



## REPORT

### *For a Culture of Integrity*

Review of Conflict of Interest Legislation  
Applicable to Members of the  
Legislative Assembly of Nunavut

November 15, 2000  
Tabled in the Legislative Assembly on May 22, 2001

Hon. Robert Stanbury, P.C., Q.C.  
Conflict of Interest Commissioner of Nunavut

***“...there is no substitute for a culture of integrity... compliance alone with the law is not enough. History shows that those who make a practice of skating close to the edge always end up going over the line.”***

- J. Richard Finlay,  
Centre for Corporate & Public Governance

November 15, 2000

Honourable Kevin O'Brien, MLA  
Speaker  
and Chairman, Management and Services Board  
Legislative Assembly of Nunavut  
Iqaluit, Nunavut  
X0A 0H0

Mr. Speaker:

It is my honour to present my report, *For a Culture of Integrity*, on the Review of Conflict of Interest Legislation Applicable to Members of the Legislative Assembly, pursuant to the terms of reference entrusted to me under the Clerk's letter of April 25, 2000.

Respectfully,

Robert Stanbury  
Conflict of Interest Commissioner

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# 1. INTRODUCTION

A new Territory at the dawn of a new millennium faces infinite opportunity and infinite challenges. Nunavut is at once old and new – Canada's oldest and youngest society, a land of ancient roots, a dynamic present and an onrushing future. A fundamental challenge is to set standards for its public officials that will do justice to its people's dreams, aspirations and values. That is a priority of the new Legislative Assembly of Nunavut as it builds a sound foundation for the future.

Conflict of interest legislation elsewhere has often developed in reaction to past ethical lapses by politicians. Without such a historical burden, Nunavut legislators have had a clean slate on which to write rules for themselves and their successors to ensure that their public duty will always prevail over private advantage. They have started already to write on that slate.

In its Bathurst Mandate, the new Government of Nunavut committed itself to certain principles, among them:

- "*Inuit Qaujimajatuqangit* will provide the context in which we develop an open, responsible and accountable government."
- "By developing programs and services, which are fair, understandable and easy to access, we will encourage public participation and create accountability."

It added:

- "We respect the accumulated wisdom of our elders, examining and evaluating our actions based on the best of both modern knowledge and traditional ways."

It also aimed for simplicity of process and responsibility of decision-making.

The statement of Members' Obligations, adopted by motion in the Legislative Assembly in May, 2000, and signed by all the Members, speaks to principles of leadership and responsibility that honour both the past and the future aspirations of Nunavut, and demonstrates a clear sensitivity to conflict of interest:

- "I will not condone actions that are dishonest or which exploit positions of privilege for personal gain."

It also recognized the following traditional Inuit values: *Inuit Qaujimajatuqangit* (Inuit traditional knowledge), *Aisimi Ippigusuttiarniq* (respect for others), *Pilirriqatigiikniq* (working together), *Qinuisaaniq* (patience and humility) and *Angiqatigiikniq* (consensus-building).

The approach recommended in this report for new conflict of interest legislation in Nunavut seeks to incorporate these and other Inuit values:

- Processes that are informal, flexible and timely, with a view to quickly restoring harmony;
- Respect for individuality, independence and non-interference, in the context of community responsibility;
- Advice by a trusted and respected person as problems arise;

- While encouraging confidentiality and internal processes to resolve problems, recognition that the entire community has responsibility to monitor behaviour and encourage accountability;
- Dealing with problems in a progressive manner, recognizing differences between less significant problems and ones that would have a lasting effect on the community;
- Encouraging individuals to take responsibility for their actions and own up to any wrongdoing, while ensuring that respectful treatment, advice, counselling, discipline and remedial action are all part of the system;
- Ensuring consensus as to ultimate decisions on sanctions and that these decisions are made by the whole community.

Nunavummiut have achieved the dream of their own Territory. They have chosen their first legislators and entrusted them with their aspirations. They expect their elected representatives to reflect their deepest values.

As Nunavut's first Conflict of Interest Commissioner, I have every reason to believe that the members of the Legislative Assembly demand no less of themselves. This report, therefore, is founded on an assumption of their integrity and commitment to the primacy of the common good. It proposes a set of ethical standards and a guide to their attainment, rather than simply a catalogue of anticipated sins and dire penal consequences. It puts the emphasis on openness and accountability. Its basic approach is preventive not punitive. It assumes the best, not the worst. Its emphasis is on the positive, not the negative. It recognizes the right, responsibility and commitment of the Legislative Assembly to set its own demanding standards and ensure its Members' compliance with them, but in the full knowledge that the electors are the ultimate judges of the elected.

## 2. MANDATE

At its creation on April 1, 1999, Nunavut inherited from the pre-division Northwest Territories its *Legislative Assembly and Executive Council Act*, Part III of which deals with Conflict of Interest.

After a year's experience with that law, the Legislative Assembly commissioned this review and requested recommendations from its Conflict of Interest Commissioner for legislation which would be appropriate for Nunavut.

The Terms of Reference laid out the following:

### Objectives of the Review

- To ensure that the legislation is clear and understandable to Members and to the public.
- To ensure a cost-effective conflict of interest administrative, review and appeals process that takes into account the capacity of Nunavut's institutions and resources;
- To ensure processes and standards which take into account Inuit traditional knowledge, concepts of leadership, ethical behaviour and appropriate sanctions; and
- To ensure processes and standards which are consistent with those set for ethical conduct on the part of elected representatives in other Canadian jurisdictions.

### Review process

The process should include the following elements:

- Review of the recommendations of the recent Northwest Territories Conflict of Interest Review Panel with respect to their potential relevance to Nunavut;
- Review of recent amendments to the provisions regarding conflict of interest in the *Legislative Assembly and Executive Council Act* of the Northwest Territories with respect to their potential relevance to Nunavut;
- Review of other conflict of interest regimes and ethical conduct guidelines in Canada and, in particular, any recent changes which may highlight new policy and legislative directions on these issues that may be potentially relevant to Nunavut;
- Review of information on Inuit traditional knowledge related to these issues;
- Options for consideration, including any key policy questions for Members and officials; and
- Observations, conclusions and recommendations.

### 3. DOCUMENTS REVIEWED

#### References on Inuit Traditional Knowledge

- "Report from the September *Inuit Qaujimagatuqangit* Workshop, Niaqunngnut, Nunavut, September 29-30, 1999", Department of Culture, Language, Elders and Youth, Government of Nunavut
- "Interviewing Inuit Elders, Volume 2, Perspectives on Traditional Law", 1999, Nunavut Arctic College
- Various internal discussion documents and presentations prepared by individuals in Departments in the Government of Nunavut on *Inuit Qaujimagatugangit*, including Human Resources and Sustainable Development, 1999
- "Towards Justice That Brings Peace – Justice Retreat and Conference, Rankin Inlet, 1998", Nunavut Social Development Council
- "The Inuit Way: A Guide to Inuit Culture", 1989, Pauktutiit Inuit Women's Association of Canada
- "Elders Conference, Kangiqitiniq, Rankin Inlet, April 25-28, 1983", Inuit Cultural Institute

#### Nunavut

- *Legislative Assembly and Executive Council Act, Part III*
- *The Bathurst Mandate*, Government of Nunavut, 1999
- *Members' Obligations*, adopted by motion in the Legislative Assembly of Nunavut, May, 2000

#### Northwest Territories

- Report of the Conflict of Interest Review Panel, 1999
- *Legislative Assembly and Executive Council Act, Part 3*, 1999
- Annual Reports of the Conflict of Interest Commissioner, 1997-98, 1998-99

#### Yukon

- *Conflict of Interest (Members and Ministers) Act*
- *Legislative Assembly Act*

#### British Columbia

- *Members' Conflict of Interest Act*
- Annual Report of the Conflict of Interest Commissioner, 1995-96
- "Conflict of Interest Legislation in British Columbia: An Analysis of Recommendations for Reform", by Michael James Lawless, 1998
- Report of Select Standing Committee on Parliamentary Reform, Legislative Assembly of B.C., 1999

#### Alberta

- *Conflicts of Interest Act*
- Report of *Conflicts of Interest Act* Review Panel, 1996



**Saskatchewan**

- *The Members' Conflict of Interest Act*

**Manitoba**

- *The Legislative Assembly and Executive Council Conflict of Interest Act*

**Ontario**

- *Members' Integrity Act*

**Quebec**

- *National Assembly Act, Division II*

**New Brunswick**

- *Members' Conflict of Interest Act*
- Report on Review of the N.B. *Conflict of Interest Act*, 1997

**Nova Scotia**

- *Members and Public Employees Disclosure Act*

**Prince Edward Island**

- *Conflict of Interest Act*

**Newfoundland**

- *House of Assembly Act, Part II*

Other annual reports of territorial and provincial Conflict of Interest, Ethics and Integrity Commissioners

**Federal**

- *Conflict of Interest and Post Employment Code for Public Office Holders*, 1994
- Report of Special Joint Committee on a Code of Conduct, 1997

**United Kingdom**

- Reports of Committee on Standards in Public Life, 1995, 2000

## **4. INUIT TRADITIONAL KNOWLEDGE AND CONFLICT OF INTEREST**

**by Patricia File, Research Officer, Legislative Assembly of Nunavut**

The terms of reference for the review by the Conflict of Interest Commissioner requested consideration of traditional Inuit knowledge that may be applicable to these issues. In order to assist the Conflict of Interest Commissioner, research was undertaken of a few selected references, primarily written by or for Inuit organizations, that were based on translated interviews with Elders and others to provide an overview of Inuit traditional knowledge and values, particularly in the areas of traditional customary law, methods of responding to people who behave in a manner that is not acceptable to the community, and Inuit values, belief and taboos. In addition, discussions were held with a number of individuals regarding a draft of this document, as well as the Members. It is recognized that this was not a comprehensive research process involving new interviews with Elders. However, while there were few direct references in the literature to conflict of interest and *Inuit Qaujimaqatunangit*, there were a number of principles that were potentially applicable to these issues, largely from discussions on traditional customary law and more modern approaches to community justice and these were identified for this report.

