

2014 Bill 2

Third Session, 28th Legislature, 63 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 2

ALBERTA ACCOUNTABILITY ACT

THE MINISTER OF JUSTICE AND SOLICITOR GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 2

2014

ALBERTA ACCOUNTABILITY ACT

(Assented to , 2014)

Preamble

WHEREAS elected officials and senior members of the public service must avoid conduct that violates the public trust or creates an appearance of impropriety;

WHEREAS it is desirable to promote these aims by adopting clear and consistent conflict of interest rules, post-employment restrictions, transparency and reporting duties for elected officials, Deputy Ministers, Senior Officials and Premier's and Ministers' staff; and

WHEREAS it is desirable to make a clear distinction between lobbyists and government consultants;

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

Conflicts of Interest Act

Amends RSA 2000 cC-23

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

(2) The preamble is amended by striking out “and” at the end of the 3rd recital and adding the following after the 4th recital:

WHEREAS Ministers and their staff must avoid conduct that violates the public trust or creates an appearance of impropriety; and

WHEREAS the adoption of clear and consistent conflict of interest rules, post-employment restrictions and reporting duties will promote these aims;

Explanatory Notes

Conflicts of Interest Act

1(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 can serve Albertans most effectively if they come from a spectrum of occupations and continue to participate actively in the community;

WHEREAS Members of the Legislative Assembly are expected to perform their duties of office and arrange their private affairs in a

(3) Section 1 is amended

(a) in subsection (1)

(i) by renumbering clause (a) as clause (a.1) and adding the following before clause (a.1):

(a) “blind trust” means a blind trust approved under section 20(4) or section 23.5(4), as appropriate;

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

(a.2) “former member of the Premier’s and Ministers’ staff” means an employee who has ceased to hold a position referred to in clause (c.1);

(iii) by repealing clause (b.1) and substituting the following:

(b.1) “investment arrangement” means an investment arrangement approved under section 20(5) or section 23.5(5), as appropriate;

(iv) by adding the following after clause (c):

(c.1) “member of the Premier’s and Ministers’ staff” means an employee providing services other than administrative support who holds

(i) a position in the Office of the Premier or an office of a Minister, or

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:

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

(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.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;*
- (g) "private interest" does not include the following:*
 - (i) an interest in a matter*
 - (A) that is of general application,*
 - (B) that affects a person as one of a broad class of the public, or*
 - (C) that concerns the remuneration and benefits of a Member;*
 - (ii) an interest that is trivial;*

- (ii) a position in any other office designated by the Chief of Staff, Office of the Premier;

(v) by repealing clause (g) and substituting the following:

- (g) “private interest” does not include the following:
 - (i) an interest in a matter
 - (A) that is of general application,
 - (B) that affects an individual as one of a broad class of the public, or
 - (C) that concerns the remuneration and benefits of an individual;
 - (ii) an interest that is trivial;
 - (iii) an interest of an individual relating to publicly-traded securities held in that individual’s blind trust or in an investment arrangement;

(vi) by repealing clause (h) and substituting the following:

- (h) “Provincial agency” means a Provincial agency as defined in the *Financial Administration Act*, and includes a management body within the meaning of the *Alberta Housing Act* and a regional health authority and a subsidiary health corporation under the *Regional Health Authorities Act*;

(b) by repealing subsection (7).

(4) Section 7 is repealed and the following is substituted:

Gifts, benefits from persons other than the Crown

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

(iii) *an interest of a Member relating to publicly-traded securities in the Member's blind trust;*

(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, shares or units in a mutual fund, futures and forward contracts or exchange contracts, and*
 - (iv) *require the trustee to invest only in publicly-traded securities, in shares or units in a mutual fund, in futures and forward contracts, in exchange contracts 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.*

(4) 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.

connected, directly or indirectly, with the performance of the Member's office.

(2) Subsection (1) does not apply to a non-monetary 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, a charitable organization or a Canadian government, whether federal, provincial, territorial or municipal.

(3) 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 Member's office

- (a) if the value of the fee, non-monetary gift or other non-monetary benefit given to the Member, the Member's spouse or adult interdependent partner or minor children does not exceed \$200,
- (b) in the case of tickets and invitations to events, if the total value of all tickets and invitations to events accepted by the Member and the Member's spouse or adult interdependent partner and minor children from the same source in any calendar year does not exceed \$400;
- (c) in the case of the invitation of a Member to a conference or meeting in respect of which the Member accepts a waiver of the attendance fee and the payment or reimbursement of reasonable travel expenses incurred for the Member's attendance at the conference or meeting, if the total value of attendance fees waived and travel expenses paid or reimbursed by the same source in any calendar year does not exceed \$400;
- (d) in any other case, if the Member applies to the Ethics Commissioner
 - (i) before or as soon as practicable after the Member receives a fee, gift or benefit, or
 - (ii) as soon as practicable after the Member has knowledge that the Member's spouse or adult

(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 \$400 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.

(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.

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

interdependent partner or minor child will receive or has received a fee, gift or benefit,

and either obtains the Ethics Commissioner's approval to retain the fee, gift or benefit on any conditions the Ethics Commissioner determines or, if the approval is refused, takes any steps that the Ethics Commissioner directs.

(4) The Ethics Commissioner may give an approval under subsection (3)(d) only if the Ethics Commissioner is satisfied that there is no reasonable possibility that retention of the fee, gift or other benefit will create a conflict between a private interest and the public duty of the Member.

(5) Section 7.1 is repealed and the following is substituted:

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 an offer of travel on a non-commercial chartered or private aircraft that is connected, directly or indirectly, with the performance of the Member's office, unless

- (a) the travel is required for the performance of the Member's office,
- (b) there are exceptional circumstances warranting the acceptance of the travel, or
- (c) the member receives approval from the Ethics Commissioner before accepting the travel.

(3) An approval by the Ethics Commissioner under subsection (2)(c)

- (a) may be given only if the Ethics Commissioner is of the opinion that the acceptance will not create a conflict between a private interest and the public duty of the Member, and

(5) Section 7.1 presently reads:

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.

(b) may be given subject to any conditions determined by the Ethics Commissioner.

(4) Within 30 days after accepting an offer of travel under this section, a Member shall report the following in the form and manner determined by the Ethics Commissioner:

- (a) the date, place of origin and destination of the travel;
- (b) the person who provided the travel;
- (c) the circumstances in which the travel was accepted;
- (d) any other information determined by the Ethics Commissioner.

(5) The Ethics Commissioner may publish information reported under subsection (4) on the Ethics Commissioner's website in a form that the Ethics Commissioner considers appropriate.

(6) Section 11(1) is amended by striking out "form provided" and substituting "form and manner determined".

(7) Section 12 is amended

- (a) in clause (a) by adding "or investment arrangement" after "blind trust";**
- (b) by repealing clause (e) and substituting the following:**
 - (e) shall include a list of all fees, gifts and other benefits accepted under section 7 having a value greater than

(6) 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.*

(7) Section 12 presently reads in part:

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*

\$100, including any fees, gifts or other benefits not approved by the Ethics Commissioner under section 7(3)(d);

- (f) shall include a list of all travel on a non-commercial or private aircraft accepted under section 7.1.

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

- (b) the fees, gifts or benefits accepted with the Ethics Commissioner's approval under section 7(3)(d), and

(9) Section 17 is repealed and the following is substituted:

Filing of public disclosure statements

17 The Office of the Ethics Commissioner

- (a) shall retain each Member's public disclosure statements, supplementary public disclosure statements, amending disclosure statements and returns for a period of 3 years after the Member ceases to be a Member, after which the statements and returns may be destroyed,
- (b) shall make the public disclosure statements, any supplementary public disclosure statements and amending disclosure statements and returns available for examination by any person who wishes to examine them, and
- (c) may publish information derived from a Member's public disclosure statements, supplementary public disclosure statements, amending disclosure statements and returns on the Ethics Commissioner's website in a

Member's spouse or adult interdependent partner or minor children, but not including investments in a blind trust,

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

(8) Section 14(3) presently reads:

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

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

(b) the fees, gifts or benefits approved for retention under section 7(2)(b), and

(c) any travel accepted under section 7.1,

as disclosed in the Member's disclosure statement, but shall not state the amount or value of them.

(9) 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 for a period of 2 years after the Member ceases to be a Member, after which the statements and returns may be destroyed,

(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.

form that the Ethics Commissioner considers appropriate.

(10) Section 18 is repealed and the following is substituted:

Failure to file

18 A Member breaches this Act if the Member does not file within the time required by this Act, or knowingly gives false or misleading information in,

- (a) a disclosure statement under section 11(1),
- (b) an amending disclosure statement under section 11(2), or
- (c) a return under section 15.

(11) Section 19 is repealed and the following is substituted:

Reimbursement for costs

19(1) Members are entitled to be reimbursed for

- (a) costs associated with the completion of their disclosure statements,
- (b) costs associated with the establishment and administration of a blind trust or of an investment arrangement, and
- (c) costs associated with transferring a mortgage, line of credit or other account from a treasury branch to another financial institution as necessary to comply with section 8.

(2) The amount of the reimbursement is subject to the approval of the Ethics Commissioner.

(12) Section 20 is repealed and the following is substituted:

Restriction on holdings

20(1) A Minister breaches this Act if the Minister, after the expiration of the relevant period referred to in section 22, owns or has a beneficial interest in publicly-traded securities.

(2) Subsection (1) does not apply if

(10) Section 18 presently reads:

18 A Member breaches this Act if the Member does not file a disclosure statement, an amending disclosure statement or a return within the time provided by section 11 or 15, as the case may be, or if the Member knowingly gives false or misleading information in a statement or return.

