

資料摘要

補充資料： 對離任政府首長及離任政府高級人員 進行的活動所作的規限

表 1 —— 與離任後限制有關的主管當局的成員的服務安排

主管當局	任期	全職／兼職	受薪／非受薪
法國 — 道德操守委員會	~ 成員的任期為 3 年。	~ 尚待有關當局提供資料。	~ 尚待有關當局提供資料。
英國 — 商業聘任諮詢委員會	~ 成員起初獲委任時任期通常為 3 年，可獲續任一次，即兩次委任的任期合共 6 年。	~ 兼職。 *請參閱註 1。	~ 非受薪。
美國 — 政府道德操守規範局	~ 根據《美國憲法》，政府道德操守規範局局長任職的時間隨總統的意願而定。然而，法例亦訂明局長每屆任期以 5 年為限，但並無規定連任的次數。*請參閱註 2。	~ 全職。	~ 薪酬、標準政府退休金及醫療福利。 ~ 局長的薪酬每年由法例訂定，釐定方法與釐定國會議員薪酬的方法掛鈎。而國會議員自行訂定本身的薪酬。
加利福尼亞州 — 公平政治行為委員會	~ 每名成員只可獲委任一次，任期為 4 年。	~ 主席屬全職人員，而成員則屬兼職人員。	~ 主席支取薪酬，而成員出席每次會議每日可獲 100 美元的報酬。
安大略省 — 誠信專員公署	~ 誠信專員的任期可達 5 年，亦可連任超過一次。	~ 全職。	~ 薪酬及津貼由省督會同執行委員會訂定。

註：

1. 根據商業聘任諮詢委員會提供的資料，諮詢委員會透過與諮詢委員會秘書處直接往來書信處理大部分工作，甚少需要舉行會議。然而，諮詢委員會如希望與申請人討論委任的事宜，則會舉行會議。當接獲申請時，諮詢委員會才會提供意見，因此，成員參與委員會工作所需的時間每年不同。
2. 根據政府道德操守規範局提供的資料，如總統要求局長下台，局長可能於 5 年任期前便已離任。如局長任職的時間將超過 5 年，則須由總統重新提名及參議院重新確認。

表 2 —— 政府高級人員離任後接受公職委任的限制

國家／地區	限制
法國	~ 尚待有關當局提供資料。
英國	~ 並無施加任何限制。根據《大臣守則》，大臣在離任後的兩年內如有意接受任何聘任，則應向商業聘任諮詢委員會徵詢意見，但如有關聘任屬非商業機構提供的非受薪聘任，或由政府作出的委任(例如首相委任某離任大臣加入國際組織擔任某些職位)，則屬例外。
美國	~ 法例並無就總統離任政府後所進行的活動施加任何限制。 ~ 聯邦政府的人員在離任後如擬接受任何聘任，或獲選擔任聯邦、州或地方政府的任何職位，均不受任何限制。然而，他們接受委任擔任新的公職後，仍須遵守《美國法典》第 18 章第 207 條所訂的規限。舉例而言，一名離任衛生與公眾服務部長曾親自參與一宗涉及特拉華州的撥款糾紛。如特拉華州州長在該名部長離任聯邦政府後委任他為特拉華州衛生部的主管，由於他曾以聯邦政府官員的身份參與該宗撥款糾紛，因此他不能在此事上代表特拉華州。
加利福尼亞州	~ 尚待有關當局提供資料。
安大略省	~ 並無施加任何限制。根據《議員誠信法》第 18(2)條，第 18(1)條[政府高級人員(包括總理)離任後所受到的限制]並不適用於有關離任人員在繼續服務政府期間因其職務而獲得的合約或優惠。

表 3 —— 政府首長離任後所受到的限制及所享有的福利

國家／地區	離任後所受到的限制		離任後所享有的福利
	限制	規限期	
香港	~ 連任一屆後競選政府首長。	~ 不適用。	~ 無。
法國	~ 不適用。	~ 不適用。	~ 本部並無接獲任何資料。
英國	~ 日後從事的工作。	~ 3個月至兩年。	~ 退休金； ~ 如離任的政府首長仍是國會議員，他可支取整份國會議員薪酬及津貼；及 ~ 可領取津貼，以支付喪失席位後的開支。
美國	~ 連任一屆後競選政府首長。	~ 不適用。	~ 退休金； ~ 辦公地方； ~ 秘書支援； ~ 離任後 10 年內獲特工處提供保護； ~ 公幹的交通費；及 ~ 在美國及其領土／屬地境內享有免費郵遞服務。
加利福尼亞州	~ 連任一屆後競選政府首長；	~ 不適用。	~ 本部並無接獲任何資料。
	~ 日後從事的工作；及 ~ 與政府簽訂合約或企圖影響政府的決定以獲取報酬。	~ 一年。	
安大略省	~ 日後從事的工作；及 ~ 與政府簽訂合約或企圖影響政府的決定以獲取報酬。	~ 一年。	~ 退休金； ~ 遣散費； ~ 可領取一筆指定的款項，以支付專業職業介紹所、法律顧問或退休輔導顧問所提供的服務，及／或教育課程的開支；及 ~ 人壽保險。