### **Summary of Key Principles<sup>1</sup>**

The following traditional Inuit values, principles and processes are highlighted as possible foundations for developing a new approach to conflict of interest in Nunavut, as it applies to Members of the Legislative Assembly.

- Processes are informal, flexible and timely, with a view to quickly restoring harmony.
- Respect for individuality, independence and non-interference, in the context of community responsibility
- Concern for the good of the whole community. Tradition of sharing and not taking advantage or more than your share or being greedy.
- While encouraging more personal and internal processes initially to resolve problems, recognize that the entire community and all members of your family or group, have responsibility to monitor behaviour and encourage accountability.
- Encourage openness and truthfulness.
- Encourage individuals to take responsibility for their actions and own up to any wrongdoing, while ensuring that respectful treatment, advice, counselling, discipline and remedial action are all part of the system.
- General agreement on positive expectations.
- Use of understandable and accessible language and processes.
- Overall principle of respect to all involved.

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<sup>1</sup> Note: The list of key principles are not individually referenced, but a list of documents referred to in developing this list, is included in section 3 of this report. Some principles were provided orally by individuals to the researcher, who are listed in section 9 of this report.

- Provide advice to individuals by a trusted and respected person in these matters and as problems arise, relying on traditional leadership. Provide advice to community as well.
- Provide opportunity for Elders to advise or counsel individuals or advise on the process, in a confidential or personal manner, but not in a manner that would put a burden on an Elder to keep a secret that would be heavy in their heart.
- Recognize that spiritual beliefs are an important part of wanting to obey the rules established by the community.
- Deal with problems in a progressive manner, recognizing differences between small or insignificant conflicts and those that are more serious or would have a lasting effect on the community or put the community at risk.
- Not making judgments on matters without first hand knowledge.
- Do not use a framework of punishment, but rather use a response or a sanction. Preventative focus so people learn from their mistakes. Try to keep people receptive, so learning can happen.
- Knowledge is gained primarily experientially.
- Response must not cause more problems for the group than the initial infraction.
- Group consensus around penalty or response. Greater comfort when decisions made by a group, rather than individual.
- Focus on the individual rather than the offence. Care and individualized attention.
- Recognize that informal social pressure and public criticism, such as ridicule and social ostracism may be operating in addition to any formal response by the system and that this may also influence future behaviour.
- With an apology should come forgiveness. An apology comes from the heart in good faith. It cannot be demanded.
- Doing something planned that you know is wrong is very serious, particularly if it is manipulative or secret. It may be considered more serious than something done in reaction to emotionally charged events, including violent acts.
- Traditionally, there was not a system of formal authority and written codes.
- People will comply with what those they respect ask from them – i.e the wish to obey, rather than the obligation to obey. (*piqujaq* and *maligaq*)
- *Pijitsirniq* – leadership role assumes responsibility to serve community; serves in the interest of community as opposed to pure self-interest.

In discussing the efforts by the courts in Nunavut to incorporate *Inuit Qaujimaqatuqangit* with Hon. Madame Justice Beverley Browne, the Conflict of Interest Commissioner was advised that in some communities, certain Elders from Community Justice Committees have been sitting in open court, and following the lawyers' submissions, the Elders are provided an opportunity to address the accused or to give suggestions to the Judge. She observed that Elders who participate in this manner are very knowledgeable on the process of the court and are very aware and cautious of the issue of conflict of interest as it may relate to family relationship or other areas. This experience may provide one model to consider for involving Elders in a conflict of interest proceeding.

## 5. THE NORTHWEST TERRITORIES EXPERIENCE

### I. THE REVIEW PANEL

A Conflict of Interest Review Panel, consisting of Sue Heron-Herbert of NWT, the Honourable E.N. (Ted) Hughes, Conflict of Interest Commissioner of Yukon, and Robert C. Clark, Ethics Commissioner of Alberta, as Chair, reported to the new NWT Legislative Assembly on April 8, 1999. It had done its work in the wake of a long, costly and controversial inquiry under the conflict of interest provisions of the old NWT's *Legislative Assembly and Executive Council Act*, which was duplicated as a statute of Nunavut when it became a separate Territory on April 1, 1999.

That distinguished Panel's views of an identical law are of particular interest in our current review. However, it is fair to assume that a report of any panel of more than one person will reflect compromises in the interest of consensus. It is also clear that the Panel's recommendations and the new NWT Legislative Assembly's response to them in a new Act enacted later in 1999 were naturally coloured by the contentious atmosphere of the time and place. Therefore, both should be treated with caution, as well as respect, in drawing conclusions as to their relevance for Nunavut.

Not all the Panel's 38 recommendations were intended to be incorporated into legislation but all are worthy of consideration. Not every recommendation was adopted in the NWT fully or at all. The following section of this report lists the Panel's recommendations and their disposition by the new NWT Legislative Assembly with my observation and recommendation on each.

A major issue on which the NWT departed from the Panel's recommendation deserves to be highlighted. The Panel suggested a process (similar, they said, to the one used successfully in British Columbia) in which the Conflict of Interest Commissioner, after an initial informal investigation could either investigate the matter more fully or move it into a public inquiry. However, the NWT legislators chose to truncate that process so as to require a complaint to move directly from an initial investigation, unless summarily disposed of on limited grounds at that stage, into a full formal inquiry. The result is a process which seems inconsistent with **one of the Panel's stated objectives:**

**"A less expensive and more timely alternative to a full public inquiry available in circumstances where such an approach is warranted."**

It also appears to defeat the purpose of what was perhaps **the Panel's key recommendation:**

**"An investigation and report by the Conflict of Interest Commissioner should be the desired process to be followed in the interests of time and costs."**

## **II. THE PANEL REPORT, THE NWT LEGISLATIVE RESPONSE AND OBSERVATIONS ON BOTH**

*The current Nunavut statute is identical to that studied by the NWT Panel. This review, in the interests of brevity, attempts to excerpt, abbreviate and paraphrase accurately the Panel's report, and to interpret accurately the NWT amendments. The Panel's full report and the new Part 3 of the NWT statute are, of course, the most reliable sources.*

### **THE PANEL'S STATED OBJECTIVES:**

- A stronger Conflict of Interest Commissioner's office with total responsibility for dealing with Members and working with them to understand what is expected of them;
- A defined procedure for investigations with clear parameters as to the role of all parties;
- A less expensive and more timely alternative to a full public inquiry;
- A regime where the people know what is expected of their elected representatives and senior appointed officials, and are able to voice concerns.

**Observation: I agree with these objectives (except dealing with appointed officials in the same statute). The new NWT law does not reflect all of the Panel's recommendations and does not entirely achieve these objectives, in particular "a less expensive and more timely alternative to a public inquiry".**

### **THE PANEL'S RECOMMENDATIONS:**

- **The Role of The Conflict of Interest Commissioner As An Officer of the Legislative Assembly**

#1. The Conflict of Interest Commissioner should be readily available so that Members of the Legislative Assembly can obtain advice in a timely manner.

#2. The Conflict of Interest Commissioner should be the sole source of advice to Members of the Legislative Assembly regarding conflicts of interest.

#3. The Conflict of Interest Commissioner should conduct an orientation seminar for all new Members of the Legislative Assembly after each election.

#4. The Conflict of Interest Commissioner should, within the jurisdiction of his or her office, develop guidelines to assist Members of the Legislative Assembly.

**Observation: I agree with these recommendations and they have been implemented in Nunavut. Although they may have been implemented administratively in NWT, they were not incorporated into law and need not be in Nunavut.**

#5. The Members' annual disclosure statements should be filed with the Conflict of Interest Commissioner and it should be his or her responsibility to prepare the public disclosure statement pursuant to Section 78 of the Act.

**Observation: I agree that all Members' disclosure statements and reports should be filed with the Commissioner, but they should continue to be filed as well with the Clerk, who should continue to make them available in his office for the convenience of Members and the public.**

#6. Members should be required to meet with the Conflict of Interest Commissioner on an annual basis to review their disclosure forms.

#7. Section 79.3(1)(a) should be amended to remove the 45-day grace period for late filing of disclosure statements.

**Observation: I agree with these recommendations (the latter of which was also urged by the last Conflict of Interest Commissioner of the old NWT in her final annual report).**

#8 The Act should be revised to state that failure to comply with the requirements for filing disclosure statements is a breach of a Member's obligations and may be the subject of a complaint.

**Observation: I agree with the intent, although this appears to be implicit in the present Section 80(1), which permits a complaint about contravention of "any provision of this part".**

#9 A Member should be permitted to have an interest in a private company contracting with the Government if the Member has placed his or her interest in a trust approved by the Conflict of Interest Commissioner.

**Observation: I agree, although I would favour giving the Commissioner discretion to authorize holdings or contracts as an alternative to expensive trust arrangements. Also, I would not limit trusts to holdings in private companies. At present in Nunavut, corporations controlled by the Speaker or Ministers may not contract with their own departments, but neither their controlled corporations nor those of regular Members are otherwise restricted from contracting with the Government. The Panel did not draw such distinctions. The new NWT law permits a corporation controlled by the Speaker or a Minister to contract even with the department for which he or she is responsible is if the shares are held in an approved trust. I favour permitting a Minister's business, whatever its legal form, to contract with the Government, including with a department for which he or she is responsible, only if the interest is held in a trust approved by the Commissioner or if a specific contract is so approved.**

#10. The Conflict of Interest Commissioner should submit an estimated budget to the Legislative Assembly for approval annually, and the funds should be supplied directly to the Commissioner.