(11) Section 19 presently reads:

19(1) Members are entitled to be reimbursed for costs associated with the completion of their disclosure statements and the establishment and administration of their blind trusts.

(2) The amount of the reimbursement is subject to the approval of the Ethics Commissioner.

(12) Section 20 presently reads:

20(1) A Minister breaches this Act if the Minister, after the expiration of the relevant period referred to in section 22, 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.

- (a) the publicly-traded securities are held in a blind trust approved under subsection (4) or in an investment arrangement approved under subsection (5),
- (b) prior to the expiration of the relevant period referred to in section 22, the Minister applies to the Ethics Commissioner for approval to retain ownership of or a beneficial interest in the publicly-traded securities and either obtains the Ethics Commissioner's approval or, if the approval is refused, takes any steps that the Ethics Commissioner directs with respect to the disposition of the ownership or beneficial interest, or
- (c) after the expiration of the relevant period referred to in section 22, the Minister acquires ownership of or a beneficial interest in publicly-traded securities with the prior approval of the Ethics Commissioner.

(3) The Ethics Commissioner may give an approval

- (a) under subsection (2)(b) or (c) if the Ethics Commissioner is of the opinion that the publicly-traded securities are securities of a corporation the interests of which are not likely to be affected by decisions of the Government, or
- (b) under subsection (2)(b) if the Ethics Commissioner is of the opinion that the Minister will sustain a financial loss if the publicly-traded securities are disposed of and the public interest does not require disposition of the publicly-traded securities by the Minister.

(4) The Ethics Commissioner may approve the retention of publicly-traded securities to be held in a blind trust if the blind trust will meet the following criteria:

- (a) the Minister 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 Minister and the trustee that would affect or would appear to affect the discharge of the trustee's duties;

(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 22, 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 any steps that 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 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.

- (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 Minister from having any knowledge of the specific investments in the trust at any time after a deposit in the trust,
 - (iii) require that the Minister may deposit in the trust only securities verified by the Ethics Commissioner as being publicly-traded securities, shares or units in a mutual fund, futures and forward contracts or exchange contracts, and
 - (iv) require the trustee to invest only in publicly-traded securities, in shares or units in a mutual fund, in futures and forward contracts, in exchange contracts 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.

(5) The Ethics Commissioner may approve the retention of publicly-traded securities to be held in an investment arrangement if the investment arrangement will meet the following criteria:

- (a) it gives a person other than the Minister sole power over investment decisions,
- (b) it precludes the Minister from having any knowledge of the specific investments at any time after a deposit to the investment arrangement, and
- (c) it ensures there will be no relationship between the Minister and the person referred to in clause (a) that would affect or would appear to affect that person's investment decisions.

(6) An approval or direction given by the Ethics Commissioner under this section may be given subject to any conditions determined by the Ethics Commissioner.

(13) Section 21 is repealed and the following is substituted:

Employment restrictions

21(1) A Minister breaches this Act if, after the expiration of the relevant period referred to in section 22, the Minister

- (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 public duty of the Minister.

(2) Subsection (1) does not apply if the Minister has disclosed the material facts to the Ethics Commissioner and if,

- (a) prior to the expiration of the relevant period referred to in section 22,
 - (i) the Ethics Commissioner is satisfied that the activity will not create or appear to create a conflict between a private interest of the Minister or of a person directly associated with the Minister and the performance of the Minister's public duty, and
 - (ii) in the case of a business, the Ethics Commissioner is satisfied that the business will be carried on by way of a management arrangement in which
 - (A) the Minister will be precluded from participating in discussions about matters that could affect a private interest of the Minister or of a person directly associated with the Minister, and
 - (B) the Minister will be precluded from voting on matters that could affect a private interest of the Minister or of a person directly associated with the Minister,

or

(13) Section 21 presently reads:

21(1) A Minister breaches this Act if the Minister, after the expiration of the relevant period referred to in section 22,

- (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,

- (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.*

(b) after the expiration of the relevant period referred to in section 22, the Minister commences an activity with the prior approval of the Ethics Commissioner on the conditions set out in subsection (2)(a)(i) and (ii).

(3) An approval given by the Ethics Commissioner under subsection (2) may be given subject to any conditions determined by the Ethics Commissioner.

(4) 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.

(14) Section 22 is repealed and the following is substituted:

Time for compliance

22(1) For the purposes of sections 20(1) and 21(1), with respect to a person who becomes a Minister, the relevant period is 60 days after being appointed to the Executive Council or any longer period that the Ethics Commissioner may direct.

(2) For the purposes of section 20(2)(c), with respect to a Minister who acquires ownership of or a beneficial interest in publicly-traded securities by gift or inheritance, the relevant period is 60 days after receiving the gift or inheritance or any longer period that the Ethics Commissioner may direct.

(3) For the purposes of section 21(2)(b), with respect to a Minister who acquires a business by gift or inheritance, the relevant period is 60 days, or any longer period that the Ethics Commissioner may direct, after receiving the gift or inheritance of a business that is to be carried on by the Minister.

(14) Section 22 presently reads:

22(1) For the purposes of sections 20(1) and 21(1), with respect to a person who becomes a Minister, the period is 60 days after being appointed to the Executive Council or any longer period that the Ethics Commissioner may prescribe.

(2) For the purposes of section 20(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 any longer period that the Ethics Commissioner may prescribe.

(15) The following is added after section 23:

Part 4.1 Former Ministers

Restrictions on former Ministers

23.1(1) No former Minister shall, for a period of 12 months from the last day the former Minister held his or her appointment as a Minister, lobby, as defined in the *Lobbyists Act*, any public office holder as defined in the *Lobbyists Act*.

(2) No former Minister shall, for a period of 12 months from the last day the former Minister held his or her appointment as a Minister, 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 Minister, while in office, directly acted for or advised a department or Provincial agency involved in the matter.

(3) No former Minister shall, for a period of 12 months from the last day the former Minister had a direct and significant official dealing with a department or Provincial agency, make representations with respect to a contract with or benefit from that department or Provincial agency.

(4) No former Minister shall, for a period of 12 months from the last day the former Minister had a direct and significant official dealing with a department or Provincial agency, solicit or accept on his or her own behalf a contract or benefit from that department or Provincial agency.

(5) No former Minister shall, for a period of 12 months from the last day the former Minister had a direct and significant official dealing with an individual, organization, board of directors or equivalent body of an organization, accept employment with that individual or organization or an appointment to the board of directors or equivalent body.

Waiver or reduction

23.11(1) A Minister or former Minister may apply to the Ethics Commissioner for a waiver or reduction of a time period set out in section 23.1, and the Ethics Commissioner may waive

(15) Adding Part 4.1, Former Ministers, and Part 4.2, Premier's and Ministers' Staff.

or reduce any time period set out in section 23.1 if, in the opinion of the Ethics Commissioner,

- (a) the conditions on which and the manner in which the employment, appointment, contract or benefit is awarded, approved or given are the same for all persons similarly entitled,
- (b) the award, approval, grant or benefit results from an impartially administered process open to a significant class of persons, or
- (c) the activity, contract or benefit will not create a conflict between a private interest of the former Minister and the public interest.

(2) The Ethics Commissioner may under subsection (1)(c) waive or reduce a time period set out in section 23.1 on any conditions that the Ethics Commissioner determines.

Breach and offence

23.12(1) A former Minister who contravenes section 23.1 and who at the time of the contravention is a Member of the Legislative Assembly breaches this Act.

(2) A former Minister who contravenes section 23.1 and who at the time of the contravention is not a Member of the Legislative Assembly is guilty of an offence and liable to a fine not exceeding \$50 000.

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

(4) If a former Minister or any other person has realized financial gain in any transaction to which a conviction under subsection (2) 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 or any other person who has realized the financial gain.

Breach for awarding contract

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

- (a) a former Minister who is acting in contravention of section 23.1;
- (b) a former member of the Premier's and Ministers' staff who is acting in contravention of section 23.7;
- (c) a former designated office holder as defined in the *Public Service Act* who is acting in contravention of section 25.4 of that Act.

Part 4.2 Premier's and Ministers' Staff

Decisions furthering private interests

23.2 A member of the Premier's and Ministers' staff breaches this Part if he or she takes part in a decision in the course of carrying out his or her 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 or adult child.

Influence

23.3 A member of the Premier's and Ministers' staff breaches this Part if the member uses his or her 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 or to improperly further any other person's private interest.

Insider information

23.4 A member of the Premier's and Ministers' staff breaches this Act if he or she uses or communicates information not available to the general public that was gained by the member in the course of carrying out his or her office or powers to further or seek to further a private interest of the member or any other person's private interest.

Code of conduct

23.41(1) The Lieutenant Governor in Council may establish a code of conduct for the Premier's and Ministers' staff.

(2) To the extent that it is consistent with this Part, the code of conduct referred to in the terms of employment of a person who is a member of the Premier's and Ministers' staff when this section comes into force applies until it is replaced by a code of conduct referred to in subsection (1).

(3) A member of the Premier's and Ministers' staff who contravenes a code of conduct referred to in this section breaches this Part and may be subject to disciplinary action.

Restriction on holdings

23.5(1) The Chief of Staff, Office of the Premier, breaches this Part if he or she, after the expiration of the relevant period referred to in subsection (7), owns or has a beneficial interest in publicly-traded securities.

