

2007 Bill 2

Third Session, 26th Legislature, 56 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 2

CONFLICTS OF INTEREST AMENDMENT ACT, 2007

DR. BROWN

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 2
Dr. Brown

BILL 2

2007

CONFLICTS OF INTEREST AMENDMENT ACT, 2007

(Assented to , 2007)

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

Amends RSA 2000 cC-23

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

**2 The preamble is amended by adding the following after the
1st recital:**

WHEREAS Members of the Legislative Assembly can serve
Albertans most effectively if they come from a spectrum of
occupations and continue to participate actively in the
community;

3 Section 1 is amended

**(a) by repealing subsection (1)(b) and substituting the
following:**

Explanatory Notes

1 Amends chapter C-23 of the Revised Statutes of Alberta 2000.

2 The preamble presently reads:

WHEREAS the ethical conduct of elected officials is expected in democracies;

WHEREAS Members of the Legislative Assembly are expected to perform their duties of office and arrange their private affairs in a manner that promotes public confidence and trust in the integrity of each Member, that maintains the Assembly's dignity and that justifies the respect in which society holds the Assembly and its Members; and

WHEREAS Members of the Legislative Assembly, in reconciling their duties of office and their private interests, are expected to act with integrity and impartiality:

3 Section 1 presently reads in part:

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, whether or not the person is a Member of the Legislative Assembly;
 - (b.1) “former political staff member” means a person who has ceased to hold the following position, by whatever name that position may be called:
 - (i) Chief of Staff, Office of the Premier;
 - (ii) Deputy Chief of Staff, Office of the Premier;
 - (iii) Director, Office of the Premier, Southern Alberta;
 - (iv) executive assistant to a Minister as defined in Order in Council numbered O.C. 192/98;
 - (b) in subsection (5)(d) by striking out “having not more than 20 partners”;**
 - (c) by repealing subsection (5)(e) and substituting the following:**
 - (e) a person or group of persons acting with the express or implied consent of the Member.
 - (d) by adding the following after subsection (5):**
- (5.1)** For the purposes of this Act, a corporation is a subsidiary of another corporation if
- (a) securities of the corporation to which are attached more than 50% of the votes that may be cast to elect directors of the corporation are held, otherwise than by way of security only, directly or indirectly, whether through one or more subsidiaries or otherwise, by or for the benefit of the other corporation, and
 - (b) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the corporation.

- (b) *“former Minister” means a person who has ceased to be a member of the Executive Council;*
- (5) *For the purposes of this Act, a person is directly associated with a Member if that person is*

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

4 Section 2(1), (2) and (9) are amended by adding “or adult” after “minor”.

5 Section 3 is amended by adding “or to improperly further another person’s private interest” after “child”.

6 Section 4 is amended by striking out “, a person directly associated with the Member or the Member’s minor child” and substituting “or another person’s private interest”.

4 Section 2 presently reads in part:

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 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, if present at the meeting, declare that interest and must withdraw from the meeting without voting on or participating in the consideration of the matter.

(9) If no record was kept of who was present at a meeting at the time a matter for decision arose in which a Member, a Member's minor child or a person directly associated with a Member had a private interest, no inference that the Member was present at the meeting at the time the matter arose can be made for the purposes of determining whether there was a breach under subsection (2).

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 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 5 is repealed and the following is substituted:

Constituency matters

5 A Member does not breach this Act if the activity is one in which Members of the Legislative Assembly normally engage.

8 Section 7 is amended

(a) in subsection (2)(a) by striking out “\$200” and substituting “\$400”;

(b) by adding the following after subsection (2):

(2.1) Subsections (1) and (2) do not apply to a gift or other non-monetary benefit that is accepted by the Member or the Member’s spouse or adult interdependent partner or minor child from the Member’s political party or constituency association or from a charitable organization.

7 Section 5 presently reads:

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.

8 Section 7 presently reads:

7(1) A Member breaches this Act if the Member or, to the knowledge of the Member, the Member's spouse or adult interdependent partner 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 adult interdependent partner 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 or adult interdependent partner and minor children in any calendar year is \$200 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 adult interdependent partner 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 any steps that 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

9 The following is added after section 7:

Travel on non-commercial aircraft

7.1(1) In this section, “non-commercial chartered or private aircraft” does not include a non-commercial aircraft chartered by the Crown or a private aircraft owned or leased by the Crown.