**Observation: This recommendation is not reflected in the new NWT law, but may be followed in practice. The Panel stressed that access to adequate financial resources, including supplementary funds if necessary, is essential to fulfillment of the Commissioner's duties as an independent Officer of the Assembly. I agree.**

#11. The Conflict of Interest Commissioner should maintain a separate office readily accessible to Members and the public but outside the Legislative Assembly building.

#12. Public education should be a fundamental component of the Conflict of Interest Commissioner's function and he or she should develop a pamphlet for public distribution informing the public of their rights under the Act.

**Observation: I agree with these administrative recommendations, which were not incorporated in the new NWT law and need not be in the Nunavut legislation.**

#13 The Assembly may consider combining the Conflict of Interest Commissioner position with another Legislature office.

**Observation: No combination has occurred in NWT, nor would it seem to offer any advantage at this time in Nunavut. A compatible office, on the basis of experience elsewhere, would be one to oversee lobbying if ever it were established.**

- **Defining Conflict Of Interest**

#14. The Act should state that a Member has a conflict of interest when the Member exercises an official power or performs an official duty or function in the execution of his or her office and at the same time knows that the performance of the duty or function or the exercise of the power might further his or her private interest or the private interest of his or her spouse or dependent child.

**Observation: The new NWT law incorporates this recommendation, adding "or reasonably should know" after "knows". I agree in principle, but favour a definition that prohibits improperly furthering the interest of anyone.**

#15. Section 67 (a) imposes a high standard of ethical conduct on Members, which should be retained, and it is not necessary to legislate specifically against apparent conflict of interest.

**Observation: I agree. The Panel said: "This section is broad enough to cover situations of apparent conflict of interest which are likely to erode public confidence in the system, and flexible enough to cover other situations...which may have ethical considerations. It recognizes that the obligations of Members...go beyond the requirement that they not profit financially from their office, and that members have positive obligations for which they may be held accountable."**

#16. Section 80 should state that a Member who has reasonable grounds to suspect that another Member is in contravention of Part III may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the Conflict of Interest Commissioner give an opinion respecting the compliance of the other Member with the Act.

**Observation: I agree that grounds should be stated. The new NWT law incorporates such a requirement, but it does not introduce the concept of a request for opinion rather than a complaint. The Panel did not repeat its use of such gentler terminology (as found in B.C. and elsewhere), but I would favour it.**

#17. Members of the public should be subject to the same requirements for laying a complaint as Members. However the Conflict of Interest Commissioner should have the discretion to meet with a member of the public to receive a complaint, and to accept a verbal complaint (and record it in written form) in circumstances where it is appropriate to do so.

**Observation: The new NWT law allows for an oral complaint by a member of the public, but does not require it to be recorded in writing. I favour the same requirements for complaints (or requests for opinion) from any source, preferring that someone other than the Commissioner, who must rule on them, formulate them in writing.**

#18. The Conflict of Interest Commissioner should investigate and determine which of these three processes is appropriate:

- a. A further and more extensive investigation to be completed by the Commissioner;
- b. Dismissal of the complaint as provided for in Section 81; or
- c. The holding of a public inquiry by an Adjudicator.

**Observation: This recommendation is only partly reflected in the new NWT law, which leaves out the crucial "further and more extensive investigation" by the**



**Commissioner. I favour in principle the process proposed by the Panel: initial informal investigation leading to dismissal or further investigation by the Commissioner, resulting in a decision or more formal inquiry. However, I do not favour substitution of an Adjudicator for the Commissioner or the process adopted in the new NWT law, neither of which is consistent with other Canadian regimes or with the Panel's aim for the Commissioner to resolve most complaints without a public inquiry.**

#19. An investigation and report by the Conflict of Interest Commissioner should be the desired process to be followed in the interests of time and costs.

**Observation: I agree. The new NWT law runs counter to this key recommendation of the Panel.**

#20. In a preliminary investigation, the Conflict of Interest Commissioner may meet with the complainant, the Member against whom the complaint is made, and any other person the complainant or the Member believes could assist.

**Observation: I agree. This procedural recommendation is not reflected in the new NWT law, perhaps being thought unnecessary.**

#21. If the Conflict of Interest Commissioner decides that the matter should be disposed of pursuant to Section 81, he or she should dismiss the complaint with written reasons and reference it in his or her annual report.

**Observation: I agree with the requirement of written reasons to be added to our present Section 83(1)(a) process, as essentially retained in the new NWT law, and the requirement for a decision to be reported to the Speaker, now in both statutes though not included in the Panel's recommendation.**

#22. In a further and more extensive investigation, the Conflict of Interest Commissioner or his or her lawyer should examine under oath in the presence of a court reporter or obtain a statutory declaration from every person whom the Commissioner believes can usefully contribute. The Commissioner should then file his or her opinion with the Speaker together with a transcript of all the evidence on which his or her decision was based, and those documents should be available for public scrutiny.

**Observation: These procedural suggestions should not inhibit the Commissioner's flexibility and discretion. They are not reflected in the new NWT law and need not be in Nunavut legislation.**

#23. If, during the course of the investigation, the Conflict of Interest Commissioner determines that the public interest would be better served by a public inquiry, he or she may terminate the investigation and have the matter moved to a public inquiry.

**Observation: I agree that an inquiry should be in public if that would better serve the public interest. In the new NWT law, the inquiry held by an Adjudicator may be in public or in private.**

#24. If the Conflict of Interest Commissioner determines that the matter should proceed to a public hearing, he or she should inform the Legislative Assembly (if in session) or otherwise the Management and Services Board and request that an Adjudicator be appointed forthwith to conduct a public inquiry.

**Observation: I do not agree with the substitution of an Adjudicator for the Commissioner in mid-process. The new NWT law requires the Commissioner, after initial investigation, to either summarily dispose of a complaint on very limited grounds or direct that an inquiry be held before an Adjudicator, who may hold it in public or in private. Such a process is not found in any other Canadian jurisdiction.**

#25. A public inquiry should be conducted by a sole Adjudicator, and following its conclusion, the Adjudicator should file his or her report with the Speaker. That report should be made public.

**Observation: This recommendation is reflected in the new NWT law, with the exception that the inquiry is not required to be in public. I agree with the Panel that a public inquiry should follow only if the Conflict of Interest Commissioner decides that it is in the public interest during his or her investigation. I do not favour substituting an Adjudicator for the Commissioner for a full inquiry, which is not done in any other Canadian jurisdiction and would seem to risk prolonging and complicating the process.**

#26. The Adjudicator should either be a Conflict of Interest Commissioner or a former one from another jurisdiction or a former one from NWT. If such a person is not available, the Adjudicator should be a Judge of the NWT Supreme Court, named for that purpose by the senior Judge of the Court.

**Observation: Under the new NWT law, the Legislative Assembly may approve judges or retired judges and serving or former Conflict of Interest Commissioners from whom the Board of Management shall recommend appointment of a Sole Adjudicator. In the interests of time and costs, I favour any inquiry being conducted by the Conflict of Interest Commissioner, as in all other Canadian jurisdictions with such Commissioners.**

#27. The Conflict of Interest Commissioner and the Adjudicator should have all the summoning powers available under the Public Inquiries Act.

**Observation: I agree. Such powers are essential for an effective investigation. The new NWT law does not give such powers to the Conflict of Interest Commissioner.**

#28. No legal costs should be paid for any party other than the Member against whom the complaint is made, and those only if he or she is exonerated. Costs of Commission counsel will be paid.

**Observation: The new NWT law requires payment of costs of the Member complained against in accordance with policy set by Board of Management, and forbids payment of a complainant's costs from the Consolidated Revenue Fund. I favour the Conflict of Interest Commissioner having discretion to recommend payment of costs to or by any party, and to or from the Government.**

- **Investigation And Public Inquiry Process**

#29. The Conflict of Interest Commissioner or Adjudicator should have the sole responsibility for determining if there has been a contravention of the conflict of interest provisions.

**Observation: I agree. However, the new NWT law gives most such power only to the Adjudicator.**

#30. The Conflict of Interest Commissioner or Adjudicator should recommend a sanction where he or she finds there has been a contravention of the conflict of interest provisions. The Legislative Assembly may order the imposition of the sanction, or may reject the recommendation, but the Legislative Assembly must not further inquire into the contravention or impose a sanction other than the one recommended.

**Observation: I agree. The new NWT law preserves the principle but gives only the Adjudicator the power to recommend a sanction.**

#31. Judicial review of the Conflict of Interest Commissioner or Adjudicator's decision should be prohibited.

**Observation: I agree. However, this recommendation is not reflected in the new NWT law.**

#32. The requirement that an inquiry by the Conflict of Interest Commissioner be conducted in accordance with the principles of natural justice should be deleted.

**Observation: I agree. The Panel notes that the law of no other jurisdiction contains such a provision (which could be interpreted as an invitation to judicial review). However, it is retained in the new NWT law.**

#33. The Conflict of Interest Commissioner's or Adjudicator's report should be considered by the Legislative Assembly within 10 days after it is tabled, and a determination must be made with respect to any recommended sanctions before the end of that session.

**Observation: I agree. However, the new NWT law allows 15 sitting days for tabling the Adjudicator's report and imposes no time limit for tabling of the Commissioner's report or for the Legislative Assembly's decision on sanctions.**

- **Appointed Officials**

#34. Deputy Ministers and those functioning at an equivalent level should be subject to the same standards as Ministers. These standards should be legislated and should include the filing of an annual financial statement and an annual meeting with the Conflict of Interest Commissioner.

