c 17 Members’ Conflict of Interest Act, 1988

Ontario
CHAPTER 17

An Act respecting Conflicts of Interest of Members of the Assembly and the Executive Council

Assented to February 11th, 1988

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

Definitions

1. In this Act,

"enfant"  
"child" includes a person whom a member has demonstrated a settled intention to treat as a child of his or her family, except under an arrangement where the child is placed for valuable consideration in a foster home by a person having lawful custody;

"membre"  
"member" means a member of the Legislative Assembly or of the Executive Council, or both;
“private interest” does not include an interest in a decision,
(a) that is of general public application,
(b) that affects a member as one of a broad class of electors, or
(c) that concerns the remuneration and benefits of a member or an officer or employee of the Legislative Assembly;

“spouse” means a person who is the member's spouse within the meaning of Part III of the Family Law Act, 1986, but does not include a person to whom the member is married if they have made a separation agreement or if their support obligations and family property have been dealt with by a court order.

2. For the purposes of this Act, a member has a conflict of interest when the member makes a decision or participates in making a decision in the execution of his or her office and at the same time knows that in the making of the decision there is the opportunity to further his or her private interest.

3. A member shall not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the member's private interest.

4. A member shall not use his or her office to seek to influence a decision made by another person to further the member's private interest.

5. This Act does not prohibit the activities in which members normally engage on behalf of constituents.

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

(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 responsibilities of office.

(3) Where a gift or personal benefit referred to in subsection (2) exceeds $200 in value, or where the total value
received directly or indirectly from one source in any twelve-month period exceeds $200, the member shall immediately file with the Commissioner a disclosure statement, in the form prescribed by the regulations, indicating the nature of the gift or benefit, its source and the circumstances under which it was given and accepted.

7.—(1) The Executive Council, a member of the Executive Council or an employee of a ministry (other than an employee of an agency, board or commission) shall not knowingly,

(a) award or approve a contract with, or grant a benefit to, a former member of the Executive Council, until twelve months have expired after the date when the former member ceased to hold office;

(b) award or approve a contract with, or grant a benefit to, a former member of the Executive Council who has, during the twelve months after the date when he or she ceased to hold office, made representations in respect of the contract or benefit;

(c) award or approve a contract with, or grant a benefit to, a person on whose behalf a former member of the Executive Council has, during the twelve months after the date when he or she ceased to hold office, made representations in respect of the contract or benefit.

(2) Clauses (1) (a) and (b) do not apply to contracts or benefits in respect of further duties in the service of the Crown.

(3) Clauses (1) (a), (b) and (c) 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.

8.—(1) A member of the Executive Council shall not,

(a) engage in employment or in the practice of a profession;

(b) carry on a business; or

(c) hold an office or directorship other than in a social club, religious organization or political party,

except as required or permitted by the responsibilities of being a member of the Executive Council.
(2) A person who becomes a member of the Executive Council shall comply with subsection (1) before the sixty-first day that follows his or her appointment.

(3) The Commissioner may extend the period referred to in subsection (2) by giving the member a written notice to that effect, and may impose on the extension such conditions as the Commissioner considers just.

(4) If a member of the Executive Council complies with clause (1) (b) by entrusting his or her business to one or more trustees,

(a) the provisions of the trust shall be approved by the Commissioner;

(b) the trustees shall be persons who are at arm's length with the member and approved by the Commissioner;

(c) the trustees shall not consult with the member with respect to managing the trust property; and

(d) the trustees shall report all material changes in assets, liabilities, and financial interests contained in the trust to the member and the Commissioner, in writing, forthwith after the changes have occurred.

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

9.—(1) A member who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Assembly or the Executive Council, or a committee of either of them, shall, if 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 the consideration of the matter.

(2) A member of the Executive Council who has reasonable grounds to believe that he or she has a conflict of interest in a matter requiring the member's decision shall request another member of the Executive Council to perform the
MEMBERS' CONFLICT OF INTEREST

10.—(1) There shall be a Commissioner who is an officer of the Assembly.