(2) A Member breaches this Act if the Member accepts travel on a non-commercial chartered or private aircraft for any purpose.

(3) A Member does not breach subsection (2) if

- (a) the Member is travelling in his or her 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 or appointed by the Legislative Assembly, and
- (b) the Member informs the Ethics Commissioner within 7 days after the travel is completed.

10 Section 8 is amended

- (a) in subsection (1) by adding “or with the Member’s spouse or adult interdependent partner” after “with the Member” wherever it occurs;**
- (b) by repealing subsection (1)(e);**
- (c) in subsection (2) by adding “or with the Member’s spouse or adult interdependent partner” after “with the Member”;**
- (d) in subsection (3) by adding “or with a Member’s spouse or adult interdependent partner” after “with a Member” wherever it occurs;**
- (e) in subsection (4)**
 - (i) by adding “or with the Member’s spouse or adult interdependent partner” after “with the Member” wherever it occurs;**

other benefit will create a conflict between a private interest and the public duty of the Member.

9 Travel on non-commercial aircraft.

10 Section 8 presently reads:

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;**

(ii) by adding “and” at the end of clause (a) and by repealing clause (b);

(f) by adding the following after subsection (4):

(5) A Member does not breach subsection (1) in respect of a contract to which subsection (1) would otherwise apply if, in the Ethics Commissioner’s opinion,

- (a) the contract will not create a conflict between the person contracting with the Crown and the public interest, or
- (b) the contract is trivial.

(6) In addition to section 1(5)(a), for the purposes of this section a person is directly associated with a Member or with a Member’s spouse or adult interdependent partner if that person is

- (a) a corporation having share capital and carrying on business or activities for profit or gain of which that Member or Member’s spouse or adult interdependent partner is a director or senior officer, or a subsidiary of such a corporation whether or not that Member or Member’s spouse or adult interdependent partner is a director or senior officer of the subsidiary,
- (b) a private corporation carrying on business or activities for profit or gain of which that Member or Member’s spouse or adult interdependent partner owns or is the beneficial owner of shares, or a subsidiary of such a corporation whether or not that Member or Member’s spouse or adult interdependent partner owns or is the beneficial owner of shares of the subsidiary,
- (c) a partnership
 - (i) of which that Member or Member’s spouse or adult interdependent partner is a partner, or
 - (ii) of which one of the partners is a corporation directly associated with that Member or Member’s spouse or adult interdependent partner by reason of clause (b),

or

- (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) Where a contract to which the Crown is also a party, other than a contract referred to in subsection (1)(a) to (e), is entered into in which a Member or a person directly associated with a Member is a party but did not receive a preference from the Crown or a benefit under the contract not available to other members of the public under contracts of the same class, the Minister responsible for the department or the agency or other body of the Crown that awarded the contract

- (a) *must advise the Ethics Commissioner of the contract, and*
- (b) *must provide to the Ethics Commissioner a statutory declaration setting out*
 - (i) *the procedure used for awarding the contract, and*
 - (ii) *that the Member or the person directly associated with a Member did not receive a preference from the Crown or a benefit under the contract not available to other members of the public under contracts of the same class.*

(4) A Member does not breach subsection (1) in respect of a renewal of a contract to which subsection (1) 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, and*

(d) a person or group of persons acting with the express or implied consent of that Member or Member's spouse or adult interdependent partner.

(7) Section 1(6) applies in respect of subsection (6)(b).

(8) Sections 3(b) and (d) and 10(a) of the *Conflicts of Interest Amendment Act, 2007* do not apply in respect of contracts entered into before those sections come into force, but subsection (4) of this section applies in respect of a renewal of those contracts.