表 4 —— 部長／經政治任命的官員／民選官員離任後所受到的限制及所享有的福利

國家／地區	離任後所受到的限制		離任後所享有的福利
	限制	規限期	
香港	~ 不適用。	~ 不適用。	~ 不適用。
法國	部長辦公廳的成員： ~ 日後從事的工作；及 ~ 與政府簽訂合約或企圖影響政府的決定以獲取報酬。	部長辦公廳的成員： ~ 5 年	~ 本部並無接獲任何資料。
英國	~ 日後從事的工作；及 ~ 與政府簽訂合約或企圖影響政府的決定以獲取報酬。	~ 3 個月至兩年。	~ 退休金； ~ 遣散費；及 ~ 如離任的官員仍是國會議員，他可支取整份國會議員薪酬及津貼。
美國	~ 日後從事的工作；及 ~ 與政府簽訂合約或企圖影響政府的決定以獲取報酬。	~ 一年／終身	~ 退休基金。
加利福尼亞州	~ 日後從事的工作；及 ~ 與政府簽訂合約或企圖影響政府的決定以獲取報酬。	~ 一年。	~ 本部並無接獲任何資料。
安大略省	~ 日後從事的工作；及 ~ 與政府簽訂合約或企圖影響政府的決定以獲取報酬。	~ 一年。	~ 退休金； ~ 遣散費； ~ 可領取一筆指定的款項，以支付專業職業介紹所、法律顧問或退休輔導顧問所提供的服務，及／或教育課程的開支；及 ~ 人壽保險。

表 5 —— 高級公務員離任後所受到的限制及所享有的福利

國家／地區	離任後所受到的限制		離任後所享有的福利
	限制	規限期	
香港	~ 日後從事的工作。	~ 可領取退休金的人員：兩至 3 年； ~ 按合約條款受聘的人員：一年。	~ 可領取退休金的人員：退休金及醫療福利； ~ 按合約條款受聘的人員：退休福利及酬金。
法國	~ 日後從事的工作； ~ 與政府簽訂合約或企圖影響政府的決定以獲取報酬； ~ 法例指定的活動；及 ~ 就行為操守施加規限。	~ 5 年。	~ 退休金。
英國	~ 日後從事的工作；及 ~ 就行為操守施加規限。	~ 兩年。	~ 退休金。
美國	~ 日後從事的工作；及 ~ 在一年內或終身遵守不得轉變立場的規則。	~ 一至兩年／終身。	~ 退休金。
加利福尼亞州	~ 日後從事的工作；及 ~ 法例指定的某些活動。	~ 一年／終身。	~ 退休金。
安大略省	~ 本部並無接獲任何資料。	~ 本部並無接獲任何資料。	~ 退休金。

黃麗菁女士
2002 年 2 月 6 日
電話：2869 7735

立法會秘書處歡迎轉載這份文件的部分或全文，並歡迎將之譯成其他語文。文件所載資料可隨意複製以供非商業用途，但須註明資料出處為立法會秘書處資料研究及圖書館服務部，並將一份複製文本送交立法會圖書館備存。

附錄

附錄 I **《美國法典》第 18 章第 207 條**
(Title 18 of US Code Section 207)

附錄 II **《議員誠信法》**
(Members' Integrity Act 1994)

Title 18 of US Code Section 207

From the U.S. Code Online via GPO Access
[wais.access.gpo.gov]
[Laws in effect as of January 6, 1999]
[Document not affected by Public Laws enacted between
January 6, 1999 and February 11, 2000]
[CITE: 18USC207]

TITLE 18--CRIMES AND CRIMINAL PROCEDURE

PART I--CRIMES

CHAPTER 11--BRIBERY, GRAFT, AND CONFLICTS OF
INTEREST

Sec. 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches

(a) Restrictions on All Officers and Employees of the Executive Branch and Certain Other Agencies.--

(1) Permanent restrictions on representation on particular matters.--Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter--

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) in which the person participated personally and substantially as such officer or employee, and

(C) which involved a specific party or specific parties at the time of such participation, shall be punished as provided in section 216 of this title.

(2) Two-year restrictions concerning particular matters under official responsibility.--Any person subject to the restrictions contained in paragraph (1) who, within 2 years after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia), in connection with a particular matter--

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) which such person knows or reasonably should know was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States or the District of Columbia, and

(C) which involved a specific party or specific parties at the time it was so pending, shall be punished as provided in section 216 of this title.

(3) Clarification of restrictions.--The restrictions contained in paragraphs (1) and (2) shall apply--

(A) in the case of an officer or employee of the executive branch of the United States (including any independent agency), only with respect to communications to or appearances before any officer or employee of any department, agency, court, or court-martial of the United States on behalf of any other person (except the United States), and only with respect to a matter in which the United States is a party or has a direct and substantial interest; and

(B) in the case of an officer or employee of the District of Columbia, only with respect to communications to or appearances before any officer or employee of any department, agency, or court of the District of Columbia on behalf of any other person (except the District of Columbia), and only with respect to a matter in which the District of Columbia is a party or has a direct and substantial interest.

(b) One-Year Restrictions on Aiding or Advising.--

- (1) In general.--Any person who is a former officer or employee of the executive branch of the United States (including any independent agency) and is subject to the restrictions contained in subsection (a)(1), or any person who is a former officer or employee of the legislative branch or a former Member of Congress, who personally and substantially participated in any ongoing trade or treaty negotiation on behalf of the United States within the 1-year period preceding the date on which his or her service or employment with the United States terminated, and who had access to information concerning such trade or treaty negotiation which is exempt from disclosure under section 552 of title 5, which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly represent, aid, or advise any other person (except the United States) concerning such ongoing trade or treaty negotiation for a period of 1 year after his or her service or employment with the United States terminates. Any person who violates this subsection shall be punished as provided in section 216 of this title.
- (2) Definition.--For purposes of this paragraph--
 - (A) the term "trade negotiation" means negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made; and
 - (B) the term "treaty" means an international agreement made by the President that requires the advice and consent of the Senate.
- (c) One-Year Restrictions on Certain Senior Personnel of the Executive Branch and Independent Agencies.--
 - (1) Restrictions.--In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including an independent agency), who is referred to in paragraph (2), and who, within 1 year after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

