

# **Conflict of Interest Act**

CHAPTER 35 OF THE ACTS OF 2010



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## CHAPTER 35 OF THE ACTS OF 2010

# **An Act to Avoid Conflict of Interest by Members of the House of Assembly, Members of the Executive Council and Public Employees**

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### Short title

- 1 This Act may be cited as the *Conflict of Interest Act*. 2010, c. 35, s. 1.

### Purpose of Act

- 2 The purpose of this Act is to ensure that members and public employees

(a) perform their duties and functions of office and arrange their private affairs in a manner that promotes public confidence and trust in the integrity of each member and public employee; and

(b) avoid conflict of interest and do not, in order to further their private interest or a private interest of their family, take advantage of their official positions or of information obtained in the course of their official duties that is not available to the public. 2010, c. 35, s. 2.

### Interpretation

- 3 In this Act,

(a) “Commissioner” means the Conflict of Interest Commissioner appointed pursuant to this Act or the former Act;

(b) “department” means any department, board, commission, foundation, agency, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which

- (i) are appointed by an Act of the Legislature or by order of the Governor in Council, or
- (ii) where not so appointed, in discharge of their duties are public officers or servants of His Majesty in right of the Province or for the proper discharge of their duties are, directly or indirectly, responsible to His Majesty in right of the Province;
- (c) “dependent child” means a child who is under the age of majority or, although over the age of majority, unable, by reason of illness, disability or other cause, to withdraw from the charge of the person’s parents or provide himself or herself with reasonable needs;
- (d) “disclosed asset” means an asset required to be disclosed;
- (e) “disclosed liability” means a liability required to be disclosed;
- (f) “former Act” means Chapter 4 of the Acts of 1991, the *Members and Public Employees Disclosure Act*;
- (g) “individual or organization” means an individual, partnership, organization or corporation, or subsidiary of a corporation, and, for greater certainty, includes a union;
- (h) “member” means, unless the context otherwise requires, a member of the House of Assembly and includes a minister;
- (i) “minister” means a member of Executive Council;
- (j) “ministerial assistant” means a ministerial assistant appointed in accordance with the *Executive Council Act*;
- (k) “payment” includes remuneration, reimbursement for expenses, an advance, a deposit, a contribution, a gift in excess of two hundred and fifty dollars and a loan;
- (l) “private interest” does not include an interest in a matter that
  - (i) is of general application,
  - (ii) affects a member as one of a broad class of persons,
  - (iii) concerns remuneration, allowances and benefits of a member as a member, or
  - (iv) is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member;
- (m) “public employee” means a person employed by a department and includes a member of the board of directors or the board of management of a department;
- (n) “recognized party” means a recognized party within the meaning of the *House of Assembly Act*;
- (o) “spouse” means a person who is married to, the domestic partner of or living in a conjugal relationship with a member and includes a per-

son of the same sex as a member but does not include a person who is separated and living apart from a member. 2010, c. 35, s. 3.

#### CONFLICT OF INTEREST COMMISSIONER

##### **Appointment**

**4 (1)** Upon consultation with the leaders of the recognized parties and subject to the approval of the House of Assembly, the Governor in Council shall appoint a person to be the Conflict of Interest Commissioner.

**(2)** The Commissioner may be appointed on either a full-time or part-time basis.

**(3)** The Commissioner holds office for a term of not more than five years but may be re-appointed.

**(4)** The Commissioner may resign at any time by giving written notice to the Speaker of the House of Assembly.

**(5)** The Commissioner may be removed or suspended before the end of the term of office by the Governor in Council on the recommendation of the House of Assembly for cause or incapacity. 2010, c. 35, s. 4.

##### **Acting Commissioner**

**5 (1)** The Governor in Council may appoint an acting Commissioner if the office of the Commissioner becomes vacant

(a) during a sitting of the House of Assembly and the Assembly does not determine whether or not to give approval under Section 4 before the end of the sitting; or

(b) while the House of Assembly is not sitting.

**(2)** The acting Commissioner holds office until a new Commissioner is appointed.

**(3)** Where the Commissioner is unable to act because of illness, the Governor in Council may appoint an acting Commissioner who holds office until the Commissioner is again able to act or until the office becomes vacant. 2010, c. 35, s. 5.