11 Section 12 is amended by adding the following after clause (b):

(b.1) shall, as of a date determined by the Ethics Commissioner, identify any legal proceedings being brought against the Member,

(b.2) shall, as of a date determined by the Ethics Commissioner, identify whether the Member is in arrears of maintenance payable, including legal costs, interest and penalties, in respect of a maintenance order or agreement,

- (c) *the Ethics Commissioner, before the renewal is made by the Member or the person directly associated with the Member, gives an opinion that*
 - (i) *the provisions of the renewal are fair and reasonable in the circumstances, having regard to the provisions of the existing contract,*
 - (ii) *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 and will not receive a benefit under the renewal not available to other members of the public under a contract of the same class.*

11 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, of any private corporation controlled by the Member and of any private corporation controlled by a combination of the Member and the Member's spouse or adult interdependent partner or minor children, but not including investments in a blind trust,*
- (b) *shall include a statement, as of a date determined by the Ethics Commissioner, of the assets, liabilities and financial interests of the Member's spouse or adult interdependent partner and minor children and of any private corporation controlled by the Member's spouse or adult interdependent partner, minor children or any combination of them, so far as known to the Member after the Member has requested information from the Member's spouse or adult interdependent partner,*
- (c) *need not include obligations being incurred for ordinary living expenses that will be discharged in the ordinary course of the Member's affairs,*
- (d) *shall include a statement*
 - (i) *of the income that the Member and persons referred to in clause (a), and*
 - (ii) *of the income that, so far as known to the Member after the Member has requested information from the Member's*

12 Section 14 is amended

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

(c) any travel accepted under section 7.1,

(b) in subsection (4)

(i) in clause (a) by striking out “\$1000” and substituting “\$10 000”;

(ii) in clause (b) by striking out “\$1000” and substituting “\$5000”;

(iii) by repealing clause (d) and substituting the following:

(d) personal property that the Member, the Member’s spouse or adult interdependent partner or one of the Member’s family uses primarily for transportation, household, educational, recreational, social or esthetic purposes;

13 Section 17(a) is amended by adding “for a period of 2 years after the Member ceases to be a Member, after which the statements and returns may be destroyed” after “returns”.

spouse or adult interdependent partner, any other person mentioned in clause (b)

have received in the preceding 12 months or expect to receive in the next 12 months and, to the extent required by the Ethics Commissioner, of the sources of the income, and

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

12 Section 14(3) and (4) presently read:

(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 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, the Member's spouse or adult interdependent partner or one of the Member's family;*
- (d) things used personally by a Member, the Member's spouse or adult interdependent partner or one of the Member's family;*
- (e) unpaid taxes, except property taxes under the Municipal Government Act and taxes under the School Act;*
- (f) support obligations.*

13 Section 17 presently reads:

17 The Clerk of the Legislative Assembly

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

14 Section 21(3) is repealed and the following is substituted:

- (3) For the purposes of this section,
- (a) the management of routine personal financial interests does not constitute carrying on a business, and
 - (b) maintaining qualifications in a profession or occupation as required by the profession or occupation does not constitute carrying on a business or engaging in employment or in the practice of a profession.

15 Section 24(1) is amended by adding “, former Minister or former political staff member” after “Member”.

16 Section 25 is amended

- (a) **in subsection (1) by adding “, former Minister or former political staff member” after “Member” wherever it occurs;**
- (b) **by adding the following after subsection (1):**
 - (1.1) A Member, former Minister or former political staff member shall co-operate with an investigation under this section.
- (c) **by adding the following after subsection (4):**
 - (4.1) The Ethics Commissioner shall immediately suspend an investigation or inquiry under this section if the Ethics Commissioner discovers that the subject-matter of the investigation or inquiry is also the subject-matter of an investigation by a law enforcement agency to determine whether an offence under this Act or any other enactment of Alberta or under an Act of the Parliament of Canada has been

- (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.*

14 Section 21(3) presently reads:

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

15 Section 24(1) presently reads:

24(1) Any person may request, in writing, that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by a Member.

16 Section 25 presently reads:

25(1) On receiving a request under section 24 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

committed or that a charge has been laid with respect to that subject-matter.

(4.2) The Ethics Commissioner may not continue an investigation or inquiry under this section until any investigation or charge referred to in subsection (4.1) has been finally disposed of.