#35. The restrictions on such appointed officials should also apply to their spouses and dependent children. However, they should have the right to apply to the Conflict of Interest Commissioner for an exemption, which may be granted where not contrary to the public interest.

#36. Such appointed officials should be subject to post-employment restrictions with respect to lobbying activities and assuming employment with organizations that had significant dealings with their department or agency. The period of restriction should be six months.

#37. The Conflict of Interest Commissioner should, after giving notice to the Deputy Minister or senior officer, report any concerns involving them to the Premier and the Minister responsible, who should be required to report steps taken to the Commissioner within 60 days. That information should then be included in the Commissioner's annual report.

#38. The Act should forbid any job action against a person for bringing matters to the attention of the Conflict of Interest Commissioner or assisting him or her in the course of duty.

**Observation: I agree in principle with these recommendations, but I favour a statute focusing at this time exclusively on Members of the Legislative Assembly, as in most other Canadian jurisdictions. Appointed officials were not included in the new NWT law.**

## 6. THE CANADIAN EXPERIENCE

Over a period of more than two decades, all territorial and provincial legislators in Canada have committed themselves by statute to ethical conduct in office. In doing so, they acknowledge that there is a range of conduct short of criminal which is unacceptable in those elected to serve their fellow citizens.

*When a person is elected to public office, that person becomes a trustee for the interests of others, and their interest may conflict with the private interests of the member. When that situation arises, the ethical member will resolve it in a manner favourable to the public interest.*

- Hon. Gregory T. Evans, Q.C.,  
Ontario's first Integrity Commissioner

Each territory and province now has a conflict of interest statute covering its legislators, including Ministers. Some cover appointed officials as well. Although there is no such federal statute, a code of conduct has been imposed by the Prime Minister on Ministers and senior officials. These rules of conduct have been evolving through the years as older ones have been amended and new ones adopted, as recently as in the past year, sometimes after a review such as the one here undertaken.

*The trend for this type of legislation has been clearly a move away from a strict interpretation of conflict of interest in terms of it being the disparity between a member's private pecuniary interest and the public's interest. This movement has led to the development of various regulatory schemes, which obligate members (and in some cases senior appointed officials) to behave with honour, integrity and objectivity as they discharge their official responsibilities. ...a replacement of the list of proscriptions with a series of broad ethical principles. It is in accordance with these principles that public office holders shall behave in order to promote and enhance the public's trust in the institutions of government.*

- Michael James Lawless, B.Sc.,  
University of Victoria

While the approaches taken elsewhere are products of different social, cultural and political environments, and not necessarily fully relevant to Nunavut, they help to define and illuminate issues which this report highlights for consideration.

## 7. KEY ISSUES

*From review of the current law and experience in Nunavut, the NWT Review Panel report and the law of other Canadian jurisdictions, the following key issues, with options and recommendations, are proposed for consideration.*

### ISSUE 1: SEPARATE ACT

**Other jurisdictions:** Most have freestanding conflict of interest statutes.

**NWT Review Panel:** Did not deal with this issue. Conflict provisions continue to form part of the NWT *Legislative Assembly and Executive Council Act*.

**Options:** (a) Part of the *Legislative Assembly and Executive Council Act*; or  
(b) A separate statute.

**I RECOMMEND a separate statute, for maximum visibility, impact and ease of reference.**

### ISSUE 2: TITLES OF ACT AND COMMISSIONER

**Other jurisdictions:** Most highlight conflict in the titles of their statutes, but Ontario has replaced its *Members' Conflict of Interest Act* with the *Members' Integrity Act* and now has an Integrity Commissioner. Alberta has a *Conflicts of Interest Act* with an Ethics Commissioner, Mr. Robert C. Clark, a member of the NWT Review Panel. Another Panel member, Yukon (and former B.C.) Conflict of Interest Commissioner, the Hon. E.N. (Ted) Hughes, has expressed preference for a focus on integrity or ethics in titles. The federal *Conflict of Interest and Post-Employment Code for Public Office Holders* is administered by an Ethics Counsellor. The statute title *Conflict of Interest Act* is already in use in NWT and duplicated in Nunavut, covering local officials.

**NWT Review Panel:** Did not deal with either issue of a separate statute or its title.

**Options:** (a) *Members' Conflict of Interest Act*, with a Conflict of Interest or Ethics or Integrity Commissioner; or  
(b) *Integrity Act*, with an Integrity Commissioner.

**I RECOMMEND that the Act emphasize positive expectations and commitment with the distinctive titles *Integrity Act* and Integrity Commissioner.**

### ISSUE 3: COVERAGE

**Other jurisdictions:** Most cover only elected representatives and not appointed officials in the same statute.

**NWT Review Panel:** Recommended that Deputy Ministers and those functioning at an equivalent level should be subject to the same standards as Ministers, but did not say they should be covered in the same statute. They are not included in the revised NWT statute. Standards for public servants also may be imposed by policy and contract.

**Options:** (a) Cover elected and appointed officials in the Act; or  
(b) Cover only persons elected to the Legislative Assembly.

**I RECOMMEND that the Act cover only persons elected to the Legislative Assembly.**

### ISSUE 4: PURPOSE AND PRINCIPLES

**Other jurisdictions:** Each of Yukon, Alberta and Ontario has a preamble, and Nova Scotia has a purpose clause, to set a tone at the start of its statute. The federal code begins with a statement of principles.

**NWT Review Panel:** Did not deal with this issue, nor did the new NWT law.

**I RECOMMEND that the Act begin by stating the purpose and principles on which it is founded.**

### ISSUE 5: FOCUS

**Other jurisdictions:** A national trend among Conflict Commissioners is to focus on obligations of ethical conduct and disclosure rather than prohibitions and penalties. However, the statutes tend in form and terminology to emphasize negative, rather than positive expectations.

**NWT Review Panel:** Its recommendations are in the spirit of the trend, but the NWT statute is not reformed in tone or form.

**I RECOMMEND that the Act focus, in both substance and presentation, on a positive commitment to high standards of ethical conduct and openness.**

## ISSUE 6: INFORMALITY AND FLEXIBILITY

**Other jurisdictions:** Another national trend is to encourage resolution of matters through informality and flexibility, rather than rigid, legalistic processes.

**NWT Review Panel:** Its emphasis reflects the trend, but the end result is a more complicated process, particularly as partially implemented in NWT.

**I RECOMMEND that the Act encourage informality, flexibility and economy of process.**

## ISSUE 7: CONDUCT COVERED

**Other jurisdictions:** Most define a conflict of interest as present if a Member acts when he or she knows or ought to know that there is opportunity for a Member's private interest to benefit from exercise of an official function. B.C. explicitly includes an "apparent" conflict. Ontario, N.B. and P.E.I. definitions cover not only benefit to a Member or Member's family but also improper benefit to anyone.

**NWT Review Panel:** Recommended a new definition of conflict of interest which would involve not simply opportunity for private benefit, as in our present law, but also a Member acting with knowledge that it might further his or her private interest. This was incorporated into the NWT law with the addition that there is a conflict of interest not only if a Member knows, but also if he or she reasonably should know, that his or her private interest might be furthered by the action. The Panel found it unnecessary to include specifically "apparent" conflict in view of the "high standard of ethical conduct" imposed by s. 67(a) in our current Act, which implicitly acknowledges the importance of appearances.

**I RECOMMEND that the Act:**

- (a) Reiterate the high standard of ethical conduct in s.67 (a) of the current Act, which has been praised for its inclusiveness in going beyond prohibition of personal financial advantage and stating a broad general commitment to primacy of the public interest; and**
- (b) Adopt the broad concept of conflict of interest, found in Ontario, N.B. and P.E.I., which covers improper benefit to anyone.**

## ISSUE 8: DISCLOSURE STATEMENTS

**Other jurisdictions:** Most provide, as does the current law in Nunavut, for a private disclosure statement to be filed with the Conflict of Interest Commissioner, disclosing assets, liabilities, income, etc. of a Member and his or her family, with dollar values. From these, public statements with values removed are then prepared for public access. B.C. does not require even private disclosure statements to include values, finding



disclosure of the nature of holdings, debts, etc. is enough, unless the Commissioner feels the need to explore them further with a Member. Yukon requires only a public disclosure statement without values. The trend is to require a Member, and sometimes his or her spouse, to meet with the Commissioner to review the statement after filing and receive advice.

**NWT Review Panel:** Recommended that disclosure statements be filed with the Conflict of Interest Commissioner instead of the Clerk, and that each Member meet with the Commissioner to review them. NWT implemented these recommendations in their recent amendments.

- Options:**
- (a) Require filing private disclosure statements, including values, with the Integrity Commissioner; Members' review of them with the Integrity Commissioner; preparation of public versions without values by the Integrity Commissioner, who will make them available for public access in his or her office; or
  - (b) Require filing private disclosure statements, including values, with the Clerk, who will provide copies to the Integrity Commissioner; Members' review of them with Integrity Commissioner; preparation of public versions without values by the Clerk, who will make them available for public access in his or her office; or
  - (c) Require filing *only* public disclosure statements without dollar values with the Clerk who makes them available to the public and provides copies to the Integrity Commissioner, with whom each Member will review them annually.

**I RECOMMEND that the Act focus on public disclosure, requiring:**

- (a) Filing only public disclosure statements without values with the Clerk, who will make them available for public access in his office and provide copies to the Integrity Commissioner; and**
- (b) Annual review of public disclosure statements by Members, and spouses if available, with the Integrity Commissioner.**

## ISSUE 9: FAMILY

**Other jurisdictions:** Most, as does the current Act in Nunavut, oblige a Member to disclose financial interests of a spouse and minor children as well as his or her own. However, some now recognize a more extended family for this purpose.