##### **Remuneration**

**6** The Commissioner shall be paid such remuneration and allowances as determined by Governor in Council. 2010, c. 35, s. 6.

##### **Powers, privileges and immunities**

**7** For the purpose of exercising jurisdiction pursuant to this Act, the Commissioner has all the powers, privileges and immunities of a commissioner

appointed pursuant to the *Public Inquiries Act* and may establish rules of procedure for the purpose of this Act. 2010, c. 35, s. 7.

#### DISCLOSURE BY MEMBERS OF THE HOUSE OF ASSEMBLY

##### **Disclosure statements**

**8 (1)** Every member shall file with the Commissioner in accordance with this Act

- (a) a disclosure statement respecting the member; and
- (b) where the member has a spouse or dependent children, a separate disclosure statement respecting the member's spouse and dependent children.

**(2)** A member shall file the disclosure statements

- (a) within thirty days of becoming a member; and
- (b) in each and every year thereafter, on or before June 30th.

**(3)** Where a member acquires a spouse after becoming a member, the member shall file a disclosure statement respecting the member's spouse and dependent children within ninety days of acquiring the spouse.

**(4)** Where at any time after a disclosure statement is filed a member or the member's spouse or dependent child acquires or disposes of an asset or liability that is required to be disclosed pursuant to this Act, the member shall file an amended disclosure statement within ninety days after acquisition or disposition of that asset or liability. 2010, c. 35, s. 8.

##### **Meeting with Commissioner**

**9 (1)** After filing a disclosure statement or an amended disclosure statement, a member may meet with the Commissioner to ensure that adequate disclosure is made and to obtain any advice about the member's obligations under this Act.

**(2)** The member's spouse may attend the meeting with the Commissioner pursuant to subsection (1) and may otherwise seek the Commissioner's advice. 2010, c. 35, s. 9.

##### **Information available to public**

**10 (1)** The Commissioner shall make every disclosure statement under clause 8(1)(a), or disclosure statement in amendment of it, readily available to the public by ensuring that the disclosure statement and any amended disclosure statements are published as soon as practical on a public website and by any other means that the Commissioner deems appropriate.

(2) Notwithstanding subsection (1), the Commissioner shall not disclose on a public website any information respecting a member's

- (a) residential address;
- (b) residential telephone number;
- (c) spouse; or
- (d) dependent children,

contained in a disclosure statement under clause 8(1)(a) or a disclosure statement in amendment of it.

(3) Any person may obtain a copy of a disclosure statement under clause 8(1)(a), or disclosure statement in amendment of it, without payment of any fee. 2010, c. 35, s. 10.

#### **Contents of disclosure statement**

11 (1) In this Section,

(a) “immediate family” of a member means the member's spouse, parents, children, brothers, sisters, grandparents and grandchildren;

(b) “subsidiary corporation” means a subsidiary corporation as defined in the *Income Tax Act* (Canada) and includes affiliated corporations as defined in that Act.

(2) The appropriate disclosure statement must disclose

(a) the name of every individual or organization that in any manner whatsoever remunerates or contributes to the member or the member's spouse or dependent children and includes any reimbursement for expenses made to any of them;

(b) the issuer or name of any bonds, debentures, holdings in investment funds, mutual funds, investment trusts or similar securities of a member or the member's spouse or dependent children, except Canada Savings Bonds or other investments or securities of fixed value issues [issued] or guaranteed by any level of government in Canada or an agency of a government in Canada, registered retirement savings plans that are not self-directed, open-ended mutual funds, guaranteed investment certificates or any similar financial instruments, annuities and life insurance policies and pension rights;

(c) the nature and location of any interest of the member in or with respect to real property, whether situate within or outside of the Province, including the nature and location of any interest of the member's spouse or dependent children in or with respect to real property except any interest of the member, the member's spouse or dependent children in or with respect to real property that is used by



the member, the member's spouse or dependent children for residential or recreational purposes;

(d) unless excluded by clause (b), the name of every corporation, or subsidiary of a corporation, in which the member or the member's spouse or dependent children hold a beneficial interest, a share warrant or a purchase option;

(e) the nature of any interest of a member in property of a kind required to be disclosed pursuant to clause (b), (c) or (d) and over which the member or the member's spouse or dependent children have a general power of appointment or an expectancy under a trust;