(d) in subsection (6)

(i) by adding “, suspends an investigation of an alleged breach” **after** “investigate an alleged breach”;

(ii) in clause (a) by adding “, former Minister or former political staff member” **after** “Member”;

(e) in subsection (8)(a) by adding “, former Minister or former political staff member” **after** “Member”;

(f) by repealing subsection (8)(b) and substituting the following:

(b) in the case of an allegation made against a Member or former Minister, to the leader in the Legislative Assembly of the political party to which the Member or former Minister belongs.

(g) in subsection (11)(b)

(i) by adding “, former Minister or former political staff member” **after** “to the Member”;

(ii) by adding “, former Minister or former political staff member” **after** “by the Member”;

(h) by adding the following after subsection (11):

(12) An investigation or inquiry under this section shall not be commenced more than 2 years after the date on which the alleged breach occurred.

- (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) *The Ethics Commissioner may re-investigate an alleged breach in respect of which the Ethics Commissioner's findings have already been reported under this section only if, in the Ethics Commissioner's opinion, there are new facts that on their face might change the original findings.*
- (6) *If the Ethics Commissioner refuses to investigate or ceases to investigate an alleged breach or refuses to re-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 24, as the case may be.*
- (7) *Where the request is made under section 24(1), (3) or (4), the Ethics Commissioner shall report the Ethics Commissioner's findings to the Speaker of the Legislative Assembly.*
- (8) *The Ethics Commissioner may, before reporting the Ethics Commissioner's findings to the Speaker of the Legislative Assembly under subsection (7), 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.*
- (9) *Where the request is made under section 24(5), the Ethics Commissioner shall report the Ethics Commissioner's findings to the President of the Executive Council.*
- (10) *If the Ethics Commissioner is of the opinion*
- (a) *that a request made by a Member under section 24(1) was frivolous or vexatious or was not made in good faith, or*
 - (b) *that a request was made under section 24(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.*
- (11) *The Speaker of the Legislative Assembly shall lay the report referred to in subsection (10) before the Legislative Assembly and the Legislative Assembly, after considering the report, may*

17 Section 26(2) is amended

- (a) in clause (a) by adding “, former Minister or former political staff member” after “Member”;**
- (b) by adding the following after clause (d):**
 - (e) disclosed where the Ethics Commissioner believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Attorney General or a law enforcement agency of an alleged offence under this Act or any other enactment of Alberta or an Act of the Parliament of Canada.

18 Section 27 is amended

- (a) by adding the following after subsection (1):**
 - (1.1)** Notwithstanding subsection (1), if a report relates to a former Minister who is no longer a Member or to a former political staff member, subsection (1)(b)(ii) does not apply.
- (b) by adding the following after subsection (3):**
 - (3.1)** Where the Ethics Commissioner considers it appropriate in the circumstances, the Ethics Commissioner may recommend that the Member, former Minister or former political staff member be reimbursed, in an amount approved by the Ethics Commissioner, for his or her legal expenses incurred in respect of an investigation or inquiry.
- (c) in subsection (4) by adding “, former Minister or former political staff member” after “Member” wherever it occurs.**

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

17 Section 26(2) presently reads:

(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.*

18 Section 27 presently reads:

27(1) A report by the Ethics Commissioner to the Speaker of the Legislative Assembly under section 25(7) must be concise and may set out only the following:

- (a) the facts relating to the alleged breach found by the Ethics Commissioner, and*
- (b) the Ethics Commissioner's findings as to whether 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;*

19 Section 28(3) is repealed and the following is substituted:

(3) If in the report from the Ethics Commissioner the Ethics Commissioner has found that a Member or former Minister has breached this Act and the Ethics Commissioner has recommended a sanction, the Legislative Assembly shall debate and vote on the report within 15 days after the tabling of the report, or any other period that is determined by a resolution of the Legislative Assembly.

20(1) Section 29 is amended by renumbering it as section 29(1) and by adding the following after subsection (1):

(2) Where under subsection (1) the Legislative Assembly determines that there has been a breach and a Member has realized financial gain in any transaction to which the breach relates, any person affected by the financial gain, including the Government or a Provincial agency, may apply to the Court of Queen's Bench for an order of restitution against the Member who has realized the financial gain.

(2) This section applies only to a breach that occurs after this section comes into force.