**NWT Review Panel:** Did not deal with this issue, nor did the new NWT law.

- Options:**
- (a) Treat spouse and minor children as family, as now; or
  - (b) Include, as well, any child treated as part of the family and anyone living with a person who is either in a conjugal relationship or primarily dependant on the person or his or her spouse.

**I RECOMMEND that in the Act, a person's family include:**

- (a) Any child treated as part of the family;**
- (b) Anyone the person is married to or living with in a conjugal relationship;  
and**
- (c) Any relative of the couple living with and primarily dependent on either of them.**

## **ISSUE 10: EMPLOYMENT, INVESTMENT AND CONTRACTING**

**Other jurisdictions:** Most restrict Ministers' employment and investment, but not Members'. Most restrict all Members in contracting with government, some imposing greater restrictions on Ministers and former Ministers. In most jurisdictions, the Commissioner may exempt both Ministers and regular Members from some restrictions if satisfied that to do so is not contrary to the public interest. Most statutes also permit compliance by placing assets in a trust approved by the Commissioner.

**NWT Review Panel:** Recommended that a Member, including a Minister, should be permitted to have an interest in a private company contracting with government if the interest is in a trust approved by the Commissioner. However, it appears that there was (and is here) nothing preventing such a contract without the intervention of a trust, except a contract between a Minister's or the Speaker's controlled company and a department for which he or she is responsible. The new NWT law permits a company controlled by the Speaker or a Minister to contract even with a department for which he or she is responsible if any shares are held in a trust approved by the Commissioner, and other jurisdictions do so while offering the alternative of approval of a specific contract by the Commissioner.

**Options:**

- (a) Permit Members, including Ministers, to contract with government if their business interests in any form are in a trust approved by the Integrity Commissioner, or if a specific contract is so approved; or
- (b) The same, except limit such permission for Ministers, in the case of contracts with a department for which they are responsible, to ones specifically so approved.

**I RECOMMEND that the Act permit Members, including a Minister with his or her own department, to contract with the Government only if the specific contract is approved by the Integrity Commissioner as in the public interest or if the Member's business interests in any form are held in a trust so approved.**

## **ISSUE 11: INITIATION OF INVESTIGATIONS**

**Other jurisdictions:** In B.C., Saskatchewan, Ontario, Quebec, N.B. and P.E.I., only Members of the Legislative Assembly (individually or collectively) may initiate investigations of the Members' conduct. In Alberta and Newfoundland, the

Commissioner may on his or her own initiative as well. In NWT, Yukon, Alberta, Manitoba and N.S., as in Nunavut, the public as well as Members may initiate a complaint.

**NWT Review Panel:** Suggested no fundamental change, continuing to permit a complaint to be launched not only from within the Legislative Assembly, but also from the outside.

- Options:**
- (a) Initiation of investigation by Members only;
  - (b) By Members or the Commissioner; or
  - (c) By anyone, including the Integrity Commissioner.

<p><b>I RECOMMEND that the Act allow initiation of an investigation by anyone, including the Integrity Commissioner.</b></p>
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## ISSUE 12: ENFORCEMENT

**Other jurisdictions:** In every jurisdiction with a designated officer for this purpose, except NWT, the process is one of self-enforcement by legislators and their officers within the Legislature. (In Manitoba, there is no such officer and complaints are referred to a court.) Investigation and inquiry, if any, are delegated in their entirety to a trusted Commissioner who advises Members individually and collectively and offers opinions for action, or not, by the Legislative Assembly. Typically, allegations of infractions are dealt with in minimal time and formality, with minimal expense and disruption of public business, privately but with conclusions reported publicly.

**NWT Review Panel:** Proposed a process in which the Commissioner would investigate, then determine whether to investigate further, dismiss the complaint, or turn it over to an Adjudicator for a public inquiry. At the same time, it recommended an investigation and report by the Commissioner as the desired process in the interests of time and costs. The new NWT law omits the "further investigation" stage, requiring appointment of an Adjudicator unless the Commissioner summarily disposes of a complaint after preliminary investigation. It also gives the Adjudicator discretion to hold an inquiry in public or in private and powers under the *Public Inquiries Act*.

- Options:**
- (a) Appoint an Adjudicator for a formal inquiry if the Commissioner does not dismiss a complaint on preliminary grounds after initial investigation;
  - (b) Entrust the entire process to the Integrity Commissioner.

<p><b>I RECOMMEND that the Act empower the Integrity Commissioner to investigate alleged infractions and conduct any investigation, in private or in public, with powers under the <i>Public Inquiries Act</i>, reporting to the Legislative Assembly, which will decide on any sanctions.</b></p>
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## ISSUE 13: SANCTIONS

**Other jurisdictions:** Most prescribe penalties that can be recommended by the Commissioner to the Legislature, some allowing the Commissioner to recommend any other at his or her discretion. Most require acceptance or rejection of the proposed sanctions without variance.

**NWT Review Panel:** Recommended that the Legislative Assembly not further inquire into a contravention, or impose a sanction other than any recommended. The new NWT law retains the requirement that the Legislative Assembly accept or reject the punishment as recommended.

**Options:**

- (a) Retain the present requirement for acceptance or rejection of recommended sanctions; or
- (b) Allow the Legislative Assembly to vary the recommended sanctions.

**I RECOMMEND that the Act:**

- (a) Prescribe sanctions that may be recommended by the Integrity Commissioner; and**
- (b) Require acceptance or rejection of recommended sanctions without variance or further inquiry by the Legislative Assembly.**

## ISSUE 14: COSTS, RESTITUTION AND COMPENSATION

**Other jurisdictions:** Most do not deal explicitly with costs of an investigation or inquiry, though some statutes prescribe possible penalties for making unfounded complaints and provide for orders of restitution to government and compensation for loss to anyone.

**NWT Review Panel:** Recommended that no legal costs be paid for any party other than a Member complained against, and those only if the Member is "exonerated". Recent NWT amendments require payment of costs of a Member complained against, with no mention of exoneration, and forbid payment out of the Consolidated Revenue Fund of a complainant's costs.

**Options:**

- (a) Prohibit payment of any party's costs from public funds;
- (c) Require payment of costs from public funds of a Member complained against under policy set by the Management and Services Board;
- (d) Permit such payment if recommended in the Integrity Commissioner's report;
- (e) Permit any party's costs to be so paid as recommended;
- (f) Provide for award of costs to any party or to the Government, to be paid by any other party, as recommended;
- (g) Provide for an order of restitution and/or compensation.

**I RECOMMEND that the Act provide for the Legislative Assembly, in disposing of a report of an investigation, as recommended by the Integrity Commissioner,**

- (a) To authorize payment from public funds of legal costs to any party;**
- (b) To order payment of legal costs of any party or the Government by another party; and**
- (c) To order restitution to the Government or compensation for loss to anyone by the Member who has, or whose family has, benefited from a contravention.**

#### **ISSUE 15: COOPERATION WITH INTEGRITY COMMISSIONER**

**Other jurisdictions:** Alberta provides immunity from action to anyone who in good faith provides information or gives evidence in an enforcement proceeding. Hon. Ted Hughes has recommended such a provision in Yukon.

**NWT Review Panel:** Recommended that no job action be taken against any person as a result of bringing matters to the attention of the Conflict of Interest Commissioner or assisting him or her. No such provision appears in the current NWT law.

**Options:**

- (a) Include protection for "whistleblowers" and witnesses, or
- (b) Make no such provision.

**I RECOMMEND that the Act provide that no action may be taken against a person who in good faith provides information to the Integrity Commissioner or gives evidence in a proceeding under the Act.**

## **8. MODEL STATUTE**

### **I. A NEW ACT FOR A NEW TERRITORY**

A new Territory, wishing to focus on integrity as the hallmark of its Government, might do so best with a brand new Act dedicated to the ethical qualities of its elected representatives. That is the assumption of this report, which recommends a new statute, the *Integrity Act*.

Based on Nunavut's traditional values and the evolution of comparable legislation in other jurisdictions, the model Act proposed on the following pages gives a comprehensive context to the recommendations put forward in this report and details not covered in its discussion of Key Issues.

Policy is for legislators to decide on and wording is the province of legislative drafters. This model Act is not intended to pre-empt either prerogative. But if "the devil is in the details", it might be useful to see what the end product of my recommendations might be.

It is necessarily a compromise between simplicity and comprehensiveness, adapting what seems to fit best from other Canadian conflict of interest statutes with some modest innovation in style and substance, in a new law intended to respect and reflect the positive values of Nunavut.

It recognizes that the people of Nunavut can be best represented and their interests served by their Legislative Assembly if its members have a wide range of experience and knowledge and can continue to be active in their trades, businesses, professions or otherwise. The Act is designed, therefore, to facilitate broad participation in both the political and the economic life of the community while ensuring that the public good takes precedence over private advantage.

By enacting this law, the society's leaders would commit themselves to the highest standard of ethical conduct of the public's business – a standard against which they can measure themselves and be measured by others. The means to maintain that standard are:

- Openness: public disclosure of private interests;
- Consultation: ready access to independent advice; and
- Accountability: simple, flexible and economical process to resolve issues; subject always to the judgment of the public.

## **II. MODEL STATUTE**

### **INTEGRITY ACT**

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### Purpose

1. The purpose of this Act is to
  - (a) affirm the commitment of Members of the Legislative Assembly to serve always the common good in keeping with traditional Nunavummiut values and democratic ideals, and
  - (b) establish a system of standards and accountability for fulfilling that commitment.