- (2) Persons to whom restrictions apply.--
- (A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))--
- (i) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5,
 - (ii) employed in a position which is not referred to in clause (i) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service,
 - (iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3, or
 - (iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O-7 or above.
- (B) Paragraph (1) shall not apply to a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates.
- (C) At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A), in such department or agency if the Director determines that--
- (i) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions, and
 - (ii) granting the waiver would not create the potential for use of undue influence or unfair advantage.
- (d) Restrictions on Very Senior Personnel of the Executive Branch and Independent Agencies.--
- (1) Restrictions.--In addition to the restrictions set forth in subsections (a) and (b), any person who--

- (A) serves in the position of Vice President of the United States,
 - (B) is employed in a position in the executive branch of the United States (including any independent agency) at a rate of pay payable for level I of the Executive Schedule or employed in a position in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule, or
 - (C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3, and who, within 1 year after the termination of that person's service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States, shall be punished as provided in section 216 of this title.
- (2) Persons who may not be contacted.--The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are--
- (A) any officer or employee of any department or agency in which such person served in such position within a period of 1 year before such person's service or employment with the United States Government terminated, and
 - (B) any person appointed to a position in the executive branch which is listed in section 5312, 5313, 5314, 5315, or 5316 of title 5.
- (e) Restrictions on Members of Congress and Officers and Employees of the Legislative Branch.--
- (1) Members of congress and elected officers.--
- (A) Any person who is a Member of Congress or an elected officer of either House of Congress and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B) or (C), on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

- (B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former Member of Congress are any Member, officer, or employee of either House of Congress, and any employee of any other legislative office of the Congress.
- (C) The persons referred to in subparagraph (A) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Congress in which the elected officer served.

(2) Personal staff.--

- (A) Any person who is an employee of a Senator or an employee of a Member of the House of Representatives and who, within 1 year after the termination of that employment, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.
- (B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:
 - (i) the Senator or Member of the House of Representatives for whom that person was an employee; and
 - (ii) any employee of that Senator or Member of the House of Representatives.

(3) Committee staff.--Any person who is an employee of a committee of Congress and who, within 1 year after the termination of that person's employment on such committee, knowingly makes, with the intent to influence, any communication to or appearance before any person who is a Member or an employee of that committee or who was a Member of the committee in the year immediately prior to the termination of such person's employment by the committee, on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(4) Leadership staff.--

- (A) Any person who is an employee on the leadership staff of the House of Representatives or an employee on the leadership staff of the Senate and who, within 1 year after the termination of that person's employment on such staff, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.
- (B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the following:
 - (i) in the case of a former employee on the leadership staff of the House of Representatives, those persons are any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives; and
 - (ii) in the case of a former employee on the leadership staff of the Senate, those persons are any Member of the leadership of the Senate and any employee on the leadership staff of the Senate.

(5) Other legislative offices.--

- (A) Any person who is an employee of any other legislative office of the Congress and who, within 1 year after the termination of that person's employment in such office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by any officer or employee of such office, in his or her official capacity, shall be punished as provided in section 216 of this title.
- (B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the employees and officers of the former legislative office of the Congress of the former employee.

(6) Limitation on restrictions.--

- (A) The restrictions contained in paragraphs (2), (3), and (4) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1- year period before that former employee's service as such employee terminated, was paid a rate of basic pay equal to or greater than an amount which is 75 percent of the basic rate of pay payable for a Member of the House of Congress in which such employee was employed.
- (B) The restrictions contained in paragraph (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the basic rate of pay payable for level 5 of the Senior Executive Service.

(7) Definitions.--As used in this subsection--

- (A) the term ``committee of Congress" includes standing committees, joint committees, and select committees;
- (B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;
- (C) the term ``employee of the House of Representatives" means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;
- (D) the term ``employee of the Senate" means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;
- (E) a person is an employee of a Member of the House of Representatives if that person is an employee of a Member of the House of Representatives under the clerk hire allowance;
- (F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;

- (G) the term "employee of any other legislative office of the Congress" means an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the Copyright Royalty Tribunal, the United States Capitol Police, and any other agency, entity, or office in the legislative branch not covered by paragraph (1), (2), (3), or (4) of this subsection;
- (H) the term "employee on the leadership staff of the House of Representatives" means an employee of the office of a Member of the leadership of the House of Representatives described in subparagraph (L), and any elected minority employee of the House of Representatives;
- (I) the term "employee on the leadership staff of the Senate" means an employee of the office of a Member of the leadership of the Senate described in subparagraph (M);
- (J) the term "Member of Congress" means a Senator or a Member of the House of Representatives;
- (K) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress;
- (L) the term "Member of the leadership of the House of Representatives" means the Speaker, majority leader, minority leader, majority whip, minority whip, chief deputy majority whip, chief deputy minority whip, chairman of the Democratic Steering Committee, chairman and vice chairman of the Democratic Caucus, chairman, vice chairman, and secretary of the Republican Conference, chairman of the Republican Research Committee, and chairman of the Republican Policy Committee, of the House of Representatives (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989);
- (M) the term "Member of the leadership of the Senate" means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority, chairman and secretary of the Conference of the Minority, chairman and co-chairman of the Majority Policy Committee, and chairman of the Minority Policy Committee, of the Senate (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989).

