

2002

CHAPTER 52

An Act to amend *The Members' Conflict of Interest Act* (No. 2)

(Assented to July 10, 2002)

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

Short title

1 This Act may be cited as *The Members' Conflict of Interest Amendment Act, 2002* (No. 2).

S.S. 1993, c.M-11.11 amended

2 *The Members' Conflict of Interest Act* is amended in the manner set forth in this Act.

New section 8

3 Section 8 is repealed and the following substituted:

“Limitation on contracts or benefits for former member of Executive Council

8(1) In this section and in section 34:

- (a) **‘associate’**, with respect to a former member, means:
 - (i) a partner of the former member; or
 - (ii) a corporation, if the former member is an officer or director of the corporation or a shareholder holding 10% or more of voting shares having the right to elect the board of directors of the corporation;
- (b) **‘government decision-maker’** means:
 - (i) the Executive Council;
 - (ii) a member of the Executive Council; or
 - (iii) an employee of:
 - (A) a department, secretariat or office of the Government of Saskatchewan;
 - (B) a Crown corporation; or
 - (C) a corporation in which the Government of Saskatchewan owns a majority of shares.

(2) No government decision-maker shall knowingly:

- (a) award a contract to, approve a contract with, or grant a benefit to a former member of the Executive Council until 12 months have passed after the date the former member ceased to hold office;

(b) award a contract to, approve a contract with, or grant a benefit to a former member of the Executive Council who has, during the 12 months after the date the former member ceased to hold office, made representations to the government decision-maker with respect to the contract or benefit;

(c) award a contract to, approve a contract with, or grant a benefit to a person on whose behalf a former member of the Executive Council has, during the 12 months after the date the former member ceased to hold office, made representations to the government decision-maker with respect to the contract or benefit; or

(d) award a contract to, approve a contract with, or grant a benefit to an associate of a former member of the Executive Council until 12 months have passed after the date the former member ceased to hold office.

(3) Subsection (2) does not apply to contracts of employment with respect to further duties in the service of the Crown.

(4) Subsection (2) does not apply if the conditions on which a contract or benefit is awarded, approved or granted are the same for all persons similarly entitled.

(5) Subsection (2) does not apply to a contract or benefit if the commissioner has granted an exemption pursuant to subsection 34(5) with respect to that contract or benefit or class of contracts or benefits”.

Section 11 amended

4 The following subsection is added after subsection 11(5):

“(6) Notwithstanding subsections (1) to (5), if a member has previously filed a disclosure statement pursuant to subsection (1) and the commissioner is satisfied that there has been no or only minimal material change to the content of the member’s disclosure statement, the commissioner may authorize the member to submit a declaration in the prescribed form that:

(a) declares that no material change has occurred since the last disclosure statement was filed pursuant to this section; or

(b) details the material changes since the last disclosure statement was filed pursuant to this section”.

Section 13 amended

5 The following subsection is added after subsection 13(5):

“(6) If the commissioner authorizes a member to submit a declaration pursuant to subsection 11(6):

(a) the commissioner may use the declaration in preparing a public disclosure statement for the member; and

(b) subsections (1) to (5) apply, with any necessary modification, to the declaration and the commissioner’s dealings with the declaration”.

Section 29 amended

6 Subsection 29(4) is amended by striking out “respecting” and substituting “including”.

Section 30 amended

7(1) The following subsection is added after subsection 30(4):

“(4.1) If the commissioner has conducted an inquiry pursuant to clause (1)(b), the commissioner shall report his or her opinion to:

- (a) the Speaker; and
- (b) the member who is the subject of the opinion”.

(2) Subsection 30(5) is repealed and the following substituted:

“(5) On receipt of an opinion pursuant to subsection (4) or (4.1), the Speaker shall lay the opinion before the Assembly as soon as is practicable”.

(3) The following subsection is added after subsection 30(6):

“(7) In conducting an inquiry pursuant to this section, the commissioner may comment with respect to the conduct of:

- (a) former members of the Assembly; and
- (b) former or current employees in the public service within the meaning of *The Public Service Act, 1998* or former or current employees of a Crown corporation”.

