

The Members’ Conflict of Interest Act

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Chapter M-11.11* of the *Statutes of Saskatchewan, 1993* (consult Table of Saskatchewan Statutes for effective date) as amended by the *Statutes of Saskatchewan, 1998, c.P-42.1; 2002, c.52; 2004, c.65; 2005, c.L-11.2; 2007, c.6; 2013, c.27; 2014, c.E-13.1, 2015, c.16; and 2018, c.42.*

***NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

NOTE:

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the official Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the official Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER M-11.11

An Act respecting the Conduct of Members of the Legislative Assembly and Members of the Executive Council, respecting Conflicts of Interest and to enact Consequential Amendments resulting from the enactment of this Act

SHORT TITLE AND INTERPRETATION

Short title

1 This Act may be cited as *The Members' Conflict of Interest Act*.

Interpretation

2(1) In this Act:

- (a) **“associate”** means, with respect to a member:
 - (i) a corporation having share capital and carrying on business or activities for profit or gain, where the member is a director or senior officer of the corporation;
 - (ii) a private corporation carrying on business or activities for profit or gain, where the member owns or is the beneficial owner of shares of the corporation;
 - (iii) a partnership having not more than 20 persons:
 - (A) of which the member is a partner; or
 - (B) of which one of the partners is a corporation directly associated with the member by reason of subclause (i) or (ii);
 - (iv) a person or group of persons acting as the agent of the member and having actual authority in that capacity from the member;
- (b) **“business”** means a corporation, proprietorship, partnership or other association of persons;
- (c) **“commissioner”** means the Conflict of Interest Commissioner appointed pursuant to section 18 and includes any acting commissioner appointed pursuant to section 19, 20 or 21;
- (d) **“Crown”** means the Crown in right of Saskatchewan and includes departments, secretariats and offices of the Government of Saskatchewan and Crown corporations, including corporations in which the Government of Saskatchewan owns a majority of shares;

- (e) **“family”**, with respect to a member, means the member’s spouse and dependent children;
 - (e.1) **“fiscal year”** means the period commencing on April 1 in one year and ending on March 31 in the next year;
 - (f) **“land”** includes any right, title, estate or interest in land and a profit à prendre with respect to land;
 - (g) **“member”** means:
 - (i) a member of the Assembly; or
 - (ii) a member of the Executive Council;
 - (h) **“private interest”** does not include an interest in a decision:
 - (i) that is of general public application;
 - (ii) that affects a person as one of a broad class of persons; or
 - (iii) that concerns the remuneration and benefits of a member or an officer or employee of the Assembly;
 - (i) **“Speaker”** means the member elected as Speaker of the Assembly in accordance with *The Legislative Assembly and Executive Council Act, 2007*;
 - (j) **“spouse”** means a person who is the member’s spouse within the meaning of *The Family Maintenance Act* but does not include a person to whom the member is married if the member and that person are living separate and apart.
- (2) For the purposes of this Act, where a person who ceases to be a member of the Assembly by reason of the dissolution of the Assembly again becomes a member as a result of the next following election, that person is deemed to have been a member of the Assembly during the period of time the person ceased to be a member to the time the person again became a member.

1993, c.M-11.11, s.2; 2005, c.L-11.2, s.97; 2007, c.6, s.2; 2015, c.16, s.5; 2018, c.42, s.65.

CONDUCT OF MEMBERS

Conflict of interest

3 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, his or her family’s private interest or the private interest of an associate.

1993, c.M-11.11, s.3.

Inside Information

4 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 to seek to further the member's private interest, his or her family's private interest or the private interest of an associate.

1993, c.M-11.11, s.4.

Influence

5 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, his or her family's private interest or the private interest of an associate.

1993, c.M-11.11, s.5.

Activities on behalf of public

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

1993, c.M-11.11, s.6.

Accepting extra benefits

7(1) Neither a member nor any of the member's family shall accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of the member's 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 mentioned in subsection (2) is greater than \$200 in value, or where the total value received directly or indirectly from one source in any 12-month period is greater than \$200, the member shall immediately file with the commissioner a disclosure statement.