- (f) Restrictions Relating to Foreign Entities.--
- (1) Restrictions.--Any person who is subject to the restrictions contained in subsection (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in such subsection--
 - (A) represents a foreign entity before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties, or
 - (B) aids or advises a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties, shall be punished as provided in section 216 of this title.
 - (2) Special rule for trade representative.--With respect to a person who is the United States Trade Representative or Deputy United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising foreign entities at any time after the termination of that person's service as the United States Trade Representative.
 - (3) Definition.--For purposes of this subsection, the term "foreign entity" means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, or a foreign political party as defined in section 1(f) of that Act.
- (g) Special Rules for Detailees.--For purposes of this section, a person who is detailed from one department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.
- (h) Designations of Separate Statutory Agencies and Bureaus.--
- (1) Designations.--For purposes of subsection (c) and except as provided in paragraph (2), whenever the Director of the Office of Government Ethics determines that an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and that there exists no potential for use of undue influence or unfair advantage based on past Government service, the Director shall by rule designate such agency or bureau as a separate department or agency. On an annual basis the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his or her responsibilities under this paragraph.

- (2) Inapplicability of designations.--No agency or bureau within the Executive Office of the President may be designated under paragraph (1) as a separate department or agency. No designation under paragraph (1) shall apply to persons referred to in subsection (c)(2)(A)(i) or (iii).
- (i) Definitions.--For purposes of this section--
 - (1) the term ``officer or employee", when used to describe the person to whom a communication is made or before whom an appearance is made, with the intent to influence, shall include--
 - (A) in subsections (a), (c), and (d), the President and the Vice President; and
 - (B) in subsection (f), the President, the Vice President, and Members of Congress;
 - (2) the term ``participated" means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and
 - (3) the term ``particular matter" includes any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.
 - (j) Exceptions.--
 - (1) Official government duties.--The restrictions contained in this section shall not apply to acts done in carrying out official duties on behalf of the United States or the District of Columbia or as an elected official of a State or local government.
 - (2) State and local governments and institutions, hospitals, and organizations.--The restrictions contained in subsections (c), (d), and (e) shall not apply to acts done in carrying out official duties as an employee of--
 - (A) an agency or instrumentality of a State or local government if the appearance, communication, or representation is on behalf of such government, or
 - (B) an accredited, degree-granting institution of higher education, as defined in section 101 of the Higher Education Act of 1965, or a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.

- (3) International organizations.--The restrictions contained in this section shall not apply to an appearance or communication on behalf of, or advice or aid to, an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States.
- (4) Special knowledge.--The restrictions contained in subsections (c), (d), and (e) shall not prevent an individual from making or providing a statement, which is based on the individual's own special knowledge in the particular area that is the subject of the statement, if no compensation is thereby received.
- (5) Exception for scientific or technological information.--The restrictions contained in subsections (a), (c), and (d) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee. For purposes of this paragraph, the term "officer or employee" includes the Vice President.
- (6) Exception for testimony.--Nothing in this section shall prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence--
 - (A) a former officer or employee of the executive branch of the United States (including any independent agency) who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter; and
 - (B) a former officer or employee of the District of Columbia who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the District of Columbia) in that matter.

(7) Political parties and campaign committees.--

(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

(B) Subparagraph (A) shall not apply to--

- (i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or
- (ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections (c), (d), or (e) if, at the time of the communication or appearance, the person is employed by a person or entity other than--

\\ So in original. Probably should be ``subsection".

(I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or

(II) a person or entity who represents, aids, or advises only persons or entities described in subclause (I).

(C) For purposes of this paragraph--

- (i) the term ``candidate" means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;
- (ii) the term ``authorized committee" means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);
- (iii) the term ``national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

- (iv) the term ``national Federal campaign committee" means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;
- (v) the term ``State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;
- (vi) the term ``political party" means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and
- (vii) the term ``State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(k)(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

(B)(i) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

(ii) Notwithstanding clause (i), a waiver granted under this paragraph to any person who was an officer or employee of Lawrence Livermore National Laboratory, Los Alamos National Laboratory, or Sandia National Laboratory immediately before the person's Federal Government employment began shall apply to that person's employment by any such national laboratory after the person's employment by the Federal Government is terminated.

(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify--

- (A) the officer or employee covered by the waiver by name and by position, and
- (B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

- (4) The President may not delegate the authority provided by this subsection.
- (5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.
- (B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six- month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.
- (C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.
- (D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports required of such person by subparagraphs (A) and (B) have been filed.
- (E) As used in this subsection, the term "civil service" has the meaning given that term in section 2101 of title 5.

(Added Pub. L. 87-849, Sec. 1(a), Oct. 23, 1962, 76 Stat. 1123; amended Pub. L. 95-521, title V, Sec. 501(a), Oct. 26, 1978, 92 Stat. 1864; Pub. L. 96-28, June 22, 1979, 93 Stat. 76; Pub. L. 101-189, div. A, title VIII, Sec. 814(d)(2), Nov. 29, 1989, 103 Stat. 1499; Pub. L. 101-194, title I, Sec. 101(a), Nov. 30, 1989, 103 Stat. 1716; Pub. L. 101-280, Secs. 2(a), 5(d), May 4, 1990, 104 Stat. 149, 159; Pub. L. 101-509, title V, Sec. 529 [title I, Sec. 101(b)(8)(A)], Nov. 5, 1990, 104 Stat. 1427, 1440; Pub. L. 102-25, title VII, Sec. 705(a), Apr. 6, 1991, 105 Stat. 120; Pub. L. 102-190, div. C, title XXXI, Sec. 3138(a), Dec. 5, 1991, 105 Stat. 1579; Pub. L. 102-395, title VI, Sec. 609(a), Oct. 6, 1992, 106 Stat. 1873; Pub. L. 103-322, title XXXIII, Secs. 330002(i), 330010(15), Sept. 13, 1994, 108 Stat. 2140, 2144; Pub. L. 104-65, Sec. 21(a), Dec. 19, 1995, 109 Stat. 704; Pub. L. 104-179, Secs. 5, 6, Aug. 6, 1996, 110 Stat. 1567, 1568; Pub. L. 104-208, div. A, title I, Sec. 101(f) [title VI, Sec. 635], Sept. 30, 1996, 110 Stat. 3009-314, 3009-363; Pub. L. 105-244, title I, Sec. 102(a)(5), Oct. 7, 1998, 112 Stat. 1618.)