(2) Subsection (1) does not apply if

- (a) the publicly-traded securities are held in a blind trust approved under subsection (4) or in an investment arrangement approved under subsection (5),
- (b) prior to the expiration of the relevant period referred to in subsection (7), the Chief of Staff, Office of the Premier, applies to the Ethics Commissioner for approval to retain ownership of or a beneficial interest in the publicly-traded securities and either obtains the Ethics Commissioner's approval or, if the approval is refused, takes any steps that the Ethics Commissioner directs with respect to the disposition of the ownership or beneficial interest, or
- (c) after the expiration of the relevant period referred to in subsection (7), the Chief of Staff, Office of the Premier, acquires ownership of or a beneficial interest in publicly-traded securities with the prior approval of the Ethics Commissioner.

(3) The Ethics Commissioner may give an approval

- (a) under subsection (2)(b) or (c) if the Ethics Commissioner is of the opinion that the publicly-traded securities are securities of a corporation the interests of

which are not likely to be affected by decisions of the Government, or

(b) under subsection (2)(b) if the Ethics Commissioner is of the opinion that the Chief of Staff, Office of the Premier will sustain a financial loss if the publicly-traded securities are disposed of and the public interest does not require disposition of the publicly-traded securities by the Chief of Staff.

(4) The Ethics Commissioner may approve the retention of publicly-traded securities to be held in a blind trust if the blind trust will meet the criteria set out in section 20(4).

(5) The Ethics Commissioner may approve the retention of publicly-traded securities to be held in an investment arrangement if the investment arrangement will meet the criteria set out in section 20(5).

(6) An approval or direction given by the Ethics Commissioner under this section may be given subject to any conditions determined by the Ethics Commissioner.

(7) For the purposes of subsections (1) and (2),

(a) the relevant period is

(i) in the case of a person who becomes Chief of Staff, Office of the Premier, after the coming into force of this section, 60 days after becoming Chief of Staff or any longer period that the Ethics Commissioner directs;

(ii) in the case of a person who is Chief of Staff, Office of the Premier, when this section comes into force, 60 days after the coming into force of this section or any longer period that the Ethics Commissioner directs;

(b) with respect to a Chief of Staff, Office of the Premier, who acquires ownership of or a beneficial interest in publicly-traded securities by gift or inheritance, the relevant period is 60 days after receiving the gift or inheritance or any longer period that the Ethics Commissioner directs.

Disclosure statements

23.6(1) Every member of the Premier's and Ministers' staff shall file with the Ethics Commissioner a disclosure statement in the form and manner determined by the Ethics Commissioner

- (a) within 60 days after
 - (i) becoming a member of the Premier's and Ministers' staff, in the case of a person who becomes a member of the Premier's and Ministers' staff after the coming into force of this section, or
 - (ii) the coming into force of this section, in the case of a person who is a member of the Premier's and Ministers' staff when this section comes into force,
- and
- (b) in each subsequent year at the time specified by the Ethics Commissioner.

(2) A member of the Premier's and Ministers' staff shall, within 30 days after the occurrence of any material changes to the information contained in a current disclosure statement, file with the Ethics Commissioner an amending disclosure statement in the form provided by the Ethics Commissioner setting out the changes.

(3) Section 12(a) to (d) apply for the purpose of establishing the contents of and additional time requirements for the disclosure statements referred to in subsection (1).

Returns relating to persons directly associated

23.61(1) Every member of the Premier's and Ministers' staff shall file with the Ethics Commissioner a return relating to persons directly associated with the member, in a form and manner determined by the Ethics Commissioner,

- (a) within 60 days after
 - (i) becoming a member of the Premier's and Ministers' staff, in the case of a person who becomes a member after the coming into force of this section, or

- (ii) the coming into force of this section, in the case of a person who is a member of the Premier's and Ministers' staff when this section comes into force,
- (b) within 30 days after the occurrence of any material change in the information contained in a current return, and
- (c) within 30 days after the day he or she ceases to be a member of the Premier's and Ministers' staff.

(2) Section 15(1)(a) and (b) and (2) apply for the purpose of establishing the contents of a member's returns and additional time requirements for a member's returns under this section.

(3) On receipt of a return under this section, the Ethics Commissioner shall provide a copy of the return,

- (a) in the case of a return filed by a person who holds a position in the Premier's office, to the Premier, and
- (b) in the case of a return filed by a person who holds a position in a Minister's office, to that Minister.

Failure to file

23.62(1) A member of the Premier's and Ministers' staff breaches this Part if the member does not file within the time required by this Part, or if the member knowingly gives false or misleading information in,

- (a) a disclosure statement under section 23.6(1),
- (b) an amending disclosure statement under section 23.6(2), or
- (c) a return under section 23.61(1).

(2) If the Ethics Commissioner is of the opinion that a member of the Premier's and Ministers' staff has breached the time requirements for filing a disclosure statement, an amending disclosure statement or a return referred to in subsection (1), sections 30.1(1) to (8) and 30.2 apply in respect of an administrative penalty.

(3) The Ethics Commissioner shall prepare a report setting out the following:

- (a) the name of the member of the Premier's and Ministers' staff required to pay an administrative penalty;
- (b) the particulars of the breach;
- (c) the amount of the administrative penalty;
- (d) whether the administrative penalty was paid or appealed;
- (e) any other information that the Ethics Commissioner considers appropriate.

(4) The report referred to in subsection (3) must be provided

- (a) in the case of a breach by a person who holds a position in the Premier's office, to the Premier, and
- (b) in the case of a breach by a person who holds a position in a Minister's office, to that Minister.

Retention of statements and returns

23.63 The Ethics Commissioner shall retain the disclosure statements, amending disclosure statements and returns submitted by a member of the Premier's and Ministers' staff for a period of 3 years after the person ceases to be a member of the Premier's and Ministers' staff, after which the statements and returns may be destroyed.

Reimbursement for costs

23.64(1) Members of the Premier's and Ministers' staff are entitled to be reimbursed for

- (a) costs associated with the completion of their disclosure statements, and
- (b) in the case of the Chief of Staff, Office of the Premier, costs associated with the establishment and administration of a blind trust or an investment arrangement.

(2) The amount of the reimbursement is subject to the approval of the Ethics Commissioner.

Post-employment restrictions

23.7(1) No former member of the Premier's and Ministers' staff shall, for a period of 12 months from the last day the former member held a position referred to in section 1(1)(c.1), lobby as defined in the *Lobbyists Act* any public office holder as defined in the *Lobbyists Act*.

(2) No former member of the Premier's and Ministers' staff shall, for a period of 12 months from the last day the former member held a position referred to in section 1(1)(c.1), 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 member, while a member of the Premier's and Ministers' staff, directly acted for or advised a department or Provincial agency involved in the matter.

(3) No former member of the Premier's and Ministers' staff shall, for a period of 12 months from the last day the former member had a direct and significant official dealing with a department or Provincial agency, make representations with respect to a contract with or benefit from that department or Provincial agency.

(4) No former member of the Premier's and Ministers' staff shall, for a period of 12 months from the last day the former member had a direct and significant official dealing with a department or Provincial agency, solicit or accept on his or her own behalf a contract or benefit from that department or Provincial agency.

(5) No former member of the Premier's and Ministers' staff shall, for a period of 12 months from the last day the former member had a direct and significant official dealing with an individual, organization, board of directors or equivalent body of an organization, accept employment with that individual or organization or an appointment to the board of directors or equivalent body.

(6) Nothing in this section restricts a member or former member of the Premier's and Ministers' staff from accepting employment with a department of the public service or a Provincial agency in accordance with Part 1 of the *Public Service Act*.

Waiver or reduction

23.71(1) A member or former member of the Premier's and Ministers' staff may apply to the Ethics Commissioner for a waiver or reduction of a time period set out in section 23.7, and the Ethics Commissioner may waive or reduce any time period set out in section 23.7 if in the opinion of the Ethics Commissioner,

- (a) the conditions on which and the manner in which the employment, appointment, contract or benefit is awarded, approved or given are the same for all persons similarly entitled,
- (b) the award, approval, grant or benefit results from an impartially administered process open to a significant class of persons, or
- (c) the activity, contract or benefit will not create a conflict between a private interest of the former member of the Premier's and Ministers' staff and the public interest.

(2) The Ethics Commissioner may under subsection (1)(c) waive or reduce a time period set out in section 23.7 on any conditions that the Ethics Commissioner determines.

Offence

23.72(1) A former member of the Premier's and Ministers' staff who contravenes section 23.7 is guilty of an offence and liable to a fine not exceeding \$50 000.

(2) A prosecution of an offence described in subsection (1) shall not be commenced more than 2 years after the date on which the alleged offence occurred.

(3) If a former member of the Premier's and Ministers' staff or any other person has realized financial gain in any transaction to which a conviction under subsection (1) 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 member of the Premier's and Ministers' staff or any other person who has realized the financial gain.

Investigations under this Part

23.8(1) Sections 24(1) to (3) and (5) and 25(1) to (3) and (5) to (10) apply for the purposes of

- (a) an investigation under this Part, and
- (b) an investigation of a failure to comply with a code of conduct referred to in section 23.41.

(2) If the Ethics Commissioner refuses to investigate or ceases to investigate an alleged breach, suspends an investigation of an alleged breach or contravention or refuses to re-investigate an alleged breach or contravention, the Ethics Commissioner shall provide a notice in accordance with subsection (4).

(3) If the Ethics Commissioner is of the opinion that a request made under section 24(1) was frivolous or vexatious or was not made in good faith, the Ethics Commissioner may state that opinion in a report provided in accordance with subsection (4).

(4) A notice referred to in subsection (2) or a report referred to in subsection (3) must be provided

- (a) to the individual against whom the allegation was made,
- (b) to the person who made the request under section 24(1),
- (c) in the case of a notice or report respecting a member or former member of the Premier's and Ministers' staff who holds or held a position in the Premier's Office, the Premier, or
- (d) in the case of a notice or report respecting a member or former member of the Premier's and Ministers' staff who holds or held a position in a Minister's office, that Minister.