(4) The disclosure statement required pursuant to subsection (3) shall:

- (a) be in the form prescribed by the regulations; and
- (b) indicate the nature of the gift or benefit, its source and the circumstances under which it was given and accepted.

1993, c.M-11.11, s.7.

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.

Carrying on business

9(1) If, in the opinion of the commissioner, a conflict with official duties and responsibilities is likely to result or to be seen to result, a member of the Executive Council shall not:

- (a) engage in any trade, occupation or employment or in the practice of any profession;
 - (b) manage or operate a business;
 - (c) hold an office or directorship in any corporation, organization or association.
- (2) A person who becomes a member of the Executive Council shall fully disclose his or her affairs to the commissioner in order to comply with subsection (1) within 90 days following his or her appointment.
- (3) Persons who are members of the Executive Council when this section comes into force shall fully disclose their affairs to the commissioner in order to comply with subsection (1) within 90 days of the coming into force of this section.
- (4) The commissioner may extend the period mentioned in subsection (2) or (3) by giving the member written notice to that effect, and may impose any terms and conditions on the extension that the commissioner considers just.
- (5) The commissioner shall file with the Clerk of the Assembly a copy of any notice given and any terms and conditions imposed pursuant to subsection (4), and the Clerk shall make the copy of the notice and the terms and conditions available for public inspection at the office of the Clerk during normal business hours of the Clerk.
- (6) A member of the Executive Council may apply to the commissioner for advice respecting compliance with this section.
- (7) On receipt of an application pursuant to subsection (6), the commissioner:
- (a) shall advise the member respecting compliance with this section; and
 - (b) may issue directions to the member respecting compliance with this section.
- (8) If a member of the Executive Council complies with subsection (1) 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 are 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, immediately after the changes have occurred.
- (9) For the purpose of this section, the management of routine personal financial interests does not constitute managing or operating a business.

Procedure on conflict of interest

10(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 consideration of the matter.

(2) A member of the Executive Council or a legislative secretary appointed pursuant to *The Executive Government Administration Act*, who has reason to believe that he or she has a conflict of interest with respect to a matter that requires that member's or that legislative secretary's decision, shall report that possible conflict to the President of the Executive Council.

(3) On receipt of a report pursuant to subsection (2):

- (a) the President of the Executive Council shall appoint another member of the Executive Council to perform the member's or the legislative secretary's duties with respect to the matter; and
- (b) the other member of the Executive Council appointed pursuant to clause (a) may act in the matter for the period of time necessary for the purpose.

1993, c.M-11.11, s.10; 2018, c.42, s.30.

DISCLOSURE

Disclosure statement

11(1) Every member shall file with the commissioner a disclosure statement in the form prescribed by the regulations.

(2) The disclosure statement mentioned in subsection (1) shall be filed:

- (a) in the case of a member who is in office when this section comes into force, within 90 days of this section coming into force;
- (b) in the case of a member who is elected, within 90 days of being elected.

(3) After filing a disclosure statement in accordance with subsection (2), the member shall file a disclosure statement annually, but not later than March 31 in each year.

(4) The disclosure statement mentioned in subsection (1) shall contain:

- (a) a statement of the assets, liabilities and financial interests of the member, of the member's family and of any private companies that are controlled by all or any of them;
- (b) a statement of the income of the member, of the member's family and of any private companies that are controlled by all or any of them and the sources of that income;

- (c) a statement of any directorships or offices held by the member or any of the member's family in the 12 months preceding the date of the statement;
 - (d) a statement of any business managed or operated by the member or any of the member's family in the 12 months preceding the date of the statement;
 - (e) a statement of any government contract, as defined in section 15, in which the member or any of the member's family is participating;
 - (f) any other information that is directed by the commissioner.
- (5) After filing a disclosure statement pursuant to this section, the member, and the member's spouse if available, shall consult with the commissioner:
- (a) to ensure that adequate disclosure has been made; or
 - (b) to obtain advice and direction on the member's obligations under this Act.
- (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.

1993, c.M-11.11, s.11; 2002, c.52, s.4; 2004, c.65, s.17.