(f) any trust established for the member or the member's spouse or dependent children or any trust from which a payment is made to the member or the member's spouse or dependent children and the names of the trustees and the contributors to any such trust, other than a trust established by the member or the member's spouse for the member's dependent children;

(g) the name of every individual or organization to which the member or the member's spouse or dependent children are financially indebted, except a debt

(i) that is a current and ordinary household and personal living expense of the member or the member's spouse or dependent children,

(ii) respecting an automobile, a boat used for recreational purposes or recreational vehicles of a member or the member's spouse or dependent children,

(iii) that is money or other property entrusted to or received by a member or the member's spouse or dependent children in trust for a person other than the member or the member's spouse or dependent children,

(iv) respecting an interest of the member or the member's spouse or dependent children that is not required, pursuant to clauses (b) and (c), to be disclosed, or

(v) that is less than ten thousand dollars;

(h) the name of every individual or organization that is financially indebted to the member or the member's spouse or dependent children in an amount greater than ten thousand dollars;

(i) the name of every individual or organization to which a member or the member's spouse or dependent children transferred a disclosed asset or settled a disclosed liability;

(j) all payments received by a member or the member's spouse or dependent children from a recognized party or an electoral district association; and

(k) a gift of a value greater than two hundred and fifty dollars received by the member or the member's spouse or dependent children other than a gift to a member or a member's spouse or dependent children by any one of them to each other or a gift from a member of the immediate family.

(3) Notwithstanding subsection (2), a member is not required to include in a disclosure statement

(a) assets and financial interests having a value of less than ten thousand dollars;

(b) a debt owed by the member to the member's spouse or dependent children or a member of the member's immediate family; or

(c) a debt owed to the member by the member's spouse or dependent children or by a member of the member's immediate family.

(4) In subsection (5), "member" in Sections 18 and 20 of the *House of Assembly Act* includes a minister.

(5) Nothing in this Act affects Sections 18 and 20 of the *House of Assembly Act* and, where the member's spouse or dependent children have a contract or agreement with the Government of the Province or with any minister or department, the contract or agreement must be disclosed by the member unless the contract or agreement has been awarded by open public tender.

(6) Nothing in this Part affects Section 17 and 19 of the *House of Assembly Act* respecting the disqualification of a member or the vacating of a member's seat. 2010, c. 35, s. 11.

#### CONDUCT OF MEMBERS OF THE HOUSE OF ASSEMBLY

##### **Decision-making in private interest**

**12** A member shall not make or participate in making a decision in the member's capacity as a member if the member knows or ought reasonably to know that in the making of the decision there is the opportunity to further, directly or indirectly, a private interest of the member or the member's family. 2010, c. 35, s. 12.

##### **Influencing another person**

**13** A member shall not use the member's office to seek to influence a decision made by another person to further, directly or indirectly, a private interest of the member or the member's family. 2010, c. 35, s. 13.

**Use of information not available to general public**

**14 (1)** A member shall not use or share information that is gained in the member's capacity as a member and is not available to the general public to further or seek to further, directly or indirectly, a private interest of the member or the member's family.

**(2)** A member shall not use or share information that is gained in the member's capacity as a member and is not available to the general public to improperly benefit another person. 2010, c. 35, s. 14.

**Activities not prohibited**

**15 (1)** This Act does not prohibit the activities in which members normally engage on behalf of constituents.

**(2)** For greater certainty, nothing in this Act prohibits a member, other than a minister, from appearing before a board, court, tribunal or other body as a member. 2010, c. 35, s. 15.

**Gifts and personal benefits**

**16 (1)** A member shall not, directly or indirectly, accept a fee, gift or personal benefit that is connected, directly or indirectly, with the performance of the member's duties of office, except compensation authorized by law.

**(2)** Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the duties or responsibilities of office.

**(3)** Where a gift or personal benefit referred to in subsection (2) exceeds two hundred and fifty dollars in value, the member shall report the gift or personal benefit in the member's disclosure statement and comply with any instructions of the Commissioner with respect to the matter. 2010, c. 35, s. 16.