Ethics Commissioner's report under this Part

23.81(1) The Ethics Commissioner shall prepare a report regarding the outcome of an investigation under this Part.

(2) Section 27, except subsection (2), applies for the purposes of a report under this Part.

(3) The report may be disclosed

- (a) to the individual against whom the allegation was made,
- (b) in the case of a report respecting a member or former member of the Premier's and Ministers' staff who holds or held a position in the Premier's Office, to the Premier,
- (c) in the case of a report respecting a member or former member of the Premier's and Ministers' staff who holds or held a position in a Minister's office, to that Minister, and
- (d) where the Ethics Commissioner believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Solicitor General or a law enforcement agency of an alleged offence under this Part or any other enactment of Alberta or an Act of the Parliament of Canada, to the Minister of Justice and Solicitor General or a law enforcement agency.

(4) Sections 28 and 29 do not apply for the purposes of this Part.

Regulations

23.9 The Lieutenant Governor in Council may make regulations

- (a) respecting the application of the provisions of other Parts of this Act, referred to in this Part, that apply for the purposes of this Part;
- (b) respecting any transitional matter relating to this Part.

(16) Section 24 is repealed and the following is substituted:

Requests for investigation

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

(2) A request under subsection (1) must

- (a) be signed by the person making it and must identify that person to the satisfaction of the Ethics Commissioner, and

(16) *Section 24 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, former Minister or former political staff member.

(2) A request under subsection (1) must be signed by the person making it and must identify the person to the satisfaction of the Ethics Commissioner.

(b) set out sufficient particulars of the matter to which the request relates for an investigation to be commenced.

(3) A Member may request, in writing, that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by the Member.

(4) The Legislative Assembly may, by resolution, request that the Ethics Commissioner investigate any matter respecting an alleged breach or contravention of this Act by a Member or former Member.

(5) The Executive Council may request that the Ethics Commissioner investigate any matter respecting an alleged breach or contravention of this Act by a Minister or former Minister.

(6) Where a matter has been referred to the Ethics Commissioner under subsection (1), (3) or (4), neither the Legislative Assembly nor a committee of the Assembly shall inquire into the matter.

(17) Section 25 is repealed and the following is substituted:

Investigation

25(1) On receiving a request under section 24 or where the Ethics Commissioner has reason to believe that an individual has acted or is acting in contravention of advice, recommendations or directions or any conditions of any approval given by the Ethics Commissioner, and on giving reasonable notice to that individual, the Ethics Commissioner may conduct an investigation.

(2) An individual whose conduct is subject to an investigation under this Part shall co-operate with the investigation.

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

(4) On commencing an investigation under subsection (1), the Ethics Commissioner may inform the Speaker of the Legislative Assembly of

- (a) the fact that an investigation has been commenced,
- (b) if a request was received under section 24, the identity of the person who made the request,
- (c) the name of the person who is the subject of the investigation, and

(3) A Member may request, in writing, that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by the Member.

(4) The Legislative Assembly may, by resolution, request that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by a Member.

(5) The Executive Council may request that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by a Minister.

(6) Where a matter has been referred to the Ethics Commissioner under subsection (1), (3) or (4), neither the Legislative Assembly nor a committee of the Assembly shall inquire into the matter.

(17) 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, former Minister or former political staff 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, former Minister or former political staff member under this Act, and on giving the Member, former Minister or former political staff member concerned reasonable notice, the Ethics Commissioner may conduct an investigation with or without conducting an inquiry.

(1.1) A Member, former Minister or former political staff member shall co-operate with an investigation under this section.

(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

(d) the matter to which the investigation relates.

(5) For the purpose of conducting an investigation, the Ethics Commissioner may

(a) in the same manner and to the same extent as a justice of the Court of Queen's Bench,

(i) summon and enforce the attendance of individuals before the Ethics Commissioner and compel them to give oral or written evidence on oath, and

(ii) compel persons to produce any documents or other things that the Ethics Commissioner considers relevant to the investigation,

and

(b) administer oaths and receive and accept information, whether or not it would be admissible as evidence in a court of law.

(6) The Ethics Commissioner shall immediately suspend an investigation under this section if the Ethics Commissioner discovers that the subject-matter of the investigation 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 committed, or that a charge has been laid with respect to that subject-matter.

(7) The Ethics Commissioner may not continue an investigation under this section until any investigation or charge referred to in subsection (6) has been finally disposed of.

(8) If, for any reason, the Ethics Commissioner determines that he or she should not act in respect of any particular investigation, the Ethics Commissioner may appoint an ethics commissioner or equivalent officer of another jurisdiction in Canada as a special Ethics Commissioner, to exercise the powers and perform the duties of the Ethics Commissioner in respect of that investigation.

(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.*

(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 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.

(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, suspends an investigation of an alleged breach or refuses to re-investigate an alleged breach, the Ethics Commissioner shall so inform

(a) *the Member, former Minister or former political staff 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

(9) The Ethics Commissioner may re-investigate an alleged breach or contravention 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.

(10) The Ethics Commissioner may refuse to investigate or may cease an investigation if the Ethics Commissioner is of the opinion that

- (a) a request under section 24(1) 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.

(11) If the Ethics Commissioner refuses to investigate or ceases to investigate an alleged breach or contravention, suspends an investigation of an alleged breach or contravention or refuses to re-investigate an alleged breach or contravention, the Ethics Commissioner shall so inform

- (a) the individual against whom the allegation was made,
- (b) the Speaker of the Legislative Assembly, and
- (c) the person who made the request under section 24.

(12) Where the request was 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.

(13) The Ethics Commissioner, before reporting the Ethics Commissioner's findings to the Speaker of the Legislative Assembly under subsection (12),

- (a) shall provide a copy of the report to the individual against whom the allegation was made, and
- (b) may, in the case of an allegation made against a Member, former Member or former Minister, provide a copy of the report to the leader in the Legislative Assembly of the political party to which the Member, former Member or former Minister belongs.

- (a) *to the Member, former Minister or former political staff member against whom the allegation was made, and*
- (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.*

(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

- (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, former Minister or former political staff member against whom the allegation was made the costs of the proceeding incurred by the Member, former Minister or former political staff member against whom the allegation was made,*

or both.

(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.

(14) Where the request was made under section 24(5), the Ethics Commissioner shall report the Ethics Commissioner's findings to the President of the Executive Council.

(15) 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 opinion in a report to the Speaker of the Legislative Assembly.

(16) The Speaker of the Legislative Assembly shall lay a report referred to in subsection (15) before the Legislative Assembly and the Legislative Assembly, after considering the report, may

- (a) find the Member referred to in subsection (15) in contempt of the Legislative Assembly pursuant to section 10 of the *Legislative Assembly Act*, or
- (b) order the Member referred to in subsection (15) to pay to the individual against whom the allegation was made the costs of the proceeding incurred by the individual,

or both.

(18) Section 26 is repealed and the following is substituted:

Confidentiality

26(1) Except as provided in this section, the Ethics Commissioner, any former Ethics Commissioner and a person who is or was employed or engaged by the Office of the Ethics Commissioner shall maintain the confidentiality of all information and allegations that come to their knowledge in the course of the administration of this Act.

(2) Allegations and information to which subsection (1) applies may be

(18) Section 26 presently reads:

26(1) Except as provided in this section, the Ethics Commissioner or any former Ethics Commissioner or a person who is or was employed or engaged by the Office of the Ethics Commissioner shall maintain the confidentiality of all information and allegations that come to their knowledge in the course of the administration of this Act.

(2) Allegations and information to which subsection (1) applies may be

(a) disclosed to the Member, former Minister or former political staff member whose conduct is the subject of proceedings under this Part;

- (a) disclosed to the individual against whom the allegation was made;
- (b) disclosed by a person conducting an investigation to the extent necessary to enable that person to obtain information from another person;
- (c) disclosed in a notice or report made by the Ethics Commissioner under this Act;
- (d) disclosed to the Minister of Justice and Solicitor General or a law enforcement agency where the Ethics Commissioner believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Solicitor 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.

(3) Despite subsection (1), the Ethics Commissioner may disclose to the public any information contained in a report to the Speaker under section 30.1(9) regarding an administrative penalty.

(4) The *Freedom of Information and Protection of Privacy Act* does not apply to a record that is created by or for or is in the custody or under the control of the Ethics Commissioner and relates to the exercise of the Ethics Commissioner's functions under this Act or any other enactment.

(19) Section 27 is amended

(a) in subsection (1)

- (i) **by striking out** “section 25(7) must be concise and may set out only” **and substituting** “section 25(12) must be concise and may set out”;
- (ii) **by striking out “and” at the end of clause (a) and repealing clause (b) and substituting the following:**
 - (b) the Ethics Commissioner's findings as to whether the individual under investigation has breached or contravened this Act and, if so,

- (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;*
- (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 Solicitor 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.*

(19) Section 27 presently reads in part:

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*

- (i) the nature of the breach or contravention of this Act, including any contravention of advice, recommendations or directions or conditions of any approval given by the Ethics Commissioner, and
 - (ii) the Ethics Commissioner's recommendation for the sanction, if any, that the Legislative Assembly may impose on a Member for a breach,
- and
- (c) the Ethics Commissioner's recommendations, if any.
- (b) in subsection (1.1) by striking out** “or to a former political staff member” **and substituting** “or to a former member of the Premier's and Ministers' staff”;
- (c) by repealing subsection (3.1) and substituting the following:**
- (3.1)** Where the Ethics Commissioner considers it appropriate in the circumstances, the Ethics Commissioner may recommend that the Member, former Member, former Minister or former member of the Premier's and Ministers' staff be reimbursed, in an amount approved by the Ethics Commissioner, for his or her legal expenses incurred in respect of an investigation.
- (d) in subsection (4) by striking out** “Member, former Minister or former political staff member” **wherever it occurs and substituting** “Member, former Member, former Minister or former member of the Premier's and Ministers' staff”.
- (20) Section 29(1) is amended by striking out** “substitute” **and substituting** “make”.