Public disclosure statement

- 12(1)** After consulting with the member and the member's spouse if available, the commissioner shall:
- (a) review the disclosure statement filed pursuant to section 11; and
 - (b) if the commissioner is satisfied that the disclosure statement complies with this Act and the regulations, prepare and file with the Clerk of the Assembly a public disclosure statement.
- (2) The commissioner shall file with the Clerk of the Assembly the public disclosure statement as soon as is practicable, but not later than the June 30 following the filing of the member's disclosure statement pursuant to section 11.
- (3) The Clerk of the Assembly shall make each public disclosure statement filed pursuant to subsection (2) available for public inspection during the normal business hours of the office of the Clerk of the Assembly.

1993, c.M-11.11, s.12.

Contents of public disclosure statement

13(1) Subject to the regulations, a public disclosure statement required pursuant to section 12 shall include:

- (a) the name and the address of the registered office of each corporation in which the member, any of the member's family or a trustee of the member holds any shares, share warrants or share purchase options;
- (b) the name and the address of each business from which the member or any of the member's family receives remuneration for services as an employee, officer, director, trustee, partner or owner;
- (c) the names and addresses of all sole proprietorships or partnerships in which the member or any of the member's family has an interest;
- (d) the name and the address of each corporation, organization or association of which the member or any of the member's family is an officer or director;
- (e) the name and the address of each organization or association in which the member holds a membership;
- (f) the identity of bonds and debentures with a value greater than \$2,000 held by the member or any of the member's family, other than Treasury Bills or bonds issued by the Government of Canada, the government of any province or territory of Canada or any municipal government in Canada;
- (g) the identity of investment funds, mutual funds, investment trusts or similar securities of which the member or any of the member's family hold more than \$2,000, other than:
 - (i) registered retirement savings plans, other than self-directed plans;
 - (ii) registered home ownership savings plans;
 - (iii) registered education savings plans;
 - (iv) accounts and term deposits held in banks listed in Schedule I or II to the *Bank Act* (Canada) or in any other financial institutions in Saskatchewan that are lawfully entitled to accept deposits;
 - (v) pension plans;
 - (vi) insurance policies;
- (h) the municipal address or legal description of any real property, inside or outside Saskatchewan, that the member or any of the member's family has any interest in or title or right to;
- (i) the identity of and the extent of the member's or any of the member's family's participation in any government contract as defined in section 15;
- (j) the identity and the extent of any gift or benefit received by the member or by any of the member's family and mentioned in a disclosure statement filed pursuant to subsection 7(3);

- (k) the identity of any grant or subsidy from the Crown that was received by the member, any of the member's family or any business mentioned in clause (b), other than a grant or subsidy that is paid:
- (i) pursuant to a government contract; or
 - (ii) pursuant to an Act or regulation where the awarding of the grant or subsidy is not subject to the discretion of any individual and the standard terms and conditions of eligibility are objective in nature and are prescribed in an Act or regulation; and
- (l) any other information that may be directed by the commissioner.
- (2) Subject to subsection (3), the value or amount of any items required to be in a public disclosure statement shall not be disclosed.
- (3) The commissioner shall include the value or amount of an item required to be in a public disclosure statement if, in the opinion of the commissioner, knowledge of the value or amount is necessary to protect the public interest.
- (4) Notwithstanding subsection (1), the commissioner may exclude from a public disclosure statement a source of income received by the member's spouse or child if, in the opinion of the commissioner, the possibility of harm to the business of the member's spouse or child justifies the departure from the general principle of public disclosure.
- (5) Notwithstanding subsection (1), the commissioner may exclude from a public disclosure statement the name and address of a corporation, organization or association of which any of a member's family is an officer or director if, in the opinion of the commissioner, the exclusion is a justifiable departure from the general principle of public disclosure.
- (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.

1993, c.M-11.11, s.13; 2002, c.52, s.5.

Certain information confidential

- 14(1)** Subject to subsections (2) and (3), any information included in a member's disclosure statement filed pursuant to section 11 and not included in the member's public disclosure statement prepared pursuant to section 12 is confidential and shall not be disclosed to any person other than the member to whom the information relates or the commissioner.
- (2) Notwithstanding subsection (1), the commissioner may disclose, in an opinion prepared pursuant to this Act, any information that the commissioner considers necessary to disclose in order to establish grounds for the findings and recommendations in the opinion.