References in Text

Section 1102 of the Omnibus Trade and Competitiveness Act of 1988, referred to in subsec. (b)(2)(A), is classified to section 2902 of Title 19, Customs Duties.

Senior Executive Service, referred to in subsecs. (c)(2)(A)(ii) and (e)(6)(B), see section 5382 of Title 5, Government Organization and Employees.

Levels I and II of the Executive Schedule, referred to in subsec. (d)(1)(B), are set out in sections 5312 and 5313, respectively, of Title 5.

Section 102(a) of the Ethics Reform Act of 1989, referred to in subsec. (e)(7)(L), (M), is section 102(a) of Pub. L. 101-194, which is set out below.

Section 1(e) and (f) of the Foreign Agents Registration Act of 1938, referred to in subsec. (f)(3), is classified to section 611(e) and (f) of Title 22, Foreign Relations and Intercourse.

Section 101 of the Higher Education Act of 1965, referred to in subsec. (j)(2)(B), is classified to section 1001 of Title 20, Education.

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (j)(2)(B), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

Codification

Another section 501(a) of Pub. L. 95-521, as added by Pub. L. 101-194, title VI, Sec. 601(a), Nov. 30, 1989, 103 Stat. 1760, is set out in the Appendix to Title 5, Government Organization and Employees.

Prior Provisions

A prior section 207, act June 25, 1948, ch. 645, 62 Stat. 692, related to the acceptance of a bribe by a judge, prior to the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

Provisions similar to those comprising this section were contained in section 284 of this title prior to the repeal of such section and the general amendment of this chapter by Pub. L. 87-849.

Amendments

1998--Subsec. (j)(2)(B). Pub. L. 105-244 substituted ``section 101" for ``section 1201(a)".

1996--Subsec. (c)(2)(A)(ii). Pub. L. 104-179, Sec. 6, substituted ``level 5 of the Senior Executive Service," for ``level V of the Executive Schedule,".

Subsec. (e)(6)(B). Pub. L. 104-208 substituted "level 5 of the Senior Executive Service" for "level V of the Executive Schedule".

Subsec. (j). Pub. L. 104-179, Sec. 5, added par. (7).

1995--Subsec. (f)(2). Pub. L. 104-65 inserted "or Deputy United States Trade Representative" after "is the United States Trade Representative" and substituted "at any time" for "within 3 years".

1994--Subsec. (a)(3). Pub. L. 103-322, Sec. 330010(15), substituted "restrictions" for "Restrictions" in heading.

Subsec. (c)(2)(A)(ii). Pub. L. 103-322, Sec. 330002(i), substituted a comma for semicolon at end.

1992--Subsec. (f)(2), (3). Pub. L. 102-395 added par. (2) and redesignated former par. (2) as (3).

1991--Subsec. (k). Pub. L. 102-25 reinstated subsec. (k) as originally enacted by Pub. L. 101-189. See 1989 Amendment note and Effective Date of 1991 Amendments note below.

Subsec. (k)(1)(B). Pub. L. 102-190 designated existing provisions as cl. (i) and added cl. (ii).

1990--Subsec. (a)(1). Pub. L. 101-280, Sec. 2(a)(1), amended subsec. (a)(1), as amended by Pub. L. 101-194, by inserting "(including any special Government employee)" after "who is an officer or employee", striking out "Government" after "executive branch of the United States", "and any special Government employee" after "independent agency of the United States", "Government" after "employment with the United States", "as the case may be," before "knowingly makes" and before "on behalf of", inserting "or the District of Columbia" after "(except the United States", and in subpar. (A) inserting "or the District of Columbia" after "United States".

Subsec. (a)(2). Pub. L. 101-280, Sec. 2(a), amended subsec. (a)(2), as amended by Pub. L. 101-194, by substituting "or the District of Columbia, knowingly" for "Government, knowingly" and "(except the United States or the District of Columbia)" for "(except the United States)", in subpar. (A) inserting "or the District of Columbia" after "United States)", and in subpar. (B) striking out "Government" after "United States".

Subsec. (a)(3). Pub. L. 101-280, Sec. 2(a)(3), amended subsec. (a), as amended by Pub. L. 101-194, by adding par. (3).

Subsec. (b)(1). Pub. L. 101-280, Sec. 2(a)(4), amended subsec. (b)(1), as amended by Pub. L. 101-194, by substituting "a former officer or employee of the executive branch of the United States (including any independent agency) and is" for "a former officer or employee", substituting "or any person who is a former officer or employee of the legislative branch or a former Member of Congress" for "and any person described in subsection (e)(7)", substituting "which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly represent" for "and which is so designated by the appropriate department or agency, shall not, on the basis of that information, which the person knew or should have known was so designated, knowingly represent", inserting "a period of" before "1 year", and striking out "Government" before "terminates".

Subsec. (c). Pub. L. 101-280, Sec. 5(d), substituted "shall be subject to the penalties set forth in section 216 of this title" for "shall be fined not more than \$10,000 or imprisoned for not more than two years, or both" in concluding provisions of subsec. (c) as in effect on May 4, 1990.

Subsec. (c)(1). Pub. L. 101-280, Sec. 2(a)(5)(A), amended subsec. (c)(1), as amended by Pub. L. 101-194, by substituting "(including any special Government employee) of the executive branch of the United States" for "of the executive branch".

Subsec. (c)(2)(A)(i). Pub. L. 101-280, Sec. 2(a)(5)(B)(i), amended subsec. (c)(2)(A)(i), as amended by Pub. L. 101-194, by inserting "specified in or" after "employed at a rate of pay" and striking out "or a comparable or greater rate of pay under other authority," after "chapter 53 of title 5,".