(ii) *the Ethics Commissioner's recommendation for the sanction, if any, that the Legislative Assembly may impose on the Member for the breach.*

(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.

(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.

(4) Where it appears to the Ethics Commissioner that a report may adversely affect a Member, former Minister or former political staff member, the Ethics Commissioner shall inform the Member, former Minister or former political staff member of the particulars and give the Member, former Minister or former political staff 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.

(20) Section 29(1) presently reads:

29(1) 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

(21) The following is added after section 30:

Administrative penalties for late filing

30.1(1) If the Ethics Commissioner is of the opinion that a Member has breached the time requirements for filing a disclosure statement, an amending disclosure statement or a return referred to in section 18, the Ethics Commissioner may serve a notice of administrative penalty on the Member, requiring the Member to pay to the Crown the amount set out in the notice.

(2) A Member is liable for an administrative penalty for each day or part of a day on which the breach occurs or continues, and the maximum cumulative amount of an administrative penalty that may be imposed under subsection (1) is \$500.

(3) The Ethics Commissioner may, in each case, determine the amount of an administrative penalty taking into account the following matters:

- (a) the objective of encouraging compliance with this Act;
- (b) the Member's history of prior breaches under this Act during the 5-year period immediately before the current breach;
- (c) any other factors that, in the opinion of the Ethics Commissioner, are relevant.

(4) A notice of administrative penalty must contain the following information:

- (a) the name of the Member required to pay the administrative penalty;
- (b) the particulars of the breach;
- (c) the amount of the administrative penalty and the date by which it must be paid;
- (d) a statement of the right to appeal the imposition or the amount of the administrative penalty to the Court of Queen's Bench.

(b) impose no sanction.

(21) Administrative penalties.

- (5) A notice of administrative penalty may not be issued more than 2 years after the date on which the breach occurred.
- (6) A person who has been served with a notice of administrative penalty pursuant to this section shall pay the amount of the penalty within 30 days from the date of service of the notice.
- (7) A person who pays an administrative penalty in respect of a breach shall not be subject to a sanction under section 29 in respect of the breach that is described in the notice of administrative penalty.
- (8) Subject to the right to appeal, where a person fails to pay an administrative penalty in accordance with a notice of administrative penalty, the Ethics Commissioner may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench, and on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.
- (9) The Ethics Commissioner shall, in each case, report to the Speaker
- (a) the name of the Member required to pay an administrative penalty,
 - (b) the particulars of the breach,
 - (c) the amount of the administrative penalty,
 - (d) whether the administrative penalty was paid or appealed, and
 - (e) any other information that the Ethics Commissioner considers appropriate.

Appeal of administrative penalty

30.2(1) A person who is served with a notice of administrative penalty may appeal the Ethics Commissioner's decision to impose an administrative penalty by filing an application with the Court of Queen's Bench within 30 days from the date the notice of administrative penalty was served.

(2) The application shall describe the notice of administrative penalty and state the reasons for the appeal.

(3) A copy of the application shall be served on the Ethics Commissioner not less than 30 days before the appeal is to be heard.

(4) The Court may, on application either before or after the time referred to in subsection (1), extend that time if it considers it appropriate to do so.

(5) On hearing the appeal, the Court of Queen's Bench may confirm, rescind or vary the amount of the administrative penalty.

(22) Part 6 and Part 6.1 are repealed.

(23) Section 33(1) is amended by striking out “those duties and functions set out in this Act or those duties and functions in respect of any other enactment prescribed by the Lieutenant Governor in Council” **and substituting** “the Ethics Commissioner’s duties and functions under this Act or any other enactment”.

(24) Section 39(1) is repealed and the following is substituted:

Oath

39(1) Before commencing the duties of the office, the Ethics Commissioner must take an oath to faithfully and impartially perform the duties of the office and not to disclose any information received by the Office of the Ethics Commissioner except as authorized under this Act or any other enactment.

(25) Section 40(7) is repealed and the following is substituted:

(7) Every person employed or engaged by the Office of the Ethics Commissioner shall, before beginning to perform that person’s duties, take an oath, to be administered by the Ethics Commissioner, not to disclose any information received in the performance of that person’s duties except as authorized under this Act or any other enactment.

(22) Repeals Part 6, “Former Ministers”, and Part 6.1, “Former Political Staff Members”.

(23) Section 33(1) 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 those duties and functions in respect of any other enactment prescribed by the Lieutenant Governor in Council.

(24) Section 39(1) presently reads:

39(1) Before commencing the duties of office, the Ethics Commissioner must take an oath to faithfully and impartially perform the duties of the office and not, except as provided in this Act, to disclose any information received by the Office of the Ethics Commissioner under this Act.

(25) Section 40(7) presently reads:

(7) Every person employed or engaged by the Office of the Ethics Commissioner shall, before beginning to perform that person’s duties under this Act, take an oath, to be administered by the Ethics Commissioner, not to disclose any information received by that person under this Act except as provided in this Act.

(26) Section 45(1) is amended by striking out “under this Act” and substituting “under this Act or any other enactment”.

(27) Section 47(3)(a) is amended by striking out “an investigation, inquiry or prosecution” and substituting “an investigation or prosecution”.

Lobbyists Act

Amends SA 2007 cL-20.5

2(1) The *Lobbyists Act* is amended by this section.

(2) Section 1(5) is amended by striking out “or” at the end of clause (e) and adding the following after clause (e):

(e.1) a partner in a partnership of which that person is also a partner, or

(3) Section 6 is amended

(a) by repealing subsections (3) and (4) and substituting the following:

(3) No person shall lobby if that person holds a contract for providing paid advice.

(3.1) No person shall lobby in respect of a subject-matter if a person associated with that person holds a contract for providing paid advice on the same subject-matter.

(26) Section 45(1) presently reads:

45(1) No action lies against the Ethics Commissioner or any former Ethics Commissioner or any other person who is or was employed or engaged by the Office of the Ethics Commissioner for anything done in good faith under this Act.

(27) Section 47 presently reads in part:

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

Lobbyists Act

2(1) Amends chapter L-20.5 of the Statutes of Alberta, 2007.

(2) New.

(3) Section 6 presently reads:

6(1) In this section, “contract for providing paid advice” means an agreement or other arrangement under which a person directly or indirectly receives or is to receive payment for providing advice to the Government or a prescribed Provincial entity.

(2) For the purpose of this section, payment does not include reasonable remuneration received for serving on a board, commission, council or other similar body established by or under the authority of an enactment on which there are at least 2 other members who represent other organizations or interests.

(4) No person shall enter into a contract for providing paid advice if that person lobbies.

(4.1) No person shall enter into a contract for providing paid advice in respect of a subject-matter if a person associated with that person lobbies on the same subject-matter.

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

(8) If on the coming into force of this subsection a person lobbies and holds a contract for providing paid advice, the person must, within 60 days of the coming into force of this subsection,

(a) cease to hold the contract, or

(b) cease to lobby.

(4) Schedule 1 is amended

(a) by repealing section 1(3) and substituting the following:

(3) For the purpose of section 2(1) of this Schedule, “former public office holder” means

(3) No person shall lobby on a subject-matter if that person, or a person associated with that person, is holding a contract for providing paid advice on the same subject-matter.

(4) No person shall enter into a contract for providing paid advice on a subject-matter if that person, or a person associated with that person, lobbies on the same subject-matter as that of the contract.

(4.1) Subsections (3) and (4) apply regardless of how many hours the person's lobbying or duty to lobby on behalf of an organization together with the lobbying or the duty to lobby of other persons in the organization amounts to annually.

(5) The Ethics Commissioner may exempt a person from the application of subsection (3) or (4) but only if the Ethics Commissioner is of the opinion that it would be in the public interest to do so.

(6) The Ethics Commissioner may impose terms and conditions on any exemption given.

(7) The Ethics Commissioner must provide reasons for giving an exemption and must ensure that information relating to the exemption, including any terms and conditions imposed, and the reasons for giving the exemption are entered into the registry.

(8) If on the coming into force of this section a person, or a person associated with that person, holds a contract for providing paid advice on a subject-matter and either the person or the associated person lobbies on the same subject-matter,

(a) the person holding the contract must cease to hold the contract, or

(b) the person lobbying must cease to lobby on that subject-matter,

within 60 days of the coming into force of this section.

(4) Sections 1 and 2 of Schedule 1 presently read in part:

1(3) For the purpose of section 2(1) of this Schedule, "former public office holder" means

(a) a former member of the Executive Council and any individual formerly employed in the former member's former office,

- (a) a former member of the Executive Council,
- (b) a former member of the Premier's and Ministers' staff as defined in the *Conflicts of Interest Act*,
- (c) any individual who formerly occupied a prescribed position with a prescribed Provincial entity,
- (d) a former designated office holder as defined in Part 2 of the *Public Service Act*, and
- (e) any individual who
 - (i) formerly occupied a senior executive position in a department, whether by the title of chief executive officer or some other title, or
 - (ii) formerly occupied the position of assistant deputy minister or occupied a position of comparable rank in a department.