### Principles

2. This Act is founded on the following principles:
  - (a) Integrity is the first and highest duty of elected office.
  - (b) The people of Nunavut are entitled to expect those they choose to govern them to perform their public duties and arrange their private affairs in a way that promotes public confidence in each Member's integrity, that maintains the Legislative Assembly's dignity and that justifies the respect in which society holds the Legislative Assembly and its Members.
  - (c) The Members of the Legislative Assembly are committed, in reconciling their public duties and private interests, to honour that expectation with openness, objectivity and impartiality, and to be accountable for so doing.
  - (d) The Legislative Assembly can serve the people most effectively if its Members come from a spectrum of occupations and continue to participate actively in the economic and social life of the community.



## Definitions

3. In this Act:

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

"Clerk" means the Clerk of the Legislative Assembly;

"department" means a department as defined in the *Financial Administration Act*;

"family", when used with reference to a person, means

- (a) his or her spouse and minor children, and
- (b) anyone who is related to the person or his or her spouse, shares a residence with the person and is primarily dependent on the person or spouse for financial support;

"Government" means the Government of Nunavut, including a department and a public agency as defined in the *Financial Administration Act*;

"Member" means a Member of the Legislative Assembly;

"private company" means a corporation the shares of which are not offered to the public;

"private interest" does not include an interest in a decision that

- (a) is of general application to the public,
- (b) affects a person as one of a broad class of persons,
- (c) concerns the remuneration or benefits of a Member or an officer or employee of the Legislative Assembly;

"Speaker" means the Speaker of the Legislative Assembly;

"spouse" means a person who is married to a Member or a person living with a Member in a conjugal relationship outside marriage, but does not include a person from whom the Member is separated whether or not support obligations and family property have been dealt with by a separation agreement or court order.

**PROVISIONS APPLYING TO ALL  
MEMBERS OF THE LEGISLATIVE ASSEMBLY**

**Commitment**

4. Each Member shall
  - (a) perform his or her duties of office and arrange his or her private affairs in such a manner as to maintain public confidence and trust in the integrity, objectivity and impartiality of the Member;
  - (b) refrain from accepting any remuneration, gift or benefit the acceptance of which might erode public confidence and trust in the integrity, objectivity or impartiality of the Member, and in all other respects act in a manner that will bear the closest public scrutiny;
  - (c) arrange his or her private affairs in conformity with the provisions of this Act and act generally to prevent any conflict of interest from arising; and
  - (d) make all reasonable efforts to resolve any conflict of interest that may arise in favour of the public interest.

**Public disclosure**

5. (1) A Member shall file with the Clerk a public disclosure statement, in a form established by the Integrity Commissioner,
  - (a) within 60 days after being elected, and
  - (b) thereafter once in every calendar year on the date established by the Integrity Commissioner.
- (2) A public disclosure statement shall
  - (a) identify the source and nature, but not the value, of the assets and liabilities of the Member, each person who belongs to his or her family, and of any private company in which any of them has an interest, listing the names and addresses of all persons who have an interest in those assets and liabilities;
  - (b) identify the source and nature, but not the value, of any income the Member and each person who belongs to his or her family received during the preceding 12 months and are entitled to receive during the next 12 months;
  - (c) identify the subject matter, nature and value of any contracts the Member, each person who belongs to his or her family, and any private company in which any of them has an interest, has with the Government, and all resulting benefits each has received during the preceding 12 months or is entitled to receive during the next 12 months;
  - (d) if a private company in which the Member or a person who belongs to his or her family has an interest is mentioned in the public disclosure

statement, identify any other corporation in which the private company has an interest;

- (e) identify all corporations and other organizations in which the Member or a person who belongs to his or her family is a partner or an officer or director or has a similar position;
  - (f) identify all partnerships in which the member or a person who belongs to his or her family is a partner; and
  - (g) if in the previous 12 months the Member has carried out an activity, under the authorization of the Integrity Commissioner, that otherwise would be prohibited,
    - (i) describe the activity; and
    - (ii) if the activity is a business activity, list the name and address of each person who has a 10 per cent or greater equity interest in the business, and describe the person's relationship to the Member.
- (3) After filing a public disclosure statement a Member, with the Member's spouse if available, shall meet with the Integrity Commissioner to obtain advice on the Member's obligations under this Act.
- (4) Within 30 days after a change or event that occurs after the filing of a public disclosure statement that would significantly change the information required in the public disclosure statement, the Member shall file with the Clerk a supplementary public disclosure statement describing those changes to the information, in the form established by the Integrity Commissioner.
- (5) The Clerk shall provide the Integrity Commissioner with a copy of every public disclosure statement, shall make it available for inspection by members of the public, and shall provide a copy of it to any person who pays a fee fixed by the Clerk.

### **Excluded private interests**

6. The following assets, liabilities and sources of income are not private interests for the purpose of this Act and shall not be included in the public disclosure document:
- (a) An asset or liability worth less than \$10,000;
  - (b) A source of income that yielded less than \$5,000 during the 12 months preceding the relevant date;
  - (c) Cash on hand, or on deposit in Canada with a financial institution that is lawfully entitled to accept deposits;
  - (d) Real property that the Member or a person who belongs to his or her family uses primarily as a residence or for recreational purposes;
  - (e) Personal property that the Member or a person who belongs to his or her family uses primarily for transportation, household, educational, recreational, social or aesthetic purposes;

- (f) Fixed value securities issued or guaranteed by a government in Canada or by an agency of any such government;
- (g) A registered retirement savings plan, a registered retirement income fund or a registered educational savings plan that is not self-administered, or a registered home ownership savings plan;
- (h) An interest in a pension plan, employee benefit plan, annuity or life insurance policy;
- (i) An investment in an open-ended mutual fund that has broadly-based investments not limited to one industry or one segment of the economy;
- (j) A guaranteed investment certificate or similar financial instrument;
- (k) Support payments;
- (l) A liability to a financial institution referred to in paragraph (c) if the liability relates to an asset referred to in paragraphs (d) through (j); and
- (m) Any other asset, liability or source of income that the Integrity Commissioner approves as an excluded private interest.

### **Conflict of interest**

7. Each Member shall refrain from making a decision, participating in making a decision or otherwise exercising an official power or performing an official duty or function in the performance of his or her duties of office, if the Member knows or reasonably should know that in doing so there is an opportunity to further the Member's private interest or improperly to further another person's private interest.

### **Insider information**

8. (1) Each Member shall refrain from using information obtained in his or her capacity as a Member and not available to the general public to further or seek to further the Member's private interest or improperly to further or seek to further another person's private interest.
- (2) A Member shall not communicate information described in subsection (1) to another person if the Member knows or reasonably should know that the information may be used for a purpose described in that subsection.

### **Influence**

9. Each Member shall refrain from using his or her office to seek to influence a decision made or to be made by another person to further the Member's private interest or improperly to further another person's private interest.

### **Representing constituents**

10. This Act does not prohibit the activities in which Members properly engage on behalf of constituents.

## Remuneration, gifts and benefits

11. (1) Each Member, and each person who belongs to his or her family, shall refrain from accepting any remuneration, gift or personal benefit connected directly or indirectly with the performance of the Member's duties of office.
- (2) Subsection (1) does not apply to
  - (a) compensation authorized by law;
  - (b) a gift or personal benefit received
    - (ii) as an incident of protocol, customs or social obligations that normally accompany the responsibilities of office, or
    - (ii) authorized by the Integrity Commissioner on the basis that it is unlikely to influence the member in the performance of his or her duties of office;
  - (c) transportation, accommodation, hospitality or the reimbursement of reasonable travel and associated expenses the receipt of which is unlikely to affect the Member's performance of his or her duties of office; or
  - (d) a gift or personal benefit the receipt of which is authorized by the Integrity Commissioner on the basis that it is unlikely to affect the member's performance of his or her duties of office.
- (3) Nothing in this section prohibits the acceptance of transportation, accommodation and hospitality, or reimbursement of reasonable travel and associated expenses incurred, that creates no reasonable likelihood of a conflict between a private interest and the public duty of a Member.
- (4) Within 30 days of receipt by a member, or by a person who belongs to the Member's family, of a gift or personal benefit that exceeds \$400 in value, the Member shall file with the Clerk a report, in the form authorized by the Integrity Commissioner, indicating:
  - (a) the nature of the gift or benefit,
  - (b) its source, and
  - (c) the circumstances in which it was given and accepted.
- (5) Subsection (4) also applies if the total value of gifts and benefits received from one source in any 12-month period exceeds \$400.
- (6) The Clerk shall provide the Integrity Commissioner with a copy of every report filed under subsections (5) and (6) as soon as practicable, shall make it available for inspection by members of the public, and shall provide a copy of it to any person who pays a fee fixed by the Clerk.

## Contracts with Government

12. (1) No Member knowingly shall be a party to a contract with the Government.
- (2) No Member shall have an interest in a partnership or in a private company that is a party to a contract with the Government under which the partnership or company receives a benefit.
- (3) Subsections (1) and (2) do not apply
  - (a) to a contract, other than of one of personal service, that existed before the Member's election to the Legislative Assembly and has not been renewed or extended,
  - (b) if the Integrity Commissioner is of the opinion that the interest or the contract, if treated or carried out in a specified manner, is unlikely to affect the Member's performance of his or her duties, or is in the public interest, and has authorized such interest or contract, or
  - (c) to an interest acquired by inheritance until the first anniversary of its acquisition.
- (4) Subsection (1) does not prohibit a Member from receiving any retirement benefits funded wholly or partly by the Government except a pension resulting from prior service in the Legislative Assembly.

