the Ethics Commissioner to the Speaker of the Legislative Assembly under section 23(8)(a), to the Leader under section 23(8)(b) or to the President of the Executive Council under section 23(8)(c) shall set out

- (a) the facts found by the Ethics Commissioner, and
 - (b) in the case of a Member, the Ethics Commissioner's recommendation for the sanction, if any, that the Legislative Assembly may impose on the Member for the breach.
- (2) In the case of a Member, 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;

15 Section 25 reads in part:

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.

16 Section 26 is repealed and the following is substituted:

26(1) On receiving a report from the Ethics Commissioner under section 23(8)(a), the Speaker of the Legislative Assembly shall lay the report before the Legislative Assembly if it is then sitting or, if it is then not 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(8)(a), 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 30 days after the tabling of the report, or such other period determined by resolution of the Legislative Assembly.

17 Part 6 is repealed and the following is substituted:

PART 6

FORMER MINISTERS AND FORMER LEADERS

29(1) Except in accordance with subsection (3), a former Minister or former Leader shall not, for a period of 1 year after ceasing to be a Minister or Leader

- (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.

16 Section 26 presently reads:

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.

17 Part 6 presently reads:

PART 6

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*

(a) accept or solicit

- (i) on behalf of himself or any other person, a contract or benefit from a department or a Provincial agency, or
- (ii) employment with a person or entity, or appointment to the board of directors or equivalent body of an entity

with which the former Minister or former Leader had significant official dealings during the former Minister's or former Leader's last year of service as a Minister or Leader, as the case may be, or

- (b) act on a commercial basis in connection with any ongoing matter in connection with which the former Minister or former Leader, 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 or former Leader has had significant official dealings with a department of the public service, Provincial agency, person or entity if the former Minister or former Leader, 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 or 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 or former Leader observes and performs any conditions on which the Ethics Commissioner has granted the exemption.

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.

30 A Minister breaches this Act if the Minister knowingly awards or approves a contract or gives a benefit to a former

(4) A former Minister or former Leader 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 or former Leader 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.

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

18 *Section 31(2) is repealed and the following is substituted:*

- (2) the Ethics Commissioner may not be
 - (a) a Member of the Legislative Assembly, or
 - (b) hold any office or engage in any occupation or business that might cause a conflict with the Ethics Commissioner's duties.

19 *Except in the following provisions, "Member" is struck out wherever it occurs and "public office holder" is substituted:*

*Section 1(1)(b) and 1(1)(c);
Section 5;
Section 6;
Section 10.*

20 *This Act comes into force on Proclamation.*

Minister who is acting in contravention of section 29.

18 Section 31(2) presently reads:

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

19 Consequential amendments.