(2) The Lieutenant Governor in Council shall appoint a person to the office of Commissioner on the address of the Assembly.

(3) The person appointed shall hold office for a term of five years and may be reappointed for a further term or terms.

(4) The person appointed as Commissioner may be removed before the expiration of the term of office by the Lieutenant Governor in Council for cause on the address of the Assembly.

(5) The Commissioner shall be paid such remuneration and allowances as are fixed by the Lieutenant Governor in Council.

(6) The employees and officers that are necessary for the performance of the duties of the Commissioner shall be members of the staff of the Office of the Assembly.

11. The Commissioner shall report annually upon the affairs of his or her office to the Speaker of the Assembly who shall cause the report to be laid before the Assembly.

DISCLOSURE

12.—(1) Every member shall, within sixty days of being elected, and thereafter annually, file with the Commissioner a disclosure statement in the form prescribed by the regulations.

(2) The disclosure statement shall contain,

(a) a statement of the assets, liabilities and financial interests of the member, the member's spouse and minor children, and private companies as defined in the Securities Act controlled by any of them;

(b) a statement of any income the member and the member's spouse and minor children, and private companies as defined in the Securities Act controlled by any of them, have received in the preced-
ing twelve months or are entitled to receive in the next twelve months and the source of the income; and

(c) any other information that is prescribed by the regulations.

(3) After filing a disclosure statement, the member, and the member’s spouse if the spouse is available, shall meet with the Commissioner to ensure that adequate disclosure has been made and to obtain advice on the member’s obligations under this Act.

(4) If any asset, liability or financial interest described in the disclosure statement relates to a corporation, the Commissioner shall ascertain whether any other corporation is an affiliate of the first-named corporation, as determined under subsections 1 (2) to (6) of the Securities Act.

(5) If the Commissioner determines that there is an affiliate of the first-named corporation, he or she shall advise the member of the fact, in writing, and shall also mention the fact in the public disclosure statement prepared in accordance with section 13.

12.—(1) After meeting with the member, and with the member’s spouse if the spouse is available, the Commissioner shall prepare a public disclosure statement containing all relevant information provided by the member, and by the member’s spouse if the spouse met with the Commissioner, in respect of the member, the spouse and minor children, except,

(a) assets, liabilities and financial interests having a value of less than $1,000;

(b) the source of income where the income paid from the source has a value of less than $1,000 in any twelve-month period;

(c) the value of the assets, financial interests and liabilities of the member’s spouse and minor children and of private companies as defined in the Securities Act controlled by the spouse or by a child;

(d) the amount of income of the member’s spouse or minor children or of a private company controlled by the spouse or a minor child where the income is
paid from a source other than directly from a ministry or an agency, board or commission of the government;

(c) the municipal address or legal description of real property that is primarily for the residential or recreational use of the member or the member's spouse or minor children;

(f) personal property used for transportation or for household, educational, recreational, social or aesthetic purposes;

(g) the amount of cash on hand or on deposit with a chartered bank, trust company or other financial institution in Ontario that is lawfully entitled to accept deposits;

(h) the amount of Canada Savings Bonds and other investments or securities of fixed value issued or guaranteed by any level of government in Canada or an agency of such government;

(i) the value of registered retirement savings plans that are not self-administered;

(j) the amount invested in open-ended mutual funds;

(k) the value of guaranteed investment certificates or other similar financial instruments;

(l) the value of annuities and life insurance policies;

(m) the value of pension rights; and

(n) the amount of the following liabilities:

1. Mortgages and unpaid realty taxes on property referred to in clause (e).

2. Liabilities related to assets referred to in clauses (f), (h), (i), (j), (k), (l) and (m).

3. Unpaid income taxes.

4. Support payments.
(2) The Commissioner may except from the public disclosure statement the source of income received by a member's spouse or minor child, or by a private company as defined in the Securities Act controlled by the spouse or child, in respect of services that are customarily provided on a confidential basis.

(3) The Commissioner may also except from the public disclosure statement the source of income received by a member's spouse or minor child, or by a private company as defined in the Securities Act controlled by the spouse or child, if the possibility of serious harm to the spouse's, child's or company's business justifies a departure from the general principle of public disclosure.