(3) Notwithstanding subsection (1), the commissioner may disclose to the Attorney General for Saskatchewan or the Attorney General for Canada information that relates to the commission of an offence against:

- (a) an Act or regulation; or
- (b) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada.

1993, c.M-11.11, s.14.

GOVERNMENT CONTRACTS

Prohibition of participation in government contracts

15(1) In this section and in sections 16 and 17, “**government contract**” means a contract entered into with the Crown for any purpose, and includes any contract for:

- (a) the supply to or by the Crown of any goods or services;
- (b) the sale, lease or other disposition of any real property to or by the Crown;
- (c) the construction of any public work for the Crown;
- (d) the determination of compensation or damages with respect to real property taken, damaged or purchased by the Crown;
- (e) the determination of compensation or damages to be paid by the Crown in cases not provided for in clause (d); or
- (f) the lending of moneys to or by the Crown.

(2) Notwithstanding subsection (1), a government contract does not include any contract that gives rise to the status of those persons described in section 14 of *The Legislative Assembly and Executive Council Act, 2007*.

(3) In this section and in sections 16 and 17, a member participates in a government contract where the member:

- (a) is, or has a right to become, in the member’s personal capacity, a party to or beneficially interested in the contract; or
- (b) is a shareholder, partner, director, manager or officer of, or has an interest in, a business that:
 - (i) is, or has a right to become, a party to or beneficially interested in the contract; or
 - (ii) has a subsidiary which is, or has a right to become, a party to or beneficially interested in the contract.

- (4) For the purpose of this section, a creditor of a business whose indebtedness was incurred other than in the ordinary course of trade has an interest in that business to the extent of that indebtedness.
- (5) Except as specifically provided in this or any other Act, no member shall participate in a government contract.
- (6) The prohibition in subsection (5) does not apply to:
- (a) a government contract that is not subject to the discretion of any individual, where the standard terms and conditions of eligibility are objective in nature and are prescribed in an Act or regulation; or
 - (b) a government contract that is exempted by the regulations from the application of this section.

1993, c.M-11.11, s.15; 2005, c.L-11.2, s.100;
2007, c.6, s.2.

Exemption from prohibition

- 16(1)** A member may apply to the commissioner for approval to participate in a government contract.
- (2) The commissioner may approve a member's participation in a government contract, if, in the opinion of the commissioner:
- (a) the consideration and terms of the government contract are fair and reasonable; and
 - (b) it is not contrary to the public interest to allow the member to participate.
- (3) The commissioner may impose any terms and conditions that the commissioner considers appropriate on an approval given pursuant to subsection (2).
- (4) Notwithstanding section 15, a member may participate in a government contract if:
- (a) the commissioner has given his or her approval pursuant to this section; and
 - (b) the member complies with the terms and conditions, if any, imposed by the commissioner on the approval.

1993, c.M-11.11, s.16.

Exception re government contracts

- 17(1)** A member does not contravene section 11 or 15 if the member:
- (a) was not aware of the existence of the government contract; and
 - (b) cannot be reasonably expected to have been aware of the existence of the government contract.
- (2) Within 90 days after becoming aware of the member's participation in a government contract, the member shall comply with sections 11 and 15.

1993, c.M-11.11, s.17.

COMMISSIONER

Commissioner

- 18(1)** The office of Conflict of Interest Commissioner is established.
- (2) The commissioner is an Officer of the Legislative Assembly.
- (3) The commissioner shall be appointed by order of the Legislative Assembly.
- (4) Subject to sections 19 and 20, unless he or she resigns, dies or is removed from office, the commissioner holds office for a term of five years.
- (5) The commissioner may be reappointed for one additional term of five years.
- (6) The commissioner may resign the office at any time by giving written notice to the Speaker.

1993, c.M-11.11, s.18; 2015, c.16, s.5.

Removal and suspension

- 19(1)** The Legislative Assembly may, by order, remove the commissioner from office, or suspend the commissioner, for cause.
- (2) If the commissioner is suspended pursuant to subsection (1), the Legislative Assembly, by order, shall appoint an acting commissioner to hold office until:
- (a) the suspension is revoked by the Legislative Assembly; or
- (b) the commissioner is removed from office by the Legislative Assembly pursuant to subsection (1) and a person is appointed as commissioner pursuant to section 18.