21(1) Section 31 is amended

(a) in subsection (1) by striking out "6 months" and substituting "12 months";

- (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.

19 Section 28(3) presently reads:

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

20 Section 29 presently reads:

29 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 27(2) it considers appropriate, or*
- (b) impose no sanction.*

21 Section 31 presently reads:

31(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,

- (b) in subsection (1)(a) by striking out** “or any other person”;
- (c) in subsection (1) by adding the following after clause (a):**
 - (a.1) on behalf of any other person, make representations with respect to a contract with or benefit from a department of the public service or a Provincial agency,
- (d) in subsection (1)(c) by adding** “or make representations on his or her own behalf or on behalf of any other person” **after** “basis”;
- (e) by repealing subsection (3) and substituting the following:**
 - (3)** Subsection (1) does not apply to any activity, contract or benefit
 - (a) if, in the opinion of the Ethics Commissioner,
 - (i) the conditions on which and the manner in which the activity, contract or benefit is awarded, approved or given are the same for all persons similarly entitled, or
 - (ii) the award, approval or grant results from an impartially administered process open to a significant class of persons,
 - or
 - (b) if in the opinion of the Ethics Commissioner the activity, contract or benefit will not create a conflict between a private interest of the former Minister and the public interest, and the former Minister observes and performs any conditions imposed by the Ethics Commissioner.
- (f) in subsection (5) by striking out** “on summary conviction to a fine not exceeding \$20 000” **and substituting** “to a fine not exceeding \$50 000”;
- (g) by adding the following after subsection (5):**

- (a) *on behalf of himself or herself 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.*

(6) A prosecution of an offence under subsection (5) shall not be commenced more than 2 years after the date on which the alleged offence occurred.

(7) If a former Minister has realized financial gain in any transaction to which a conviction under subsection (5) relates, any person affected by the financial gain, including the Government or a Provincial agency, may apply to the Court of Queen's Bench for an order of restitution against the former Minister.

(2) This section applies only in respect of a person who becomes a former Minister after this section comes into force.

22 The following is added after Part 6:

Part 6.1 Former Political Staff Members

Dealings with Government by former political staff members

32.1(1) Except as provided in subsections (4) and (5), a former political staff member shall not, for a period of 6 months after becoming a former political staff member,

- (a) on behalf of himself or herself, solicit or accept a contract or benefit from a department of the public service or a Provincial agency with which the former political staff member had significant official dealings during the former political staff member's last year of service as a political staff member,
- (b) on behalf of any other person make representations with respect to a contract with or benefit from a department of the public service or a Provincial agency,
- (c) accept employment with a person or entity, or an appointment to the board of directors or equivalent body of an entity, with which the former political staff member had significant official dealings during the former political staff member's last year of service as a political staff member, or

22 Adds Part 6.1, Former Political Staff Members.

(d) act on a commercial basis or make representations on his or her own behalf or on behalf of any other person in connection with any ongoing matter in connection with which the former political staff member had significant official dealings during the former political staff member's last year of service as a political staff member.

(2) For the purposes of subsection (1)(a) and (c), a former political staff member has had significant official dealings with a department of the public service, Provincial agency, person or entity if the former political staff member, while holding a position as a political staff member, was directly and substantively involved with the department, Provincial agency, person or entity in an important matter.

(3) For the purposes of subsection (1)(d), a former political staff member has had significant official dealings in connection with a matter if the former political staff member, while holding a position as a political staff member, was directly and substantively involved in that matter.

(4) Notwithstanding subsection (1)(a), a former political staff member may accept employment with any Provincial agency or department of the public service in accordance with the *Public Service Act*.

(5) Subsection (1) does not apply to any activity, contract or benefit

(a) if, in the opinion of the Ethics Commissioner,

(i) the conditions on which and the manner in which the activity, contract or benefit is awarded, approved or given are the same for all persons similarly entitled, or

(ii) if the award, approval or grant results from an impartially administered process open to a significant class of persons,

or

(b) if in the opinion of the Ethics Commissioner the activity, contract or benefit will not create a conflict between a private interest of the former political staff member and

the public interest, and the former political staff member observes and performs any conditions imposed by the Ethics Commissioner.