**Conflict of interest**

**17 (1)** A member who has reasonable grounds to believe that the member has a conflict of interest in a matter that is before the House of Assembly or the Executive Council, or a committee of either of them, shall, where present at a meeting considering the matter,

(a) disclose the general nature of the conflict of interest;  
and

(b) withdraw from the meeting without voting or participating in consideration of the matter.

**(2)** Where a member has withdrawn from a meeting in accordance with subsection (1), the secretary of the meeting shall make a record of the disclosure and withdrawal. 2010, c. 35, s. 17.

CONDUCT OF MINISTERS  
AND MINISTERIAL ASSISTANTS

**Guidelines**

**18** Ministers and ministerial assistants shall

(a) be truthful and forthright and not deceive or knowingly mislead the House of Assembly or the public, or permit or encourage agents of the Government of the Province to deceive or mislead the House of Assembly or the public;

(b) make every effort to ensure that their departments are not used for partisan political purposes;

(c) avoid situations where a conflict of interest or a reasonable perception of a conflict of interest could arise between the minister or ministerial assistant's public duties and private interests;

(d) not accept any personal benefits in any business dealing, acquire any position or undertake any function or have any financial, commercial or other interest that is incompatible with their offices or duties;

(e) not use their authority or position, government information or government property to advance a private interest or that of a family member; and

(f) respect the responsibilities and obligations placed on public employees, including those that require that senior public employees avoid conduct that could give rise to the perception that they are not politically impartial. 2010, c. 35, s. 18.

**Prohibited behaviour**

**19 (1)** Subject to subsections (2) to (7), a minister shall not

(a) be employed in any other occupation or profession;

(b) manage a business carried on by a corporation;

(c) hold a directorship, unless it is one of the duties of the minister;

(d) hold office in a union or professional association;

(e) carry on business either in a partnership or sole proprietorship; or

(f) hold or trade in securities, stocks, futures or commodities.

**(2)** Clause (1)(f) does not apply to

(a) mutual funds; or

(b) assets that, in the opinion of the Commissioner, are of such minimal value that they do not constitute a risk of a conflict of interest.

(3) A minister may engage in the activities prohibited by subsection (1) if the minister has disclosed all material facts to the Commissioner and the Commissioner is satisfied that no conflict exists.

(4) Where the minister complies with subsection (1) by entrusting the assets to one or more trustees,

(a) the provisions of the trust must be in accordance with such terms and conditions as may be specified by the Commissioner; and

(b) a copy of the trust document must be provided to the Commissioner.

(5) Unless otherwise required by law, the Commissioner shall keep the trust document confidential.

(6) A person who becomes a minister shall comply with subsection (1) before the ninety-first day that follows the person's appointment.

(7) The Commissioner may extend the period referred to in subsection (6) by giving the member a written notice to that effect, and may impose on the extension those conditions that the Commissioner considers appropriate. 2010, c. 35, s. 19.

#### **Conflict of interest**

**20** Where a minister is aware that the minister has a conflict of interest or that there is a reasonable perception of a conflict of interest with respect to a matter on which the minister will be making a decision,

(a) the minister shall report that conflict of interest or perception of a conflict of interest, as the case may be, to the President of the Executive Council or a minister designated by the President of the Executive Council; and

(b) the Executive Council may appoint another minister to perform such duties as the Executive Council considers appropriate for such time as the Executive Council considers necessary to deal with the conflict of interest or perception of a conflict of interest. 2010, c. 35, s. 20.

#### **Meeting with Commissioner upon appointment**

**21** As soon as practicable following the appointment of a person as a minister or ministerial assistant, the person shall meet with the Commissioner to obtain advice respecting his or her obligations under the Act. 2010, c. 35, s. 21.

## PUBLIC EMPLOYEES

**Conflict of interest**

**22 (1)** In this Section, “private interest” does not include an interest in a matter that

- (a) is of general public application;
- (b) affects a public employee as one of a broad class of persons;
- (c) concerns the remuneration, allowances and benefits of a public employee; or
- (d) is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence a public employee.

**(2)** A public employee shall not act in such a way as to create a conflict of interest contrary to this Act.

**(3)** A public employee shall not use information acquired in the execution of the office of the public employee that is not available to the general public in order to further a private interest.