Section 33 amended

8(1) Subsection 33(5) is repealed and the following substituted:

“(5) On receipt of an opinion pursuant to subsection (4), the Speaker shall lay the opinion before the Assembly as soon as is practicable”.

(2) The following subsection is added after subsection 33(6):

“(7) In conducting an inquiry pursuant to this section, the commissioner may comment with respect to the conduct of:

- (a) former members of the Assembly; and
- (b) former or current employees in the public service within the meaning of *The Public Service Act, 1998* or former or current employees of a Crown corporation”.

New section 33.1

9 The following section is added after section 33:

“Timely disclosure of reports

33.1(1) If the Speaker is required by this Act to lay a report or document before the Assembly, and the Assembly is not in session when the Speaker receives the report or document, the Speaker shall provide the report or document to the Clerk of the Assembly within 15 days after the day the report or document is received.

- (2) When the Clerk of the Assembly receives a report or document pursuant to this section, the clerk shall, as soon as is possible:
 - (a) subject to subsection (5), cause a copy of the report or document to be delivered to each member of the Assembly; and
 - (b) make the report or document available for public inspection during normal business hours of the Clerk of the Assembly.
- (3) If the Speaker receives a report pursuant to section 25 and submits that report to the Clerk of the Assembly pursuant to this section, the Speaker is deemed to have laid the report or document before the Assembly in accordance with *The Tabling of Documents Act, 1991*.
- (4) For the purposes of this section, the Assembly is not in session if it:
 - (a) is prorogued; or
 - (b) is adjourned for an indefinite period or to a day more than 15 days after the day the Speaker receives the report or document.
- (5) The requirement in clause (2)(a) to deliver a copy of a report or document to the members of the Assembly does not apply in the period that:
 - (a) commences on the day an Assembly is dissolved; and
 - (b) ends on the first sitting day of the first session of the Assembly held after the general election held pursuant to *The Election Act, 1996* that follows the dissolution mentioned in clause (a)".

New section 34

10 Section 34 is repealed and the following substituted:

"Offence respecting former members of Executive Council

- 34(1)** No former member of the Executive Council shall knowingly, during the 12 months after the date he or she ceased to hold office:
- (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;
 - (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; or
 - (d) be an associate of a person who has received a contract or benefit that is awarded, approved or granted by a government decision-maker.
- (2) Subsection (1) does not apply to contracts of employment with respect to further duties in the service of the Crown.

(3) Subsection (1) does 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 former member of the Executive Council may apply to the commissioner for an exemption from the application of subsection (1) with respect to a contract or benefit or a class of contracts or benefits.

(5) On the application of a former member of the Executive Council pursuant to subsection (4), the commissioner may exempt the contract or benefit or class of contracts or benefits from the application of subsection (1) 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 (1).

(6) The commissioner may impose any terms and conditions that the commissioner considers appropriate on an exemption granted pursuant to subsection (5).

(7) The commissioner shall, as soon as is practicable, report to the Speaker in writing respecting any exemption granted pursuant to subsection (5).

(8) The commissioner shall include in the annual report to the Speaker required pursuant to section 25 a summary of all exemptions granted in that year or that remain in force during that year.

(9) A former member of the Executive Council who contravenes subsection (1) is guilty of an offence and liable, on summary conviction, to a fine of not more than \$50,000.

(10) No prosecution for an offence pursuant to this section is to be commenced after:

(a) in the case of an alleged offence respecting a contract or a benefit awarded, approved or granted, two years from the date that:

(i) the contract has been discharged or terminated; or

(ii) the benefit has been terminated; or

(b) in any other case, two years from the date of commission of the alleged offence”.

Section 35 amended

11 Clause 35(a) is repealed and the following substituted:

“(a) prescribing forms for the purposes of this Act”.

Coming into force

12 This Act comes into force on proclamation.