2015, c.16, s.5.

Suspension when Legislature not in session

- 20(1)** Where the Legislative Assembly is not in session, the Board of Internal Economy may suspend the commissioner for incapacity to act, neglect of duty, or misconduct that is proved to the satisfaction of the Board of Internal Economy.
- (2) No suspension imposed pursuant to subsection (1) continues past the end of the next session of the Legislative Assembly.
- (3) Where the office of the commissioner is vacant or the commissioner is suspended pursuant to subsection (1), the Board of Internal Economy shall appoint an acting commissioner to hold office until:
- (a) a person is appointed as commissioner pursuant to section 18;
- (b) the suspension is revoked by the Legislative Assembly; or
- (c) the commissioner is removed from office by the Legislative Assembly pursuant to subsection 19(1) and a person is appointed as commissioner pursuant to section 18.

(4) For the purposes of this section, the Legislative Assembly is not in session when it:

- (a) is prorogued or dissolved; or
- (b) is adjourned for an indefinite period or to a day more than seven days after the date on which the Board of Internal Economy made the order suspending the commissioner.

1993, c.M-11.11, s.20; 2015, c.16, s.5.

Acting commissioner

21 Where the commissioner has resigned or is ill or otherwise unable to act, the Board of Internal Economy may appoint another person as acting commissioner until:

- (a) the commissioner is able to act; or
- (b) another commissioner is appointed pursuant to this Act.

1993, c.M-11.11, s.21.

Salary

22 The commissioner is entitled to be paid:

- (a) a salary to be fixed by the Board of Internal Economy; and
- (b) an allowance for travelling and other expenses incurred in the performance of the duties of the commissioner at a rate approved by the Board of Internal Economy.

1993, c.M-11.11, s.22.

Application of certain Acts

23(1) *The Public Service Act, 1998* does not apply to the commissioner.

(2) *The Public Service Superannuation Act* applies to the commissioner.

1993, c.M-11.11, s.23; 1998, c.P-42.1, s.42.

Staff

24(1) Subject to subsection (2), the commissioner may, with the consent of the Speaker, use any employee of the Assembly as staff.

(2) Any officer of the Assembly may consent to act as staff for the commissioner where, in the officer's opinion, to do so will not unduly interfere with the officer's duties to the Assembly.

1993, c.M-11.11, s.24.

Staff

24.1(1) The commissioner may appoint the employees that are required in order to exercise the powers and perform the duties of the commissioner pursuant to this Act, *The Lobbyists Act* or any other Act effectively.

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MEMBERS' CONFLICT OF INTEREST

(2) *The Public Service Superannuation Act* and *The Public Employees Pension Plan Act* apply to the members of the staff of the commissioner.

(3) Members of the staff of the commissioner are employees of the Legislative Assembly and are not members of the public service of Saskatchewan.

(4) The employee benefits applicable to the public servants of Saskatchewan apply or continue to apply, as the case may be, to the staff of the commissioner's office.

(5) The commissioner shall:

(a) administer, manage and control the commissioner's office and the general business of the office; and

(b) oversee and direct the staff of the commissioner's office.

2015, c.16, s.5.

Human resources and financial management policies

24.2 The commissioner shall:

(a) prepare and maintain human resources and financial management policies that apply to his or her staff and operations; and

(b) within the period set by the Board of Internal Economy, table with the Board a copy of the policies mentioned in clause (a).

2015, c.16, s.5.

Expenses limited to appropriation

24.3(1) In this section, "**appropriation**" means:

(a) an appropriation for the expenses of the commissioner's office made by an *Appropriation Act*;

(b) an appropriation by special warrant; and

(c) any other amount that is permitted or directed to be paid out of the general revenue fund pursuant to this or any other Act for the expenses of the commissioner's office.

(2) The commissioner shall not incur expenses for a fiscal year in excess of the appropriation for that fiscal year.

2015, c.16, s.5.

Quarterly financial forecasts

24.4 Within 30 days after the end of each quarter in each fiscal year, the commissioner shall prepare and present to the Board of Internal Economy financial forecasts respecting the commissioner's actual and anticipated operations for that fiscal year.