Subsec. (c)(2)(A)(ii). Pub. L. 101-509, Sec. 529 [title I, Sec. 101(b)(8)(A)(i)], added cl. (ii) and struck out former cl. (ii) which read as follows: "employed in a position which is not referred to in clause (i) and for which the rate of basic pay is equal to or greater than the rate of basic pay payable for GS-17 of the General Schedule,".

Pub. L. 101-280, Sec. 2(a)(5)(B)(ii), amended subsec. (a)(2)(A)(ii), as amended by Pub. L. 101-194, by substituting "rate of basic" for "basic rate of" wherever appearing.

Subsec. (c)(2)(C), (D). Pub. L. 101-280, Sec. 2(a)(5)(B)(iii), amended subsec. (c)(2)(C), (D), as amended by Pub. L. 101-194, by redesignating subpar. (D) as (C) and striking out former subpar. (C) which read as follows: "Subparagraph (A)(ii) includes persons employed in the Senior Executive Service at the basic rate of pay specified in that subparagraph."

Subsec. (d)(1)(B). Pub. L. 101-280, Sec. 2(a)(6)(A), amended subsec. (d)(1)(B), as amended by Pub. L. 101-194, by substituting "in the executive branch of the United States (including any independent agency)" for "paid".

Subsec. (d)(2). Pub. L. 101-280, Sec. 2(a)(6)(B), amended subsec. (d)(2), as amended by Pub. L. 101-194, by substituting "Persons who may not be contacted" for "Entities to which restrictions apply" in heading, and striking out "other" after "any" in subpar. (B).

Subsec. (e)(6). Pub. L. 101-509, Sec. 529 [title I, Sec. 101(b)(8)(A)(ii)], added par. (6) and struck out former par. (6) which read as follows: "The restrictions contained in paragraphs (2), (3), (4), and (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid for such service at a rate of basic pay equal to or greater than the rate of basic pay payable for GS-17 of the General Schedule under section 5332 of title 5."

Pub. L. 101-280, Sec. 2(a)(7)(A), amended subsec. (e)(6), as amended by Pub. L. 101-194, by substituting "rate of basic" for "basic rate of" wherever appearing.

Subsec. (e)(7)(L), (M). Pub. L. 101-280, Sec. 2(a)(7)(B), amended subsec. (e)(7)(L), (M), as amended by Pub. L. 101-194, by inserting "on or" before "after the effective date".

Subsec. (f)(1). Pub. L. 101-280, Sec. 2(a)(8)(A), amended subsec. (f)(1), as amended by Pub. L. 101-194, by substituting "such subsection" for "subsection (c), (d), or (e), as the case may be".

Subsec. (f)(1)(A). Pub. L. 101-280, Sec. 2(a)(8)(B), amended subsec. (f)(1)(A), as amended by Pub. L. 101-194, by striking out "the interests of" after "represents" and "of the Government" after "department or agency".

Subsec. (f)(1)(B). Pub. L. 101-280, Sec. 2(a)(8)(C), amended subsec. (f)(1)(B), as amended by Pub. L. 101-194, by striking out "of the Government" after "department or agency".

Subsec. (i)(1). Pub. L. 101-280, Sec. 2(a)(9), amended subsec. (i)(1), as amended by Pub. L. 101-194, by adding par. (1) and striking out former par. (1) which read as follows: "the term 'intent to influence' means the intent to affect any official action by a Government entity of the United States through any officer or employee of the United States, including Members of Congress;".

Subsec. (j)(1). Pub. L. 101-280, Sec. 2(a)(10)(A), amended subsec. (j)(1), as amended by Pub. L. 101-194, by substituting "this section" for "subsections (a), (c), (d), and (e)", "on behalf of" for "as an officer or employee of", and "or the District of Columbia" for "Government".

Subsec. (j)(3). Pub. L. 101-280, Sec. 2(a)(10)(B), amended subsec. (j)(3), as amended by Pub. L. 101-194, by substituting "this section" for "subsections (c), (d), and (e)" and "in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States" for "of which the United States is a member".

Subsec. (j)(4). Pub. L. 101-280, Sec. 2(a)(10)(C), amended subsec. (j)(4), as amended by Pub. L. 101-194, by substituting "Special" for "Personal matters and special" in heading, substituting "prevent an individual" for "apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibitions of those subsections prevent a former officer or employee", substituting "individual's" for "former officer's or employee's", and striking out "other than that regularly provided for by law or regulation for witnesses" after "if no compensation is thereby received".

Subsec. (j)(5). Pub. L. 101-280, Sec. 2(a)(10)(D), amended subsec. (j)(5), as amended by Pub. L. 101-194, by substituting "and (d)" for "(d)", and (e)" and inserting "For purposes of this paragraph, the term 'officer or employee' includes the Vice President."

Subsec. (j)(6). Pub. L. 101-280, Sec. 2(a)(10)(E)(ii), amended subsec. (j)(6), as amended by Pub. L. 101-194, by substituting "sentence--" for "sentence, a former officer or employee subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter." and adding subpars. (A) and (B).

Pub. L. 101-280, Sec. 2(a)(10)(E)(i), amended subsec. (j)(6), as amended by Pub. L. 101-194, by substituting "an individual" for "a former Member of Congress or officer or employee of the executive or legislative branch or an independent agency (including the Vice President and any special Government employee)".

1989--Pub. L. 101-194 amended section generally, substituting "Restrictions on former officers, employees, and elected officials of the executive and legislative branches" for "Disqualification of former officers and employees; disqualification of partners of current officers and employees" as section catchline and making extensive changes in content and structure of text. For text of section as it existed prior to the general amendment by Pub. L. 101-194, see Effective Date of 1989 Amendment; Effect on Employment note set out below.