(4) The public disclosure statement shall contain a statement of the nature of the assets referred to in clauses (1) (g) to (m) and the name and location of persons or institutions against whom the assets are held.

(5) The public disclosure statement shall contain a statement of any gifts or benefits that have been disclosed to the Commissioner under subsection 6 (3).

(6) The Commissioner shall, as soon as is practicable, file the public disclosure statement with the Clerk of the Legislative Assembly who shall make it available for examination by the public.

14.—(1) A member may, by application in writing, request that the Commissioner give an opinion and recommendations on any matter respecting the obligations of the member under this Act.

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

(3) The opinion and recommendations of the Commissioner are confidential, but may be released by the member or with the consent of the member in writing.

15.—(1) A member who has reasonable and probable grounds to believe that another member is in contravention of this Act may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the Commissioner give an opinion respecting the compliance of the other member with the provisions of this Act.
(2) The Legislative Assembly may, by resolution, request that the Commissioner give an opinion on any matter respecting the compliance of a member with the provisions of this Act.

(3) The Executive Council may request that the Commissioner give an opinion on any matter respecting the compliance of a member of the Executive Council with the provisions of this Act.

(4) Where a matter has been referred to the Commissioner under subsection (1) or (2), the Legislative Assembly or a committee thereof shall not conduct an inquiry into the matter.

16.—(1) Upon receiving a request under section 15, and on giving the member concerned reasonable notice, the Commissioner may conduct an inquiry.

(2) Where the request for an opinion is made under subsection 15 (1) or (2), the Commissioner may elect to exercise the powers of a commission under Parts I and II of the Public Inquiries Act, in which case those Parts apply to the inquiry as if it were an inquiry under that Act.

(3) Where the request for an opinion is made under subsection 15 (1) or (2), the Commissioner shall report his or her opinion to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next session.

(4) Where the request for an opinion is made under subsection 15 (3), the Commissioner shall report his or her opinion to the Clerk of the Executive Council.

17.—(1) Where the Commissioner conducts an inquiry under Parts I and II of the Public Inquiries Act for the purposes of subsection 15 (1) or (2) and finds that the member has contravened section 3, 4, 6, 7, 8 or 9, or has refused to file a disclosure statement within the time provided by section 12, the Commissioner may recommend in the report that is laid before the Assembly,

(a) that the member be reprimanded;

(b) that the member’s seat be declared vacant until an election is held in the member’s electoral district.
(2) The Assembly shall consider the Commissioner's report and respond to it as subsection (3) provides within six months of the day the report is laid before the Assembly.

(3) The Assembly may order the imposition of the recommendation of the Commissioner under subsection (1) or may reject the recommendation, and sections 45 and 48 of the Legislative Assembly Act apply in the same manner as to a contempt of the Assembly, except the power to further inquire into the contravention or to impose a punishment other than the one recommended.

18.—(1) A former member of the Executive Council shall not, unless twelve months have expired after the date when he or she ceased to hold office,

(a) accept a contract or benefit that is awarded, approved or granted by the Executive Council, a member of the Executive Council or an employee of a ministry (other than an employee of an agency, board or commission);

(b) make representations on his or her own behalf with respect to such a contract or benefit;

(c) make representations on another person's behalf with respect to such a contract or benefit.

(2) Clauses (1) (a) and (b) do not apply to contracts or benefits in respect of further duties in the service of the Crown.

(3) Clauses (1) (a), (b) and (c) 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.

(4) A person who contravenes subsection (1) is guilty of an offence and liable, on conviction, to a fine of not more than $5,000.

19. The Commissioner may, subject to the approval of the Lieutenant Governor in Council, make regulations prescribing any matter that is referred to in this Act as prescribed by the regulations.
20.—(1) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Members who are in office when this Act comes into force shall file the disclosure statement required by section 12 within sixty days after this Act comes into force.

21. The short title of this Act is the Members' Conflict of Interest Act, 1988.