2015, c.16, s.5.

Unprovided for or unforeseen expenses

24.5(1) For the purposes of this section, the Legislative Assembly is not in session if it:

- (a) is prorogued; or
 - (b) is adjourned for an indefinite period or to a day more than seven days after the Lieutenant Governor in Council made the order directing the preparation of the special warrant pursuant to this section.
- (2) If the Legislative Assembly is not in session, the commissioner may report to the Board of Internal Economy that:
- (a) a matter has arisen with respect to the administration of this Act respecting an expense required by the commissioner's office that was not foreseen or provided for, or was insufficiently provided for; and
 - (b) the commissioner is of the opinion that there is no appropriation for the expense or that the appropriation is exhausted or insufficient and that the expense is urgently and immediately required for the public good.
- (3) On receipt of a report of the commissioner pursuant to subsection (2), the Board of Internal Economy:
- (a) shall review the report and make any alterations to the funding request in the report that the Board considers appropriate; and
 - (b) may recommend to the Minister of Finance that a special warrant be issued authorizing the expense in the amount the Board determines to be appropriate.
- (4) On receipt of a recommendation of the Board of Internal Economy pursuant to subsection (3), the Minister of Finance shall recommend to the Lieutenant Governor in Council that a special warrant be issued authorizing the expense in the amount recommended by the Board.
- (5) On receipt of a recommendation of the Minister of Finance pursuant to subsection (4), the Lieutenant Governor in Council may order a special warrant to be prepared for the signature of the Lieutenant Governor authorizing the expense in the amount recommended by the Board of Internal Economy.
- (6) For the purposes of *The Financial Administration Act, 1993* and this Act, a special warrant issued pursuant to this section is deemed to be a special warrant issued pursuant to section 14 of *The Financial Administration Act, 1993*, and that Act applies to a special warrant issued pursuant to this section as if it were issued pursuant to section 14 of that Act.

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MEMBERS' CONFLICT OF INTEREST

Annual report

25(1) In accordance with section 13 of *The Executive Government Administration Act*, the commissioner shall in each year submit to the Speaker an annual report describing the progress and activities of the commissioner in the previous year.

(2) In accordance with section 13 of *The Executive Government Administration Act*, the Speaker shall lay before the Assembly each report received by the Speaker pursuant to subsection (1).

1993, c.M-11.11, s.25; 2014, c.E-13.1, s.62.

Non-compellability

26(1) The commissioner is neither competent nor compellable to:

(a) give evidence in any civil proceeding concerning any information that comes to the knowledge of the commissioner in the exercise of the powers, performance of the duties or carrying out of the functions of the commissioner pursuant to this Act; or

(b) produce any files, papers, information, reports, correspondence or other documents relating to the business or activities of the commissioner.

(2) Subsection (1) applies, with any necessary modification, to the staff of the commissioner.

1993, c.M-11.11, s.26.

Commissioner's opinion and advice

27(1) A member may request that the commissioner give an opinion and recommendation on any matter respecting the obligations of the member under this Act.

(2) The commissioner may make those inquiries that the commissioner considers appropriate to 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 written consent of the member.

1993, c.M-11.11, s.27.

Immunity

28 No action lies or shall be instituted against the commissioner, the staff of the commissioner or any person employed or engaged by the commissioner and no action lies or shall be instituted against any member of the public service where the commissioner, the staff, person or member of the public service is acting pursuant to the authority of this Act, the regulations or an order made pursuant to this Act, for any loss or damages suffered by any person for reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by any of them, pursuant to or in exercise of or in supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

1993, c.M-11.11, s.28.

INQUIRIES

Referral of opinion

29(1) A member who has reasonable and probable grounds to believe that another member is in contravention of this Act may request, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, that the commissioner give an opinion respecting the compliance of the other member with the provisions of this Act.

(2) A member who makes a request for an opinion pursuant to subsection (1) shall promptly provide the member who is the subject of the request with a copy of the application.

(3) The Assembly may request, by resolution, that the commissioner give an opinion on any matter respecting the compliance of a member with the provisions of this Act.

(4) The President of the Executive Council may request that the commissioner give an opinion on any matter including the compliance of a member of the Executive Council with the provisions of this Act.