(b) in section 2

(i) by repealing clause (l) and substituting the following:

- (l) if any consultant lobbyist named in the return became a former public office holder within the previous 2 years, the nature of the office the consultant lobbyist formerly held, the length of time the consultant lobbyist held that office, and the date on which the consultant lobbyist ceased to hold that office;

(ii) by repealing clauses (r) and (s) and substituting the following:

- (r) a declaration stating that
 - (i) no consultant lobbyist named in the return holds a contract for providing paid advice to a department or prescribed Provincial entity, or that each consultant lobbyist named in the return who holds a contract has an exemption from the Ethics Commissioner for the contract, and

(b) *any individual who*

(i) *formerly occupied a senior executive position in a department, whether by the title of deputy minister, chief executive officer or some other title, or*

(ii) *formerly occupied the position of assistant deputy minister or occupied a position of comparable rank in a department,*

and

(c) *any individual who formerly occupied a prescribed position with a prescribed Provincial entity.*

2 *The designated filer shall set out in the return for the purpose of section 4 of this Act the following with respect to the undertaking:*

(l) *if any consultant lobbyist named in the return is a former public office holder, the nature of the office the consultant lobbyist formerly held and the term of office;*

(r) *a declaration stating that every consultant lobbyist named in the return and, to the knowledge of the designated filer after reasonable inquiry, every person associated with those consultant lobbyists are not in contravention of section 6 of this Act;*

(s) *a statement*

(i) *stating whether any consultant lobbyist named in the return holds a contract for providing paid advice to a department or a prescribed Provincial entity, and if so, the name of the department or prescribed Provincial entity, and*

(ii) *stating whether to the designated filer's knowledge after reasonable inquiry any person associated with a consultant lobbyist named in the return holds a contract for providing paid advice to a department or a prescribed Provincial entity, and if so, the name of the department or prescribed Provincial entity;*

- (ii) the following are not in contravention of section 6 of this Act:
 - (A) every consultant lobbyist named in the return;
 - (B) to the knowledge of the designated filer after reasonable inquiry, every person associated with those consultant lobbyists;
- (s) a statement stating whether, to the knowledge of the designated filer after reasonable inquiry, any person associated with a consultant lobbyist named in the return holds a contract for providing paid advice to a department or a prescribed Provincial entity, and if so, the name of the department or prescribed Provincial entity;

(5) Schedule 2 is amended

(a) by repealing section 1(2) and substituting the following:

(2) For the purpose of section 2(k) of this Schedule, “former public office holder” means

- (a) a former member of the Executive Council,
- (b) a former member of the Premier’s and Ministers’ staff as defined in the *Conflicts of Interest Act*,
- (c) a former designated office holder as defined in Part 2 of the *Public Service Act*,
- (d) any individual who formerly occupied a prescribed position with a prescribed Provincial entity, and
- (e) any individual who
 - (i) formerly occupied a senior executive position in a department, whether by the title of chief executive officer or some other title, or
 - (ii) formerly occupied the position of assistant deputy minister or occupied a position of comparable rank in a department.

(5) Sections 1 and 2 of Schedule 2 presently read in part:

1(2) For the purpose of section 2(k) of this Schedule, “former public office holder” means

(a) a former member of the Executive Council and any individual formerly employed in the former member’s former office,

(b) any individual who

(i) formerly occupied a senior executive position in a department, whether by the title of deputy minister, chief executive officer or some other title, or

(ii) formerly occupied the position of assistant deputy minister or occupied a position of comparable rank in a department,

and

(c) any individual who formerly occupied a prescribed position with a prescribed Provincial entity.

2 The designated filer shall set out in the return for the purpose of section 5 the following information:

(k) if any organization lobbyist named in a return is a former public office holder, the nature of the office the organization lobbyist formerly held and the term of office;

(b) in section 2

(i) by repealing clause (k) and substituting the following:

- (k) if any organization lobbyist named in the return became a former public office holder within the previous 2 years, the nature of the office the organization lobbyist formerly held, the length of time the organization lobbyist held that office, and the date on which the organization lobbyist ceased to hold that office;

(ii) by repealing clauses (q) and (r) and substituting the following:

- (q) a declaration stating that
 - (i) no organization lobbyist named in the return holds a contract for providing paid advice to a department or prescribed Provincial entity, or that each organization lobbyist named in the return who holds a contract has an exemption from the Ethics Commissioner for the contract, and
 - (ii) the following are not in contravention of section 6 of this Act:
 - (A) every organization lobbyist named in the return;
 - (B) to the knowledge of the designated filer after reasonable inquiry, every person associated with those organization lobbyists;
- (r) a statement stating whether, to the knowledge of the designated filer after reasonable inquiry, any person associated with an organization lobbyist named in the return holds a contract for providing paid advice to a department or a prescribed Provincial entity, and if so, the name of the department or prescribed Provincial entity;

- (q) a declaration stating that every organization lobbyist named in the return and, to the knowledge of the designated filer after reasonable inquiry, any person associated with an organization lobbyist are not in contravention of section 6 of this Act;*
- (r) a statement*
 - (i) stating whether any organization lobbyist named in the return holds a contract for providing paid advice to a department or a prescribed Provincial entity, and if so, the name of the department or prescribed Provincial entity, and*
 - (ii) stating whether, to the designated filer's knowledge after reasonable inquiry, any person associated with an organization lobbyist named in the return holds a contract for providing paid advice to a department or a prescribed Provincial entity, and if so, the name of the department or prescribed Provincial entity;*

(6) If on the coming into force of subsection (4) a consultant lobbyist in respect of whom a return has been filed was, within the previous 2 years, a “former public officer holder” as that term was defined before the coming into force of subsection (4), the designated filer must, with respect to that consultant lobbyist, provide to the Registrar the further information required under Schedule 1, section 2(1) of the *Lobbyists Act* within 60 days of the coming into force of subsection (4).

(7) If on the coming into force of subsection (5) an organization lobbyist in respect of whom a return has been filed was, within the previous 2 years, a “former public office holder” as that term was defined before the coming into force of subsection (5), the designated filer must, with respect to that organization lobbyist, provide to the Registrar the further information required under Schedule 2, section 2(k) of the *Lobbyists Act* within 60 days of the coming into force of subsection (5).

(8) If on the coming into force of subsection (3) a consultant lobbyist is affected by the amendments made to section 6 of the *Lobbyists Act* by subsection (3), the designated filer must, with respect to that consultant lobbyist, provide to the Registrar the further information required under Schedule 1, section 2(r) and (s) of the *Lobbyists Act* within 60 days of the coming into force of subsection (3).

(9) If on the coming into force of subsection (3) an organization lobbyist is affected by the amendments made to section 6 of the *Lobbyists Act* by subsection (3), the designated filer must, with respect to that organization lobbyist, provide to the Registrar the further information required under Schedule 2, section 2(q) and (r) of the *Lobbyists Act* within 60 days of the coming into force of subsection (3).

Public Service Act

Amends RSA 2000 cP-42

3(1) The *Public Service Act* is amended by this section.

Public Service Act

3(1) Amends chapter P-42 of the Revised Statutes of Alberta 2000.

(2) The following heading is added before the heading preceding section 4:

**Part 1
The Public Service Generally**

(3) Section 23 is repealed and the following is substituted:

Code of conduct and ethics

23(1) The Lieutenant Governor in Council may make regulations respecting a code of conduct and ethics for the public service generally.

(2) Each department head may issue a supplementary code of conduct and ethics respecting matters of concern to the department head's department.

(3) A department head may hold an employee's failure to comply with a code of conduct and ethics or a supplementary code of conduct and ethics issued by the department head under subsection (2) to be misconduct for the purposes of disciplinary action under section 25.

(4) Section 23.1 is repealed.

(2) Adds a Part heading after section 2.

(3) Section 23 presently reads:

23(1) The Lieutenant Governor in Council may make regulations respecting a code of conduct and ethics for the public service and a system of disclosure of financial information by employees holding positions designated in the regulations.

(2) Each department head may issue a supplementary code of conduct and ethics respecting matters of concern to the department head's department.

(4) Section 23.1 presently reads:

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);

(5) The following is added after section 25:

**Part 2
Designated Office Holders**

Interpretation

Interpretation

25.1(1) In this Part,

- (a) “designated office holder” means a designated office holder referred to in section 25.2;
- (b) “Ethics Commissioner” means the person appointed as Ethics Commissioner under the *Conflicts of Interest Act*;
- (c) “former designated office holder” means a designated office holder who has ceased to hold a position referred to in section 25.2;
- (d) “provincial agency” means a Provincial agency as defined in the *Financial Administration Act*, and includes a management body within the meaning of the *Alberta Housing Act* and a regional health authority and

- (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.*
 - (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.*
- (5) Adds sections 25.1 to 25.7 dealing with Codes of Conduct and Ethics and designated office holders.

a subsidiary health corporation under the *Regional Health Authorities Act*.

(2) For the purposes of this Part, a person is directly associated with a designated office holder if that person is

- (a) the designated office holder's spouse or adult interdependent partner,
- (b) a corporation having share capital and carrying on business or activities for profit or gain of which the designated office holder is a director or senior officer,
- (c) a private corporation carrying on business or activities for profit or gain of which the designated office holder owns or is the beneficial owner of shares,
- (d) a partnership
 - (i) of which the designated office holder is a partner, or
 - (ii) of which one of the partners is a corporation directly associated with the designated office holder by reason of clause (b) or (c),

or

- (e) a person or group of persons acting with the express or implied consent of the designated office holder.

(3) In this Part, "private interest" does not include the following:

- (a) an interest in a matter
 - (i) that is of general application,
 - (ii) that affects a designated office holder as one of a broad class of the public, or
 - (iii) that concerns the remuneration and benefits of a designated office holder;
- (b) an interest that is trivial;

- (c) an interest of a designated office holder relating to publicly-traded securities held in the designated office holder's blind trust or investment arrangement approved by the Ethics Commissioner under section 25.24.
- (4) Sections 2(4) and 28(4) do not apply in respect of this Part.
- (5) This Part applies to a provincial agency designated under section 25.2(c) for the purposes of this Part notwithstanding that this Act may not otherwise apply to the agency.