Subsec. (k). Pub. L. 101-189 added subsec. (k).

1979--Subsec. (b). Pub. L. 96-28, Sec. 1, substituted "by personal presence at any formal or informal appearance" for "concerning any formal or informal appearance" in cl. (ii) of provisions before par. (1), and, in par. (3), inserted "as to (i)," before "which was actually pending" and "as to (ii)," before "in which he participated".

Subsec. (d). Pub. L. 96-28, Sec. 2, designated existing provisions as par. (1), designated existing pars. (1) and (3) as subpars. (A) and (B) of par. (1) as so designated, and added subpar. (C) of par. (1) and par. (2), incorporating into the new par. and subpar. portions of former provisions relating to positions for which the basic rate of pay was equal to or greater than the basic rate of pay for GS-17 of the General Schedule prescribed by section 5332 of Title 5 and who had significant decision-making or supervisory responsibility, as designated by the Director of the Office of Government Ethics, in consultation with the head of the department or agency concerned, and provisions relating to the designation of positions by the Director of the Office of Government Ethics.

1978--Pub. L. 95-521 expanded section to include provisions designed to more effectively deal with the problem of the disproportionate influence former officers and employees might have upon the government processes and decision-making in their previous departments or agencies when they return in the role of representatives or advocates of nongovernmental groups or interests before those same departments or agencies.

Effective Date of 1998 Amendment

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

Effective Date of 1995 Amendment

Section 21(c) of Pub. L. 104-65 provided that: "The amendments made by this section [amending this section and section 2171 of Title 19, Customs Duties] shall apply with respect to an individual appointed as United States Trade Representative or as a Deputy United States Trade Representative on or after the date of enactment of this Act [Dec. 19, 1995]."

Effective Date of 1992 Amendment

Section 609(b) of Pub. L. 102-395 provided that: "This section [amending this section] shall not apply to the person serving as the United States Trade Representative at the date of enactment of this Act [Oct. 6, 1992]."

Effective Date of 1991 Amendments

Section 3138(b) of Pub. L. 102-190 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1991] and shall apply to persons granted waivers under section 207(k)(1) of title 18, United States Code, on or after that date."

Section 705(a) of Pub. L. 102-25 provided that subsec. (k), added by Pub. L. 101-189 and omitted in the general amendment of this section by Pub. L. 101-194, is reinstated as originally enacted, effective as of Jan. 1, 1991.

Effective Date of 1990 Amendments

Section 529 [title I, Sec. 101(b)(8)(B)] of Pub. L. 101-509 provided that: "The amendments made by subparagraph (A) [amending this section] take effect on January 1, 1991."

Amendment by Pub. L. 101-280 effective May 4, 1990, see section 11 of Pub. L. 101-280, set out as a note under section 101 of Pub. L. 95- 521 in the Appendix to Title 5, Government Organization and Employees.

Effective Date of 1989 Amendment; Effect on Employment

Section 102 of Pub. L. 101-194, as amended by Pub. L. 101-280, Sec. 2(b), May 4, 1990, 104 Stat. 152, provided that:

"(a) In General.--(1) Subject to paragraph (2) and to subsection (b), the amendments made by section 101 [amending this section] take effect on January 1, 1991.

"(2) Subject to subsection (b), the amendments made by section 101 take effect at noon on January 3, 1991, with respect to Members of Congress (within the meaning of section 207 of title 18, United States Code).

"(b) Effect on Employment.--(1) The amendments made by section 101 apply only to persons whose service as a Member of Congress, the Vice President, or an officer or employee to which such amendments apply terminates on or after the effective date of such amendments.

"(2) With respect to service as an officer or employee which terminates before the effective date set forth in subsection (a), section 207 of title 18, United States Code, as in effect at the time of the termination of such service, shall continue to apply, on and after such effective date, with respect to such service."

Prior to the effective date of the amendment by Pub. L. 101-194, section 207 read as follows:

"Sec. 207. Disqualification of former officers and employees; disqualification of partners of current officers and employees

"(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to--

"(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

“(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

“(3) in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed; or

“(b) Whoever, (i) having been so employed, within two years after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within two years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in representing any other person (except the United States) by personal presence at any formal or informal appearance before--

“(1) any department, agency, court, court-martial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

“(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

“(3) as to (i), which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility, or, as to (ii), in which he participated personally and substantially as an officer or employee; or

“(c) Whoever, other than a special Government employee who serves for less than sixty days in a given calendar year, having been so employed as specified in subsection (d) of this section, within one year after such employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, anyone other than the United States in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of anyone other than the United States, to--

“(1) the department or agency in which he served as an officer or employee, or any officer or employee thereof, and

“(2) in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, and

“(3) which is pending before such department or agency or in which such department or agency has a direct and substantial interest-- shall be subject to the penalties set forth in section 216 of this title.

“(d)(1) Subsection (c) of this section shall apply to a person employed--

“(A) at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater rate of pay under other authority;

“(B) on active duty as a commissioned officer of a uniformed service assigned to pay grade of O-9 or above as described in section 201 of title 37, United States Code; or

“(C) in a position which involves significant decision-making or supervisory responsibility, as designated under this subparagraph by the Director of the Office of Government Ethics, in consultation with the department or agency concerned. Only positions which are not covered by subparagraphs (A) and (B) above, and for which the basic rate of pay is equal to or greater than the basic rate of pay for GS-17 of the General Schedule prescribed by section 5332 of title 5, United States Code, or positions which are established within the Senior Executive Service pursuant to the Civil Service Reform Act of 1978, or positions of active duty commissioned officers of the uniformed services assigned to pay O-7 or O-8, as described in section 201 of title 37, United States Code, may be designated. As to persons in positions designated under this subparagraph, the Director may limit the restrictions of subsection (c) to permit a former officer or employee, who served in a separate agency or bureau within a department or agency, to make appearances before or communications to persons in an unrelated agency or bureau, within the same department or agency, having separate and distinct subject matter jurisdiction, upon a determination by the Director that there exists no potential for use of undue influence or unfair advantage based on past government service. On an annual basis, the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his responsibilities under this paragraph.