**(4)** Where a public employee is at a meeting at which consideration of a decision arises in the execution of the office of the public employee and knows or ought to know that the decision could result in the furthering of a private interest, the public employee shall

- (a) inform the meeting that the decision could result in a personal benefit to the public employee and the general nature of that benefit;
- (b) withdraw from the meeting; and
- (c) refrain from participating in or influencing the decision,

and the secretary of the meeting shall make a record of the information given and the withdrawal. 2010, c. 35, s. 22.

POST-SERVICE RESTRICTIONS  
AND RESTRICTIONS ON AWARDING OF CONTRACTS

**Prohibited activity**

**23 (1)** In this Section, “member” does not include a minister.

**(2)** A former minister or ministerial assistant, for twelve months after ceasing to hold office, and a former member or public employee, for six months after ceasing to hold office or employment, shall not knowingly

- (a) accept a contract or benefit that is awarded, approved or granted by a government decision-maker;

(b) make representations to a government decision-maker on his or her behalf or on behalf of another person with respect to a contract or benefit; or

(c) accept a contract or benefit from any person to make representations to a government decision-maker with respect to a contract or benefit that is or is to be awarded, approved or granted by a government decision-maker.

(3) Subsection (2) does not apply

(a) to contracts of employment with respect to further duties in the service of His Majesty in right of the Province; or

(b) if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled. 2010, c. 35, s. 23.

#### **Application for exemption from subsection 23(2)**

**24 (1)** A former minister, ministerial assistant, member or public employee may apply to the Commissioner for an exemption from the application of subsection 23(2) with respect to a contract or benefit or a class of contracts or benefits.

**(2)** On the application of a former minister, ministerial assistant, member or public employee, the Commissioner may exempt the contract or benefit or class of contracts or benefits from the application of subsection 23(2) if in the opinion of the Commissioner

(a) the consideration and terms of the contract or benefit are fair and reasonable; and

(b) it is not contrary to the public interest to exempt the contract or benefit or class of contracts or benefits from the application of subsection 23(2).

**(3)** The Commissioner may impose any terms and conditions that the Commissioner considers appropriate on an exemption granted pursuant to this Section. 2010, c. 35, s. 24.

#### **Offence**

**25 (1)** A former minister, ministerial assistant, member or public employee who contravenes Section 23 is guilty of an offence and liable, on summary conviction, to a fine of not more than fifty thousand dollars.

**(2)** No prosecution for a contravention of Section 23 may be commenced more than

(a) in the case of a contravention respecting a contract or a benefit awarded, approved or granted, two years after

- (i) the contract has been discharged or terminated,  
or
- (ii) the benefit has been terminated; or
- (b) in any other case, two years after commission of the contravention. 2010, c. 35, s. 25.

**Executive Council**

**26 (1)** The Executive Council, a member of the Executive Council or an employee of a department shall not knowingly

(a) award or approve a contract with or grant a benefit to a former minister or former ministerial assistant within twelve months after the former minister or former ministerial assistant ceased to hold office;

(b) award or approve a contract with, or grant a benefit to, a former minister or former ministerial assistant who has, during the twelve months immediately after the former minister or former ministerial assistant ceased to hold office, made representations in respect of the contract or benefit; or

(c) award or approve a contract with, or grant a benefit to, a person on whose behalf a former minister or former ministerial assistant has, during the twelve months immediately after the former minister or former ministerial assistant ceased to hold office, made representations in respect of the contract or benefit.

**(2)** The Executive Council, a member of the Executive Council or an employee of a department shall not knowingly

(a) award or approve a contract with or grant a benefit to, a former member or former public employee, until six months after the former member or former public employee ceased to hold office;

(b) award or approve a contract with, or grant a benefit to, a former member or former public employee who has, during the six months immediately after the former member or former public employee ceased to hold office, made representations in respect of the contract or benefit; or

(c) award or approve a contract with, or grant a benefit to, a person on whose behalf a former member or former public employee has, during the six months immediately after the former member or former employee ceased to hold office, made representations in respect of the contract or benefit.

**(3)** Clauses (1)(a) and (b) and (2)(a) and (b) do not apply to contracts in respect of further duties in the service of the Government of the Province.



(4) Subsections (1) and (2) do not apply if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled. 2010, c. 35, s. 26.

#### **Application for exemption from Section 26**

27 (1) A former member or former public employee may apply to the Commissioner for an exemption from the application of Section 26 with respect to a contract or benefit or a class of contracts or benefits.