(6) A former political staff member who contravenes this section is guilty of an offence and liable to a fine not exceeding \$50 000.

(7) A prosecution of an offence under subsection (6) shall not be commenced more than 2 years after the date on which the alleged offence occurred.

(8) If a former political staff member has realized financial gain in any transaction to which a conviction under subsection (6) relates, any person affected by the financial gain, including the Government or a Provincial agency, may apply to the Court of Queen's Bench for an order of restitution against the former political staff member.

(9) This section applies only in respect of a person who becomes a former political staff member after this section comes into force.

Breach for awarding contract

32.2 A Minister breaches this Act if the Minister knowingly awards or approves a contract or gives a benefit to a former political staff member who is acting in contravention of section 32.1.

23 Section 33(1) is amended by adding “those duties and functions in respect of” **after** “or”.

23 Section 33 presently reads:

33(1) There is to 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.

24 Section 43 is amended

- (a) **in subsection (1) by striking out** “or former Minister” **wherever it occurs and substituting** “, former Minister or former political staff member”;
- (b) **by adding the following after subsection (1):**
 - (1.1) A political staff member may request the Ethics Commissioner to give advice and recommendations on any matter respecting obligations of the political staff member on becoming a former political staff member.
- (c) **in subsection (2) by striking out** “or former Minister” **wherever it occurs and substituting** “, former Minister, political staff member or former political staff member”;
- (d) **in subsection (3) by striking out** “Member’s or former Minister’s consent” **and substituting** “consent of the Member, former Minister, political staff member or former political staff member”;
- (e) **in subsection (5)**
 - (i) **by striking out** “or former Minister” **wherever it occurs and substituting** “, former Minister or former political staff member”;
 - (ii) **by striking out** “Member’s or former Minister’s compliance” **and substituting** “compliance of the Member, former Minister or former political staff member”.

25 Section 44 is amended

- (a) **in subsection (1)**
 - (i) **by striking out** “or former Ministers” **wherever it occurs and substituting** “, former Ministers or former political staff members”;

24 Section 43 presently reads:

43(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 any inquiries that 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.

25 Section 44 presently reads:

44(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

- (ii) **by striking out** “and former Ministers” **and substituting** “, former Ministers and former political staff members”;

(b) in subsection (2)

- (i) **by striking out** “or former Minister” **and substituting** “, former Minister or former political staff member”;
- (ii) **by striking out** “Member’s or former Minister’s compliance” **and substituting** “compliance of the Member, former Minister or former political staff member”.

26 Section 47 is amended by renumbering it as section 47(1) and by adding the following after subsection (1):

(2) Notwithstanding subsection (1), the Ethics Commissioner shall retain records

- (a) of a Member that are in the Ethics Commissioner’s custody or control for a period of at least 2 years after the Member ceases to be a Member,
- (b) of a former Minister that are in the Ethics Commissioner’s custody or control for a period of at least 2 years after the period referred to in section 31(1) in respect of the former Minister has expired, and
- (c) of a former political staff member that are in the Ethics Commissioner’s custody or control for a period of at least 2 years after the period referred to in section 32.1(1) in respect of the former political staff member has expired.

(3) The Ethics Commissioner shall destroy the records retained under subsection (2) immediately after the period referred to in subsection (2) unless

- (a) the records are required for the purpose of an investigation, inquiry or prosecution under this Act, or
- (b) the Ethics Commissioner has reasonable grounds to believe that the records are required for the purpose of

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.

26 Section 47 presently reads:

47 On the recommendation of the Ethics Commissioner, the Standing Committee may make an order

- (a) respecting the management of records in the custody or under the control of the Office of the Ethics Commissioner, including their creation, handling, control, organization, retention, maintenance, security, preservation, disposition, alienation and destruction and their transfer to the Provincial Archives of Alberta;*
- (b) establishing or governing the establishment of programs for any matter referred to in clause (a);*
- (c) defining and classifying records;*
- (d) respecting the records or classes of records to which the order or any provision of it applies.*

an investigation, inquiry or prosecution under any other enactment of Alberta or under an Act of the Parliament of Canada.

(4) The Ethics Commissioner shall destroy the records when in the opinion of the Ethics Commissioner the records are no longer required under subsection (3)(a) or (b).