Obligations

Deputy ministers and other designated office holders

25.2 The following persons are designated office holders:

- (a) a person appointed to the position of deputy minister under section 4 of the *Government Organization Act*;
- (b) a member of the public service or a person employed by the Crown pursuant to a contract of employment holding a position designated by the Lieutenant Governor in Council for the purposes of this Part;
- (c) in respect of a provincial agency designated by the Lieutenant Governor in Council for the purposes of this Part,
 - (i) a person appointed to the position of chief executive officer or a senior executive position designated by the Lieutenant Governor in Council for the purposes of this Part, and
 - (ii) a person appointed to the position of chair of the board of directors, or the highest ranking position on a governing body designated by the Lieutenant Governor in Council for the purposes of this Part.

Decisions furthering private interests

25.21 A designated office holder breaches this Part if he or she takes part in a decision in the course of carrying out his or her office or powers knowing that the decision might further a private interest of the designated office holder, a person directly

associated with the designated office holder or the designated office holder's minor or adult child.

Influence

25.22 A designated office holder breaches this Part if the designated office holder uses his or her office or powers to influence or to seek to influence a decision to be made on behalf of the Crown or a provincial agency to further a private interest of the designated office holder, a person directly associated with the designated office holder or the designated office holder's minor child or to improperly further any other person's private interest.

Insider information

25.23 A designated office holder breaches this Part if he or she uses or communicates information not available to the general public that was gained by the designated office holder in the course of carrying out his or her office or powers to further or seek to further a private interest of the designated office holder or any other person's private interest.

Restriction on holdings

25.24(1) In this section,

- (a) "publicly-traded securities" means
 - (i) securities of a corporation that are listed or posted for trading on a recognized stock exchange, or
 - (ii) securities of a corporation that has more than 15 shareholders and any of whose issued securities were part of a distribution to the public;
- (b) "securities" means
 - (i) shares of any class or series of shares of a corporation, or
 - (ii) bonds, debentures, notes or other evidence of indebtedness or guarantees of a corporation, whether secured or unsecured,

but does not include shares or units in a mutual fund.

(2) A designated office holder breaches this Part if the designated office holder, after the expiration of the relevant period referred to in subsection (9), owns or has a beneficial interest in publicly-traded securities.

(3) This section does not apply to a designated office holder referred to in section 25.2(c).

(4) Subsection (2) does not apply if

- (a) the publicly-traded securities are held in a blind trust approved under subsection (6) or in an investment arrangement approved under subsection (7),
- (b) prior to the expiration of the relevant period referred to in subsection (9), the designated office holder applies to the Ethics Commissioner for approval to retain ownership of or a beneficial interest in the publicly-traded securities and either obtains the Ethics Commissioner's approval or, if the approval is refused, takes any steps that the Ethics Commissioner directs with respect to the disposition of the ownership or beneficial interest, or
- (c) after the expiration of the relevant period referred to in subsection (9), the designated office holder acquires ownership of or a beneficial interest in publicly-traded securities with the prior approval of the Ethics Commissioner.

(5) The Ethics Commissioner may give an approval

- (a) under subsection (4)(b) or (c) if the Ethics Commissioner is of the opinion that the publicly-traded securities are securities of a corporation the interests of which are not likely to be affected by decisions of the Government, or
- (b) under subsection (4)(b) if the Ethics Commissioner is of the opinion that the designated office holder will sustain a financial loss if the publicly-traded securities are disposed of and the public interest does not require disposition of the publicly-traded securities by the designated office holder.

(6) The Ethics Commissioner may approve the retention of publicly-traded securities to be held in a blind trust if the blind trust will meet the following criteria:

- (a) the designated office holder 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 designated office holder 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 designated office holder from having any knowledge of the specific investments in the trust at any time after a deposit in the trust,
 - (iii) require that the designated office holder may deposit in the trust only securities verified by the Ethics Commissioner as being publicly-traded securities, shares or units in a mutual fund, futures and forward contracts or exchange contracts, and
 - (iv) require the trustee to invest only in publicly-traded securities, in shares or units in a mutual fund, in futures and forward contracts, in exchange contracts 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.

(7) The Ethics Commissioner may approve the retention of publicly-traded securities to be held in an investment arrangement if the investment arrangement will meet the following criteria:

- (a) it gives a person other than the designated office holder sole power over investment decisions,

- (b) it precludes the designated office holder from having any knowledge of the specific investments at any time after a deposit to the investment arrangement, and
- (c) it ensures there will be no relationship between the designated office holder and the person referred to in clause (a) that would affect or would appear to affect that person's investment decisions.

(8) An approval or direction given by the Ethics Commissioner under subsection (4) may be given subject to any conditions determined by the Ethics Commissioner.

(9) For the purposes of subsections (2) and (4),

- (a) with respect to a designated office holder, the relevant period is
 - (i) in the case of a person who becomes a designated office holder after the coming into force of this section, 60 days after becoming a designated office holder or any longer period that the Ethics Commissioner directs, or
 - (ii) in the case of a person who is a designated office holder when this section comes into force, 60 days after the coming into force of this section or any longer period that the Ethics Commissioner directs,

and

- (b) with respect to a designated office holder who acquires ownership of or a beneficial interest in publicly-traded securities by gift or inheritance, the relevant period is 60 days after receiving the gift or inheritance or any longer period that the Ethics Commissioner directs.

Disclosure

Disclosure statements

25.3(1) Every designated office holder shall file with the Ethics Commissioner a disclosure statement in the form and manner determined by the Ethics Commissioner

- (a) within 60 days after
 - (i) becoming a designated office holder, in the case of a person who becomes a designated office holder after the coming into force of this section, or
 - (ii) the coming into force of this section, in the case of a person who is a designated office holder when this section comes into force,
- and
- (b) in each subsequent year at the time specified by the Ethics Commissioner.

(2) A designated office holder shall, within 30 days after the occurrence of any material changes to the information contained in a current disclosure statement, file with the Ethics Commissioner an amending disclosure statement in the form and manner determined by the Ethics Commissioner setting out the changes.

(3) Section 12(a) to (d) of the *Conflicts of Interest Act* apply for the purpose of establishing the contents of and additional time requirements for the disclosure statements referred to in subsection (1).

Returns relating to persons directly associated

25.31(1) Every designated office holder shall file with the Ethics Commissioner a return relating to persons directly associated with the designated office holder in the form and manner determined by the Ethics Commissioner

- (a) within 60 days after
 - (i) becoming a designated office holder, in the case of a person who becomes a designated office holder after the coming into force of this section, or
 - (ii) the coming into force of this section, in the case of a person who is a designated office holder when this section comes into force,

- (b) within 30 days after the occurrence of any material change in the information contained in a current return, and
- (c) within 30 days after the day he or she ceases to be a designated office holder.

(2) Section 15(1)(a) and (b) and (2) of the *Conflicts of Interest Act* apply for the purpose of establishing the contents of and additional time requirements for a designated office holder's returns under this section.

(3) On receipt of a return filed by a designated office holder under this section, the Ethics Commissioner shall provide a copy of the return,

- (a) in the case of a return filed by a deputy minister, to the Deputy Minister of Executive Council,
- (b) in the case of a return filed by the Deputy Minister of Executive Council, to the Premier,
- (c) in the case of a return filed by a member or person referred to in section 25.2(b), to the deputy minister to whom the member or person reports, and
- (d) in the case of a return filed by a designated office holder referred to in section 25.2(c), to the Minister who has responsibility for the relevant provincial agency.

Failure to file

25.32(1) A designated office holder breaches this Part if the designated office holder does not file within the time required by this Part, or if the designated office holder knowingly gives false or misleading information in,

- (a) a disclosure statement under section 25.3(1),
- (b) an amending disclosure statement under section 25.3(2), or
- (c) a return under section 25.31(1).

(2) If the Ethics Commissioner is of the opinion that a designated office holder has breached the time requirements for filing a disclosure statement, an amending disclosure statement or a return referred to in subsection (1), sections 30.1(1) to (8) and 30.2 of the *Conflicts of Interest Act* apply in respect of an administrative penalty.

(3) The Ethics Commissioner shall prepare a report setting out the following:

- (a) the name of the designated office holder required to pay an administrative penalty;
- (b) the particulars of the breach;
- (c) the amount of the administrative penalty;
- (d) whether the administrative penalty was paid or appealed;
- (e) any other information that the Ethics Commissioner considers appropriate.

(4) The report referred to in subsection (3) must be provided

- (a) in the case of a breach by a deputy minister, to the Deputy Minister of Executive Council,
- (b) in the case of a breach by the Deputy Minister of Executive Council, to the Premier,
- (c) in the case of a breach by a member or person referred to in section 25.2(b), to the deputy minister to whom the member or person reports, and
- (d) in the case of a breach by a designated office holder referred to in section 25.2(c), to the Minister who has responsibility for the relevant provincial agency.

Retention of statements and returns

25.33 The Ethics Commissioner shall retain each designated office holder's disclosure statements, amending disclosure statements and returns for a period of 3 years after the designated office holder ceases to be a designated office holder, after which the statements and returns may be destroyed.

Reimbursement for costs

25.34(1) Designated office holders are entitled to be reimbursed for

- (a) costs associated with the completion of their disclosure statements, and
- (b) costs associated with the establishment and administration of a blind trust or an investment arrangement approved by the Ethics Commissioner under section 25.24.