(2) On the application of a former member or former public employee, the Commissioner may exempt the contract or benefit or class of contracts or benefits from the application of Section 26 if in the opinion of Commissioner

(a) the consideration and terms of the contract or benefit are fair and reasonable; and

(b) it is not contrary to the public interest to exempt the contract or benefit or class of contracts or benefits from the application of Section 26.

(3) The Commissioner may impose any terms and conditions that the Commissioner considers appropriate on an exemption granted pursuant to this Section. 2010, c. 35, s. 27.

### **POWERS AND DUTIES OF CONFLICT OF INTEREST COMMISSIONER**

#### **Opinion and recommendations**

28 (1) A member or public employee may, by application in writing, request that the Commissioner give an opinion and recommendations on any matter respecting the member or public employee pursuant to this Act.

(2) An opinion provided pursuant to subsection (1) must state the facts and any other considerations on which it is based.

(3) The Commissioner may make such inquiries as the Commissioner considers appropriate and provide the member or public employee with a written opinion and recommendations.

(4) The opinion and recommendations of the Commissioner are confidential, but may be released

(a) by the member or public employee;

(b) with the consent in writing of the member or public employee; or

(c) by the Commissioner in circumstances if the Commissioner deems it necessary and appropriate in the public interest.

(5) A member or public employee who acts on the opinion and recommendations given by the Commissioner is and is deemed not to be in contravention of this Act with respect to the matters dealt with in the opinion and recommendation. 2010, c. 35, s. 28.

#### **Promotion of understanding of duties under Act**

29 The Commissioner may take such steps as are necessary to promote the understanding by members and public employees of their duties under the Act including preparing and disseminating written information concerning their obligations under the Act. 2010, c. 35, s. 29.

#### **Advice**

30 (1) The Commissioner may give advice and recommendations of general application to members, public employees, former members and former public employees on any matter concerning their obligations under this Act.

(2) A member, public employee, former member or former public employees may rely on a written opinion given pursuant to subsection (1) in respect of facts and considerations stated in the opinion if the member, public employee, former member or former public employee acts in accordance with the Commissioner's recommendations. 2010, c. 35, s. 30.

#### **Inquiry and jurisdiction**

31 (1) Upon resolution of the House of Assembly or the application of a person who states under oath that that person has reasonable and probable grounds to believe a member or public employee is in contravention of this Act or the regulations and who produces sufficient evidence in support of the allegation to satisfy the Commissioner that there is a reasonable probability that the contravention has occurred, the Commissioner shall inquire into the allegation.

(2) The Commissioner may inquire into a possible contravention of the Act or the regulations if evidence of an essential element of the possible contravention can be found in information disclosed to the Commissioner but which is not available to be examined by the public pursuant to this Act.

(3) The Commissioner may engage the services of any person necessary to assist with the duties of the Commissioner pursuant to this Section.

(4) The Commissioner has jurisdiction to inquire into actions or omissions by a former member or former public employee if the application or inquiry by the Commissioner commences within two years after the former member or former public employee ceased to be a member or public employee. 2010, c. 35, s. 31.

#### **Decision following inquiry**

32 (1) Where the Commissioner conducts an inquiry pursuant to this Act, the Commissioner may

(a) determine that there has been no contravention of this Act or the regulations;

(b) determine that there has been a contravention of this Act or the regulations and direct the member or public employee to, where applicable,

(i) file or amend a disclosure statement within the time prescribed by order,

(ii) discontinue association with a contract or agreement in which the member is prohibited from participating,

(iii) return any gain realized in respect of promoting a bill, resolution, matter or thing submitted or intended to be submitted to the House of Assembly, a committee of the Assembly, the Executive Council or a committee of the Executive Council,

(iv) return any personal benefit improperly obtained by the member;

(c) fine the person who contravened this Act or the regulations in an amount not exceeding ten thousand dollars;

(d) refer the matter to the Supreme Court of Nova Scotia for a determination.

(2) A copy of the decision of the Commissioner at an inquiry must be filed with the Prothonotary at Halifax.

(3) The Commissioner may refer to the Supreme Court the failure of a member or public employee to comply with an order issued by the Commissioner pursuant to this Act.