## Trusts

13. Subsections 12 (1) and (2) also do not apply if the Member has entrusted the interest to one or more trustees on the following terms:
  - (a) The provisions of the trust shall be approved by the Integrity Commissioner;
  - (b) The trustees shall be persons at arm's length from the Member and approved by the Integrity Commissioner;
  - (c) The trustees may consult with the Integrity Commissioner but shall not consult with the Member except, with the approval of the Integrity Commissioner, on a proposed or threatened event that might have a material effect on the interest;
  - (d) Annually, the trustees shall give him or her a written report stating the nature of the assets in the trust, the trust's net income for the preceding year and the trustees' fees, if any;
  - (e) The trustees shall give the Member sufficient information to permit him or her to submit returns as required by the *Income Tax Act* (Canada) and shall give the same information to Revenue Canada.
  - (f) The trustees shall give the Integrity Commissioner copies of all information and reports given to the Member.

## **Procedure on conflict of interest**

14. (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 Legislative Assembly, the Management and Services Board or the Executive Council, or a committee of the Legislative Assembly or the Executive Council, 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, and shall refrain at all times from attempting to influence the matter.
- (2) The secretary to Cabinet shall ensure that every disclosure and withdrawal under subsection (1) that occurs at a meeting of the Executive Council or a committee of the Executive Council is recorded.
- (3) The Clerk shall
- (a) ensure that every disclosure and withdrawal under subsection (1) that occurs at a meeting of the Legislative Assembly, the Management and Services Board or a committee of either of them is recorded;
  - (b) provide the Integrity Commissioner with a copy of the record;
  - (c) make the record available for public inspection without charge during normal business hours; and
  - (d) on request by any person provide a copy of the record on payment of a fee fixed by the Clerk.

## **PROVISIONS APPLYING TO MINISTERS AND FORMER MINISTERS**

### **Minister's outside activities**

15. (1) A Minister shall not
- (a) engage in employment or in the practice of a profession,
  - (b) engage in the management of a business carried on by a corporation, or
  - (c) hold an office or directorship, unless it is one of his or her duties as a Minister, other than in a social club, religious organization or political party.
16. (1) A Minister shall not hold or trade in securities or commodities.
- (2) Subsection (1) does not apply to assets and liabilities described in section 6.
- (3) A Minister may comply with subsection (1) by entrusting the assets to one or more trustees on the following terms:

- (a) The provisions of the trust shall be approved by the Integrity Commissioner.
- (b) The trustees shall be persons who are at arm's length from the Minister and approved by the Integrity Commissioner.
- (c) The trustees shall not consult with the Minister with respect to managing the trust property, but may consult with the Integrity Commissioner.
- (d) At the end of each calendar year and at one or more intervals during the year, the trustees shall give the Minister a written report stating the value, but not the nature, of the assets in the trust. The year-end report shall also state the trust's net income for the preceding year and the trustees' fees, if any.
- (e) The trustees shall also give the Minister sufficient information to permit him or her to submit returns as required by the *Income Tax Act* (Canada).
- (f) The trustees shall give the Integrity Commissioner copies of all information and reports given to the Minister.
- (g) The trust shall provide that the Minister may, at any time, instruct the trustees to liquidate all or part of the trust and pay over the proceeds to the Minister.

17. (1) A Minister shall not carry on business through a partnership or sole proprietorship.

(2) A Minister may comply with the requirement of subsection (1) by entrusting the business or the Minister's interest in the business to one or more trustees on the following terms:

- (a) The provision of the trust shall be approved by the Integrity Commissioner;
- (b) The trustees shall be persons who are at arm's length from the Minister and approved by the Integrity Commissioner;
- (c) The trustees may consult with the Integrity Commissioner but shall not consult with the Minister except, with the approval of the Integrity Commissioner, on a proposed or threatened event that might have a material effect on the interest;
- (d) Annually, the trustees shall give the Integrity Commissioner a written report stating the nature of the assets in the trust, the net income of the trust for the preceding year and the trustees' fees, if any;
- (e) The trustees shall give the Minister sufficient information to permit the Minister to submit returns as required by the *Income Tax Act* (Canada).



18. A Minister is entitled to be reimbursed from the Consolidated Revenue Fund for reasonable fees and disbursements actually paid for the establishment and administration of a trust, as approved by the Integrity Commissioner, but is responsible for any income tax liability that may result from the reimbursement.
19. A Minister may engage in an activity prohibited by clause 15 or subsection 16(1) or 17(1) if the following conditions are met:
  - (a) The Minister has disclosed all material facts to the Integrity Commissioner;
  - (b) The Integrity Commissioner is satisfied that the activity, if carried on in a specified manner, will not create a conflict between the Minister's private interest and public duty;
  - (c) The Integrity Commissioner has given the Minister approval and has specified the manner in which the activity may be carried out; and
  - (d) The Minister carries out the activity in the specified manner.
20. A Minister shall comply with section 15, 16 and 17, or obtain the Integrity Commissioner's approval under section 19, within 60 days after being appointed.
21. A Minister who has reasonable grounds to believe that he or she has a conflict of interest in a matter requiring the Minister's decision shall ask the Premier to appoint another Minister to perform the Minister's duties in the matter for the purpose of making the decision.

### **Former Ministers**

22. (1) The Executive Council, a Minister and an employee of the Government shall not knowingly
  - (a) award or approve a contract with, or grant a benefit to, a former Minister until six months have passed after the date he or she ceased to hold office as a Minister;
  - (b) award or approve a contract with, or grant a benefit to, a former Minister who has, during the six months after the date he or she ceased to hold such office, made representations to the Government 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 has, during the six months after the date when he or she ceased to hold such office, made representations to the Government in respect of 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 Government.

- (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) Subsection (1) does not apply if the Integrity Commissioner has authorized the activity and it has been carried out as may be specified by him or her.
23. (1) A former Minister shall not knowingly, during the six months after the date when he or she ceased to hold office as a Minister,
- (a) accept a contract or benefit that is awarded, approved or granted by the Executive Council, a Minister or an employee of the Government;
  - (b) make representations to the Government on his or her own behalf or on another's behalf with respect to such a contract or benefit; or
  - (c) accept a contract or benefit from any person who received a contract or benefit from a department of which he or she was the Minister.
- (2) Subsection (1) does not apply to contracts or benefits in respect of further duties in the service of the Government.
  - (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 Minister shall not make representations to the Government in relation to a transaction or negotiation to which the Government is a party and in which he or she was previously involved as a Minister, if the representation could result in the conferring of a benefit not of general application.
  - (5) A former Minister no longer either a Minister or a Member shall not use, to further his or her or another's private interest, during the six months after having ceased to hold office as a Minister, information acquired by virtue of office as a Minister but which is not available to the general public.
  - (6) Subsections (1), (4) and (5) do not apply if the Integrity Commissioner has authorized the activity and it has been carried out as may be specified by him or her.
  - (7) A former Minister who contravenes subsection (1), (4) or (5) is guilty of an offence and liable, on summary conviction, to a fine of not more than \$5,000.

## **INTEGRITY COMMISSIONER**

### **Office**

24. (1) There shall be an Integrity Commissioner who is an officer of the Legislative Assembly.
- (2) The Commissioner, on the recommendation of the Legislative Assembly, shall appoint a person to the office of Integrity Commissioner.
- (3) The Integrity Commissioner may engage counsel, experts and other persons to carry out the function of the office.
- (4) The Integrity Commissioner shall be a Commissioner for Oaths.
- (5) The person appointed shall hold office for a term of five years and may be reappointed for a further term or terms.
- (6) The person appointed continues to hold office after the expiry of the term until reappointed, or until a successor is appointed.
- (7) The person appointed may be removed or suspended for cause, before the end of the term of office, by the Commissioner on the recommendation of the Legislative Assembly.

### **Acting Integrity Commissioner**

25. (1) The Commissioner, on the recommendation of the Management and Services Board, may appoint an acting Integrity Commissioner if
  - (a) The Integrity Commissioner is suspended or temporarily unable to act.
  - (b) The office of Integrity Commissioner becomes vacant during that session of the Legislative Assembly but no recommendation under subsection 25 (2) is made before the end of the session, or
  - (c) The office of Integrity Commissioner becomes vacant while the Legislative Assembly is not sitting.
- (2) An acting Integrity Commissioner holds office until
  - (a) The end of the suspension or temporary absence of the Integrity Commissioner, or
  - (b) A new Integrity Commissioner is appointed under subsection 24 (2).

### **Special Integrity Commissioner**

26. (1) If, for any reason, the Integrity Commissioner determines that he or she should not act in respect of any particular matter under this Act, the Commissioner, on the recommendation of the Management and Service Board, may appoint a special Integrity Commissioner to act in the place of the Integrity Commissioner in respect of that matter.

- (2) A special Integrity Commissioner holds office until the conclusion of the matter in respect of which he or she has been appointed.

### **Oath**

27. Before undertaking the duties of office, the Integrity Commissioner shall take an oath, before either the Speaker or the Clerk, to perform faithfully and impartially those duties and not to disclose any confidential information or advice except in accordance with this Act.

### **Personal Liability**

28. (1) No proceeding shall be commenced against the Integrity Commissioner or any person employed or retained by the Legislative Assembly, for any act done or not done in good faith under this Act.
- (2) No proceeding shall be commenced or any job action taken against a person who in good faith provides information or gives evidence in a review or inquiry by the Integrity Commissioner under this Act.

### **Testimony**

29. The Integrity Commissioner is neither a competent nor compellable witness in a civil proceeding outside the Legislative Assembly in connection with anything done under this Act.

### **Annual Report**

30. (1) The Integrity Commissioner shall, at any times that he or she considers appropriate, and at least annually, report on the affairs of the office to the Speaker, who shall cause the report to be laid before the Legislative Assembly.
- (2) The report may summarize advice given, but shall not disclose confidential information or identify a person concerned except a Member who has either failed to file a disclosure statement as required by this Act, been given authority to do anything otherwise prohibited, or been the subject of a completed review the result of which has been reported to the Speaker.