27 Section 48 is amended by striking out “February 17, 2005” and substituting “December 1, 2012”.

28 Part 9 is repealed.

27 Section 48 presently reads:

48 By February 17, 2005 and every 5 years after that, a special committee established by the Legislative Assembly must begin a comprehensive review of this Act and must submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments recommended by the committee.

28 Part 9 presently reads:

*Part 9
Transitional*

49 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.

50(1) Subject to subsection (2), no proceeding may be commenced under this Act in respect of an alleged breach of this Act committed prior to March 1, 1993.

(2) Where a Member is, prior to March 1, 1993, liable to disqualification under section 27(1)(b) or (c), 28 or 29 of the Legislative Assembly Act as it read on February 28, 1993 and no proceeding has been commenced under the Legislative Assembly Act, the proceeding shall be commenced in accordance with Part 5 of this Act.

51(1) In this section, “prior trust” means

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

29 The Schedule is amended in Part 3

(a) by adding the following after the heading to Part 3:

The Lieutenant Governor in Council may by regulation amend this Part to add any office the Lieutenant Governor in Council considers appropriate for the purposes of this Act.

- (b) by striking out** “Alberta Electric Energy Marketing Agency”;
- (c) by striking out** “Alberta Sport Council”;
- (d) by adding** “Alberta Sport, Recreation, Parks and Wildlife Foundation” **after** “Alberta Securities Commission”;
- (e) by striking out** “Appeal board under the Farm Implement Act”;
- (f) by striking out** “Appeal board under the Real Estate Agents’ Licensing Act”;
- (g) by striking out** “Board of a hospital district incorporated under section 8 of the Hospitals Act (RSA 1980 cH-11)”;
- (h) by striking out** “Board of review under section 619 of the Criminal Code (Canada)”;
- (i) by striking out** “Criminal Injuries Appeal Board” **and substituting** “Criminal Injuries Review Board”;
- (j) by adding** “Farm Implement Board under the Farm Implement Act” **after** “Energy Resources Conservation Board”;

(b) a trust established before March 1, 1993 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 March 1, 1993 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 March 1, 1993 would put the Member in breach of this Act, if the Member takes any steps that the Ethics Commissioner recommends to remove the grounds of the breach as soon as the Ethics Commissioner considers practicable in the circumstances.

29 Updating of list.

- (k) **by striking out** “Land Conservation and Reclamation Council”;
- (l) **by striking out** “Law Enforcement Appeal Board” **and substituting** “Law Enforcement Review Board”;
- (m) **by striking out** “Ophthalmic Dispensers Examining Board”;
- (n) **by adding** “Review Board appointed under section 672.38 of the Criminal Code (Canada)” **after** “Regional Health Authority under the Regional Health Authority Act”.

30 The *Public Service Act* is amended by adding the following after section 23:

Post-employment limitations and restrictions

23.1(1) This section applies

- (a) to the position of any deputy minister appointed under section 4 of the *Government Organization Act*, and
- (b) to any other position set out in the regulations.

(2) A person who formerly held a position referred to in subsection (1) shall, for 6 months after the date he or she ceases to hold that position, comply with the post-employment limitations and restrictions set out in the regulations.

(3) The Lieutenant Governor in Council may make regulations

- (a) respecting positions or classes of positions for the purpose of subsection (1)(b);
- (b) respecting post-employment limitations and restrictions applicable to a person who formerly held a position referred to in subsection (1);
- (c) respecting investigations of alleged contraventions of this section and the powers and duties of persons conducting investigations;
- (d) respecting the modification or waiver of the post-employment limitations and restrictions.

30 Post-employment limitations and restrictions.

(4) Sections 2(4) and 28(4) do not apply in respect of this section.

(5) A person who fails to comply with this section is guilty of an offence and is liable to a fine not exceeding \$50 000.

(6) A prosecution of an offence under subsection (5) shall not be commenced more than 2 years after the date on which the alleged offence occurred.

(7) This section applies only in respect of a person who is or becomes a holder of a position referred to in subsection (1) after this section comes into force.

31 This Act comes into force on Proclamation.

31 Coming into force.