(4) Where the Commissioner refers a matter to the Supreme Court,

(a) the Commissioner shall

(i) instruct counsel to commence an application in the Supreme Court, and

(ii) determine the parties to the application;

(b) the Commissioner shall take no further part in the proceedings, as a witness or otherwise; and

(c) the judge of the Supreme Court dealing with the application shall

(i) hear the evidence and argument presented by the parties, and

(ii) determine on the basis of the evidence presented whether a contravention of this Act or the regulations or a direction of the Commissioner has occurred.

(5) Where the judge of the Supreme Court determines that a contravention of this Act or the regulations or a direction of the Commissioner has occurred, the judge may

- (a) order the filing or amendment of a disclosure statement;
- (b) order a member or public employee to discontinue association with a contract or agreement in which the member or public employee is prohibited from participating;
- (c) order a member or public employee to return any personal benefit improperly obtained by the member or public employee;
- (d) fine the person that contravened this Act or the regulations or a direction of the Commissioner in an amount not exceeding ten thousand dollars;
- (e) suspend a member or public employee on such terms and conditions as the judge prescribes;
- (f) declare that a member ceases to be a member of the Executive Council;
- (g) declare vacant the seat of a member.

(6) Where the judge declares vacant the seat of a member, the seat of that member is and is deemed to be vacant upon the expiration of thirty days from the making of the order or upon the determination of any appeal of the matter, whichever is later, and the seat remains vacant until an election is held in the electoral district of the member. 2010, c. 35, s.32.

### **Appeal to Nova Scotia Court of Appeal**

**33 (1)** In this Section, “person affected” includes the person who initiated the request for an inquiry.

(2) A finding, direction, determination or order of the Commissioner or a judge made pursuant to Section 31 may be appealed to the Nova Scotia Court of Appeal by the person affected within thirty days of the making of the finding, direction, determination or order.

(3) Where an appeal has been filed as provided by law, a judge of the Court of Appeal may, upon application by the person appealing, stay the order from which the appeal has been taken pending the determination of the appeal. 2010, c. 35, s.33.

**Costs and other relief**

**34** Where the Commissioner determines that an allegation of a contravention of this Act is frivolous or vexatious, the Commissioner shall dismiss the matter and may order the person who made the allegation to pay costs or damages, or both, to the member or public employee, including reimbursement of the actual expenses of the member or public employee incurred in responding to the allegation, and grant such other relief as the Commissioner may determine. 2010, c. 35, s. 34.

**GENERAL****Regulations**

- 35** (1) The Governor in Council may make regulations
- (a) prescribing forms to be used for the purpose of this Act;
  - (b) prescribing fees for the purpose of this Act;
  - (c) defining any word or expression used and not defined in this Act;
  - (d) respecting any matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2010, c. 35, s. 35.

**Freedom of Information and Protection of Privacy Act amended**

**36** *amendment*

**House of Assembly Management Commission Act amended**

**37** *amendments*

**Liquor Control Act amended**

**38 and 39** *amendments*

**Members and Public Employees Disclosure Act amended**

**40** (1) *repeals*

(2) Part V of the former Act does not apply to a member or public employee as defined by the former Act, or to a former member or former public employee. 2010, c. 35, s. 40.

**Nova Scotia Business Incorporated Act amended**

**41** *amendments*

**Nova Scotia Power Privatization Act amended**42 *amendment***Personal Information International Disclosure Protection Act amended**43 *amendment***Commissioner under former Act**

44 The Commissioner appointed pursuant to the former Act continues in office until a Commissioner is appointed pursuant to this Act. 2010, c. 35, s. 44.

**Disclosure statement under former Act**

45 A disclosure statement duly filed pursuant to the former Act is deemed to have been filed pursuant to this Act. 2010, c. 35, s.45.

**Disclosure statements filed after Act comes into force**

46 Notwithstanding Section 45, subsection 10(1) only applies to disclosure statements filed after this Act comes into force. 2010, c. 35, s.46.

**Proceedings before Commissioner continue**

47 Proceedings before the Commissioner in respect of matters to which the former Act applied must be continued in conformity with this Act as far as consistently may be. 2010, c. 35, s. 47.

**Effective date**

48 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2010, c. 35, s. 48.

Proclaimed	-	March 29, 2011
In force	-	March 29, 2011