### **Special Assignments**

31. At the request of the Legislative Assembly or the Management and Services Board, the Integrity Commissioner may undertake special assignments that he or she considers appropriate.

### **Extension of Time**

32. A Member required by this Act to do anything within a specified period of time may, either before or after expiry of such period, request in writing from the Integrity Commissioner an extension, which may be given in writing for such additional period and on such conditions as the Integrity Commissioner considers consistent with the public interest.

### **Consultation with Elders**

33. The Integrity Commissioner may consult with Elders as to the traditional values and customs of Nunavut, but only on the written request and consent of a Member shall confidential matters concerning the Member's conduct be disclosed in the course of such consultation.

### **Advice to Members**

34. (1) A Member may, in writing, request the Integrity Commissioner to give advice and recommendations on any matter respecting the Member's obligations under this Act.
  - (2) The Integrity Commissioner may make such inquiries as he or she considers appropriate and provide the Member with a written advice and recommendations.
  - (3) If the Integrity Commissioner is of the opinion that the Member has or may have a conflict of interest, the Commissioner may recommend the manner and time by which the Member shall resolve the matter.
  - (4) The Integrity Commissioner may give advice and recommendations of general application on any matter respecting Members' obligations under this Act.
  - (5) If the Integrity Commissioner determines that a Member has not contravened this Act, that determination is final and no proceeding shall be taken under this Act against a Member who has communicated the material facts to the Integrity Commissioner and has complied with any advice and recommendations made by the Integrity Commissioner.
  - (6) The advice and recommendations of the Integrity Commissioner are confidential, but may be released in full by the Member or with the Member's written consent.

## **Request for Review**

35. (1) Any person who has reasonable and probable grounds to believe that a Member has contravened this Act may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, supported by affidavit, request that the Integrity Commissioner review the facts and give an opinion as to the matter.
- (2) The Legislative Assembly may, by resolution, request that the Integrity Commission review the facts and give an opinion as to the compliance of a Member with the provisions of this Act.
- (3) The Premier may request that the Integrity Commissioner review the facts and give an opinion as to the compliance of a Minister with this Act or of any additional requirements respecting conflict of interest established by written directive of the Premier.
- (4) The Legislative Assembly, its committees and the Management and Services Board shall not inquire into any matter that has been referred to the Integrity Commissioner under subsection (1) or (2).
- (5) No matter may be referred to the Integrity Commissioner after more than two years have elapsed from the date of the alleged contravention of this Act.

## **Review and report**

36. (1) On receiving a request under section 35 or on the Integrity Commissioner's own initiative, and on giving reasonable notice to the Member alleged to have contravened this Act, the Integrity Commissioner may conduct a review in private or in public at his or her discretion.
- (2) When conducting a review under this section, the Integrity Commissioner has the powers of a Board under the *Public Inquiries Act*, including the power to engage the services of counsel, experts and other persons referred to in section 10 of that Act, and is not subject to the technical rules of evidence.
- (3) If it appears to the Integrity Commissioner that the opinion may adversely affect the Member whose conduct is concerned, he or she shall inform the Member of the particulars and give the Member an opportunity to make representations, either orally or in writing at the discretion of the Integrity Commissioner, before reporting the opinion.
- (4) If the Integrity Commissioner is of the opinion that the referral is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds to warrant a review or to continue a review, he or she

may refuse to review or may cease to review an alleged contravention of this Act, and shall so state in the report.

- (5) The Integrity Commissioner may reopen a review of an alleged contravention in respect of which his or her findings have been reported under this section only if, in his or her opinion, there are new facts that on their face might change the original findings.
- (6) If the Integrity Commissioner determines that there has been no contravention of this Act, that a contravention occurred but the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.
- (7) If the Integrity Commissioner determines that there was contravention of this Act but that the Member was acting in accordance with the Integrity Commissioner's recommendations and had, before receiving those recommendations, had disclosed all material facts known to the Member, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.
- (8) If a referral is made under subsection 35 (1) or (2), the Integrity Commissioner shall report the opinion
  - (a) to the Speaker who shall give a copy of the opinion to the Member whose conduct is concerned and cause the opinion to be laid before the Legislative Assembly as soon as practicable if it is in session or, if not, within 10 sitting days after the beginning of the next session; and
  - (b) if the Legislative Assembly is not in session, to the Clerk who shall send a copy of the opinion to all Members.
- (9) If a referral is made under section 35 (3), the Integrity Commissioner shall report the opinion to the Premier.
- (10) If the Integrity Commissioner, when conducting a review, discovers that its subject matter is being investigated by police, or that a charge has been laid, the Integrity Commission shall suspend his or her review until the police investigation or charge has been finally disposed of, and shall report the suspension to the Speaker.
- (11) If the Integrity Commissioner, when conducting a review, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the *Criminal Code* (Canada), the Integrity Commissioner immediately shall refer the matter to the appropriate authorities and suspend his or her review until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to the Speaker.

## SANCTIONS

### Recommendations

37. (1) If the Integrity Commissioner conducts a review under section 36 and finds that a Member or a person who belongs to a Member's family has contravened this Act, the Integrity Commissioner shall recommend in the report one or more of the following:
- (a) that no sanction be imposed;
  - (b) that the Member undertake remedial action as may be directed;
  - (c) that the Member publicly acknowledge his or her conduct;
  - (d) that the Member be reprimanded;
  - (e) that the Member's right to sit and vote in the Legislative Assembly be suspended, with or without indemnity and allowance, for a stated period or until the fulfilment of a condition;
  - (f) that the Member be fined a stated amount not exceeding \$10,000;
  - (g) that the Member be ordered to make restitution, in a stated amount, to the Government of any gain found by the Integrity Commissioner to have been realized by the Member or by a person who belongs to his family as a result of contravention of this Act;
  - (h) that the Member be ordered to pay compensation to any person for loss suffered as a result of the Member or a person belonging to the Member's family having contravened this Act; and
  - (i) any other sanction that the Integrity Commissioner deems to be appropriate.

### Costs

38. The Integrity Commissioner in a report on any referral may recommend payment of costs, as determined by the Integrity Commissioner, by or to:
- (a) a Member whose conduct is concerned;
  - (b) a person who made the request under section 36; and
  - (c) the Government.

### Response of Legislative Assembly

39. (1) The Legislative Assembly shall
- (a) consider a report made under subsection 37(1) or (2) within 10 sitting days after the report is laid before it or, if the Legislative Assembly is not in session, within 10 sitting days after the next session begins; and
  - (b) respond to the report before the end of the session in which the report is laid before it.



- (2) The Legislative Assembly may approve the report of the Integrity Commission and order its implementation, or reject it, but it may not inquire further into the contravention, impose a sanction if the Integrity Commissioner recommended that none be imposed, or impose a sanction other than recommended.
- (3) The Legislative Assembly's decision is final and conclusive.
- (4) Any fine, restitution, compensation and costs ordered by the Legislative Assembly to be paid by a Member may be
  - (a) deducted from any amount, indemnity, salary or allowance the Member is otherwise entitled to receive under the *Legislative Assembly and Executive Council Act*, and
  - (b) recovered from the Member in a court.
- (5) Any costs ordered by the Legislative Assembly to be paid may be recovered in a court.

## MISCELLANEOUS

### Confidentiality

40. (1) Information disclosed by a Member to, and advice given by, the Integrity Commissioner under this Act are confidential and shall not be disclosed to any person except
  - (a) by the Member, or with his or her written consent;
  - (b) in a criminal proceeding, as required by law; or
  - (c) otherwise in accordance with this Act.
- (2) Subsection (1) prevails over the *Access to Information and Protection of Privacy Act*.

### Destruction of records

41. (1) The Integrity Commissioner and the Clerk shall each destroy any record in his or her possession that relates to a Member or former Member, or to a person who belongs to his or her family, during the 12-month period that follows the tenth anniversary of the creation of the record.
- (2) If an inquiry to which a record may relate is being conducted under this Act, or if the Integrity Commissioner is aware that a charge to which it may relate has been laid under the *Criminal Code* (Canada) against the Member or former Member or a person who belongs to his or her family, the record shall not be destroyed until the inquiry or the charge has been finally disposed of.

### **Authority of Premier**

42. Nothing in this Act shall be construed so as to limit the authority of the Premier to require that Ministers comply with such additional restrictions and obligations respecting conflict of interest as may be established by directive of the Premier.

### **Members' Functions**

43. Nothing in this Act shall be construed so as to prevent or impede the proper exercise of a Member's functions as a Member of the Legislative Assembly, including the ordinary and proper representation of members of the public.

### **Effect of breach**

44. No decision or transaction, and no procedure undertaken by the Government with respect to a decision or transaction, is invalidated by reason only of a breach of this Act, but the transaction or procedure is voidable at the instance of the Government before the expiration of two years from the date of the decision authorizing the transaction, except as against any person who or organization that acted in good faith and without actual notice of the breach.

### **Review of Act**

45. Within five years after the coming into force of this Act and every five years after that, the Legislative Assembly shall begin a comprehensive review of this Act, and within one year after beginning the review shall consider any proposed amendments.

### **Consequential, transitional and commencement**

46. Part III of the *Legislative Assembly and Executive Council Act* is repealed.
47. (1) Despite section 46, if a complaint is filed under section 80 of the *Legislative Assembly and Executive Council Act* before the day this Act comes into force, the complaint shall be dealt with in accordance with that Act.
- (2) From the date this Act comes into force, a Member who is then in office need not, until the day that is 60 days after that date, comply with restrictions or fulfil obligations that did not apply before the date this Act came into force.
48. This Act comes into force on a date as may be fixed by proclamation.

## 9. APPRECIATION

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