(2) The amount of the reimbursement is subject to the approval of the Ethics Commissioner.

Post-employment Restrictions

Post-employment restrictions

25.4(1) No former designated office holder shall, for a period of 12 months from the last day the former designated office holder held a position referred to in section 25.2, lobby as defined in the *Lobbyists Act* any public office holder as defined in the *Lobbyists Act*.

(2) No former designated office holder shall, for a period of 12 months from the last day the former designated office holder held a position referred to in section 25.2, 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 designated office holder, while in office, directly acted for or advised a department or a provincial agency involved in the matter.

(3) No former designated office holder shall, for a period of 12 months from the last day the former designated office holder had a direct and significant official dealing with a department or provincial agency, make representations with respect to a contract with or benefit from that department or provincial agency.

(4) No former designated office holder shall, for a period of 12 months from the last day the former designated office holder had a direct and significant official dealing with a department or

provincial agency, solicit or accept on his or her own behalf a contract or benefit from that department or provincial agency.

(5) No former designated office holder shall, for a period of 12 months from the last day the former designated office holder had a direct and significant official dealing with an individual, organization, board of directors or equivalent body of an organization, accept employment with that individual or organization or an appointment to the board of directors or equivalent body.

(6) Nothing in this section restricts a former designated office holder referred to in section 25.2(c)(ii) from being appointed to the board of directors or a governing body of another provincial agency.

(7) Nothing in this section restricts a former designated office holder from accepting employment with a department of the public service or a provincial agency in accordance with Part 1 of this Act.

Waiver or reduction

25.41(1) A designated office holder or former designated office holder may apply to the Ethics Commissioner for a waiver or reduction of a time period set out in section 25.4, and the Ethics Commissioner may waive or reduce any time period set out in section 25.4 if, in the opinion of the Ethics Commissioner,

- (a) the conditions on which and the manner in which the employment, appointment, contract or benefit is awarded, approved or given are the same for all persons similarly entitled,
- (b) the award, approval, grant or benefit results from an impartially administered process open to a significant class of persons, or
- (c) the activity, contract or benefit will not create a conflict between a private interest of the former designated office holder and the public interest.

(2) The Ethics Commissioner may under subsection (1)(c) waive or reduce a time period set out in section 25.4 on any conditions that the Ethics Commissioner determines.

Breach and offence

25.42(1) A former designated office holder who contravenes section 25.4 and who at the time of the contravention is a member of the public service breaches this Part.

(2) A former designated office holder who contravenes section 25.4 and who at the time of the contravention is not a member of the public service is guilty of an offence and liable to a fine not exceeding \$50 000.

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

(4) If a former designated office holder or any other person has realized financial gain in any transaction to which a conviction under subsection (2) 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 designated office holder or any other person who has realized the financial gain.

Ethics Commissioner's Role and Investigations

General role and duties of the Ethics Commissioner

25.5 Sections 13, 42, 43 and 44 of the *Conflicts of Interest Act* apply for the purposes of the role and duties to be performed by the Ethics Commissioner in regard to a designated office holder or former designated office holder.

Requests for investigation

25.51(1) Any person may request, in writing, that the Ethics Commissioner investigate any matter respecting the following:

- (a) an alleged breach or contravention of this Part by a designated office holder or former designated office holder;

- (b) an alleged failure to comply with a code of conduct and ethics referred to in section 25.6.

(2) A request under subsection (1) must

- (a) be signed by the person making it and must identify that person to the satisfaction of the Ethics Commissioner, and
- (b) set out sufficient particulars of the matter to which the request relates for an investigation to be commenced.

Investigation

25.52(1) Section 25(1) to (3) and (5) to (10) of the *Conflicts of Interest Act* apply for the purposes of

- (a) an investigation under this Part, and
- (b) an investigation of a failure to comply with a code of conduct and ethics referred to in section 25.6.

(2) If the Ethics Commissioner refuses to investigate or ceases to investigate an alleged breach or contravention, suspends an investigation of an alleged breach or contravention or refuses to re-investigate an alleged breach or contravention, the Ethics Commissioner shall provide a notice in accordance with subsection (4).

(3) If the Ethics Commissioner is of the opinion that a request made under section 25.51(1) was frivolous or vexatious or was not made in good faith, the Ethics Commissioner may state that opinion in a report provided in accordance with subsection (4).

(4) A notice referred to in subsection (2) or a report referred to in subsection (3) must be provided

- (a) to the individual against whom the allegation was made,
- (b) to the person who made the request under section 25.51,
- (c) in the case of a notice or report relating to a deputy minister, to the Deputy Minister of Executive Council,
- (d) in the case of a notice or report relating to the Deputy Minister of Executive Council, to the Premier,

- (e) in the case of a notice or report relating to a member or person referred to in section 25.2(b), to the deputy minister to whom the member or person reports,
- (f) in the case of a notice or report relating to a designated office holder referred to in section 25.2(c), to the Minister who has responsibility for the relevant provincial agency, and
- (g) in the case of a former designated office holder, to an individual referred to in clauses (c) to (f), as the Ethics Commissioner considers appropriate.

Confidentiality

25.53(1) Except as provided in this section, the Ethics Commissioner and any former Ethics Commissioner and a person who is or was employed or engaged by the Office of the Ethics Commissioner shall maintain the confidentiality of all information and allegations that come to their knowledge in the course of the administration of this Part.

(2) Allegations and information to which subsection (1) applies may be

- (a) disclosed to the individual against whom the allegation was made,
- (b) disclosed by a person conducting an investigation to the extent necessary to enable that person to obtain information from another person,
- (c) disclosed in a notice or report made by the Ethics Commissioner under this Part, and
- (d) disclosed to the Minister of Justice and Solicitor General or a law enforcement agency where the Ethics Commissioner believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Solicitor General or a law enforcement agency of an alleged offence under this Part or any other enactment of Alberta or an Act of the Parliament of Canada.

Ethics Commissioner's report

25.54(1) The Ethics Commissioner shall prepare a report regarding the outcome of an investigation under this Part.

(2) The report referred to in subsection (1) must be concise and may set out the following:

- (a) the facts relating to the alleged breach or contravention found by the Ethics Commissioner;
- (b) the Ethics Commissioner's findings as to whether a designated office holder or former designated office holder has breached or contravened this Part and, if so, the nature of the breach or contravention, including any contravention of advice, recommendations or directions or conditions of approval given by the Ethics Commissioner;
- (c) the Ethics Commissioner's recommendations, if any.

(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 designated office holder or former designated office holder, the Ethics Commissioner shall inform the designated office holder or former designated office holder of the particulars and give the designated office holder or former designated office holder the opportunity to make representations, either orally or in writing at the discretion of the Ethics Commissioner, before the Ethics Commissioner completes the report.

(5) Where the Ethics Commissioner considers it appropriate in the circumstances, the Ethics Commissioner may recommend that the designated office holder or former designated office holder be reimbursed, in an amount approved by the Ethics Commissioner, for his or her legal expenses incurred in respect of an investigation.

(6) The report referred to in subsection (1) may be disclosed

- (a) to the individual against whom an allegation was made,

- (b) to the Deputy Minister of Executive Council,
- (c) in the case of a report relating to a deputy minister, to the Minister to whom the deputy minister reports,
- (d) in the case of a report relating to the Deputy Minister of Executive Council, to the Premier,
- (e) in the case of a report relating to a member or person referred to in section 25.2(b), to the deputy minister to whom the member or person reports,
- (f) in the case of a report relating to a designated office holder referred to in section 25.2(c), to the Minister who has responsibility for the relevant provincial agency,
- (g) in the case of a former designated office holder, to an individual referred to in clauses (c) to (f), as the Ethics Commissioner considers appropriate, and
- (h) where the Ethics Commissioner believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Solicitor General or a law enforcement agency of an alleged offence under this Part or any other enactment of Alberta or an Act of the Parliament of Canada, to the Minister of Justice and Solicitor General or a law enforcement agency.

Codes of Conduct

Designated office holders' codes of conduct and ethics

25.6(1) The Lieutenant Governor in Council may make regulations respecting one or more codes of conduct and ethics for designated office holders.

(2) The following codes of conduct apply until replaced by a code of conduct and ethics referred to in subsection (1):

- (a) to the extent that they are consistent with this Part, the code of conduct and ethics and any applicable supplementary code of conduct and ethics referred to in section 23 apply to

- (i) a person appointed to the position of deputy minister under section 4 of the *Government Organization Act*, and
 - (ii) a member of the public service or a person employed by the Crown pursuant to a contract of employment holding a position designated by the Lieutenant Governor in Council for the purposes of this Part;
- (b) to the extent that it is consistent with this Part, the relevant code of conduct referred to in section 11 of the *Alberta Public Agencies Governance Act* applies to
- (i) a person appointed to the position of chief executive officer or a senior executive designated under section 25.2(c)(i) for the purposes of this Part, and
 - (ii) a person appointed to the position of chair of a board of directors, or the highest ranking position on a governing body, designated under section 25.2(c)(ii) for the purposes of this Part.
- (3) A designated office holder breaches this Part if he or she breaches a code of conduct and ethics, a supplementary code of conduct and ethics or a code of conduct that applies to the designated office holder by operation of this section.

Regulations

Regulations

25.7 The Lieutenant Governor in Council may make regulations

- (a) respecting the application of those provisions of the *Conflicts of Interest Act* referred to in this Part that apply for the purposes of this Part;
- (b) respecting any transitional matter relating to this Part.

(6) The heading preceding section 26 is repealed and the following is substituted:

**Part 3
General**

(7) This section comes into force on February 1, 2015.

(6) Adds a Part 3 heading.

(7) Coming into force.