(5) Where a matter has been referred to the commissioner under subsection (1) or (3), the Assembly or a committee of it shall not conduct an inquiry into the matter until it has received the opinion of the commissioner.

1993, c.M-11.11, s.29; 2002, c.52, s.6.

Inquiry and report

30(1) The commissioner may conduct an inquiry:

- (a) on receiving a request under section 29; or
- (b) where the commissioner considers it to be advisable respecting the compliance of a member with the provisions of this Act.

(2) The commissioner shall provide the member who is the subject of the inquiry with reasonable notice of an inquiry pursuant to subsection (1).

(3) For the purposes of an inquiry under this section, the commissioner has all the powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013*.

(4) Where the request for an opinion is made pursuant to subsection 29(1) or (3), the commissioner shall report his or her opinion to the Speaker and to the member who is the subject of the opinion.

(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.

(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.

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MEMBERS' CONFLICT OF INTEREST

(6) Where the request for an opinion is made under subsection 29(4), the commissioner shall report his or her opinion to the President of the Executive Council.

(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.

1993, c.M-11.11, s.30; 2002, c.52, s.7; 2013, c.27, s.22.

Penalties

31(1) Where the commissioner conducts an inquiry for the purposes of subsection 30(1) and finds that the member has contravened any provision of this Act, the commissioner may recommend in the report that is laid before the Assembly:

- (a) that the member be ordered to comply with the Act on those terms and conditions the Assembly considers appropriate;
- (b) that the member be reprimanded;
- (c) that the Assembly impose a fine on a member in an amount determined by order of the Assembly;
- (d) that the member be suspended; or
- (e) that the member's seat be declared vacant.

(2) The Assembly shall consider the commissioner's report and respond to it as subsection (3) provides within 40 sitting days of the day the report is laid before the Assembly.

(3) The Assembly may:

- (a) order the imposition of the recommendation of the commissioner under subsection (1);
- (b) impose all or any of the measures mentioned in clauses (1)(a) to (e); or
- (c) reject the recommendation.

(4) Division 5 of Part II of *The Legislative Assembly and Executive Council Act, 2007* applies to the proceedings under this section.

1993, c.M-11.11, s.31; 2005, c.L-11.2, s.100; 2007, c.6, s.2 and 4.

Opinion on conduct of members

32(1) The Assembly may request, by resolution, that the commissioner give an opinion on any matter that relates to the conduct of a member and that is in addition to the compliance of the member with the provisions of this Act.

(2) The President of the Executive Council may request that the commissioner give an opinion on any matter that relates to the conduct of a member of the Executive Council and that is in addition to the compliance of the member of the Executive Council with the provisions of this Act.

(3) Where a matter has been referred to the commission under subsection (1), the Assembly shall not conduct an inquiry into the matter until it has received the opinion of the commissioner.

1993, c.M-11.11, s.32.

Inquiry and report

33(1) The commissioner may conduct an inquiry on receiving a request under section 32.

(2) The commissioner shall provide the member concerned with reasonable notice of an inquiry pursuant to subsection (1).

(3) For the purposes of an inquiry under this section, the commission has all the powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013* .

(4) Where the request for an opinion is made under subsection 32(1), the commissioner shall report his or her opinion to the Speaker.

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

(6) Where the request for an opinion is made under subsection 32(2), the commissioner shall report his or her opinion to the President of the Executive Council.

(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.

1993, c.M-11.11, s.33; 2002, c.52, s.8; 2013, c.27, s.22.

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.

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MEMBERS' CONFLICT OF INTEREST

- (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 section 13 of *The Executive Government Administration Act*.
- (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).

2002, c.52, s.9; 2014, c.E-13.1, s.62.

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.

2002, c.52, s.10.

Regulations

35 The commissioner may make regulations:

- (a) prescribing forms for the purposes of this Act;
- (b) exempting categories of information from being provided in a public disclosure statement required by section 12;
- (c) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations.

1993, c.M-11.11, s.35; 2002, c.52, s.11.

36 to 38 **Dispensed.** These sections make consequential amendments to other Acts. The amendments have been incorporated into the corresponding Acts.

Coming into force

39 This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.

1993, c.M-11.11, s.39.