“(2) The prohibition of subsection (c) shall not apply to appearances, communications, or representation by a former officer or employee, who is--

“(A) an elected official of a State or local government, or

“(B) whose principal occupation or employment is with (i) an agency or instrumentality of a State or local government, (ii) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (iii) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, and the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization.

“(e) For the purposes of subsection (c), whenever the Director of the Office of Government Ethics determines that a separate statutory agency or bureau within a department or agency exercises functions which are distinct and separate from the remaining functions of the department or agency, the Director shall by rule designate such agency or bureau as a separate department or agency; except that such designation shall not apply to former heads of designated bureaus or agencies, or former officers and employees of the department or agency whose official responsibilities included supervision of said agency or bureau.

“(f) The prohibitions of subsections (a), (b), and (c) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned, or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

“(g) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility, shall be fined not more than \$5,000, or imprisoned for not more than one year, or both.

“(h) Nothing in this section shall prevent a former officer or employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

“(i) The prohibition contained in subsection (c) shall not apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibition of that subsection prevent a former officer or employee from making or providing a statement, which is based on the former officer's or employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

“(j) If the head of the department or agency in which the former officer or employee served finds, after notice and opportunity for a hearing, that such former officer or employee violated subsection (a), (b), or (c) of this section, such department or agency head may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, such department or agency on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action. Such disciplinary action shall be subject to review in an appropriate United States district court. No later than six months after the effective date of this Act, departments and agencies shall, in consultation with the Director of the Office of Government Ethics, establish procedures to carry out this subsection.

“(k)(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

“(B) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

“(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

“(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify--

“(A) the officer or employee covered by the waiver by name and by position, and

“(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

“(4) The President may not delegate the authority provided by this subsection.

“(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.

“(B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.

“(C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

“(D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports required of such person by subparagraphs (A) and (B) have been filed.

“(E) As used in this subsection, the term ‘civil service’ has the meaning given that term in section 2101 of title 5.”

Effective Date of 1978 Amendment

Section 503 of Pub. L. 95-521, which provided that the amendments made by section 501 (amending this section) shall become effective on July 1, 1979, was amended generally by Pub. L. 101-194, title VI, Sec. 601(a), Nov. 30, 1989, 103 Stat. 1761, and is now set out in the Appendix to Title 5, Government Organization and Employees.

Section 502 of Pub. L. 95-521, which provided that the amendments made by section 501 (amending this section) shall not apply to those individuals who left Government service prior to the effective date of such amendments (July 1, 1979) or, in the case of individuals who occupied positions designated pursuant to section 207(d) of title 18, United States Code, prior to the effective date of such designation; except that any such individual who returns to Government service on or after the effective date of such amendments or designation shall be thereafter covered by such amendments or designation, was amended generally by Pub. L. 101-194, title VI, Sec. 601(a), Nov. 30, 1989, 103 Stat. 1761, and is now set out in the Appendix to Title 5.

Effective Date

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

Regulations

Responsibility of Office of Government Ethics for promulgating regulations and interpreting this section, see section 201(c) of Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

Transfer of Functions

Certain functions of Clerk of House of Representatives transferred to Director of Non-legislative and Financial Services by section 7 of House Resolution No. 423, One Hundred Second Congress, Apr. 9, 1992. Director of Non-legislative and Financial Services replaced by Chief Administrative Officer of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

Agencies Within Executive Office of President

For provisions relating to treatment of agencies within the Executive Office of the President as one agency under subsec. (c) of this section, see Ex. Ord. No. 12674, Sec. 202, Apr. 12, 1989, 54 F.R. 15160, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

Exemptions

Exemptions from former section 284 of this title deemed to be exemptions from this section, see section 2 of Pub. L. 87-849, set out as a note under section 203 of this title.

Canal Zone

Applicability of section to Canal Zone, see section 14 of this title.

Cross References

American Institute in Taiwan, employees in representing Institute to be exempt from this section, see section 3310 of Title 22, Foreign Relations and Intercourse.

Authority of Committee on House Oversight of House of Representatives to combine House Clerk Hire Allowance into Members' Representational Allowance, see section 57b of Title 2, The Congress.

Definitions, see section 202 of this title.

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

Officials appointed under laws and regulations of the Universal Military Training and Service System, nonapplicability of this section to, see section 463 of Title 50, Appendix, War and National Defense.

Surplus property, disposal of, restriction on practice by former Government officers and employees and commissioned officers, see section 471 et seq. of Title 40, Public Buildings, Property, and Works.

Wartime suspension of limitations, see section 3287 of this title.

Section Referred to in Other Sections

This section is referred to in sections 14, 202, 216 of this title; title 5 sections 568, 3374; title 12 section 2245; title 16 section 459b-7; title 19 section 2171; title 22 sections 3310, 3507, 3508, 3613, 3622; title 25 section 450i; title 28 sections 594, 656; title 30 section 663; title 38 section 5902; title 40 App. section 108; title 42 sections 1396a, 2297h-3; title 48 section 1907; title 50 section 405; title 50 App. section 463.

MEMBERS' INTEGRITY ACT, 1994
Statutes of Ontario, 1994, Chapter 38

AMENDED BY: 1998, c. 26, s. 107; 1998, c. 27, s. 1; 199, c. 6, s. 36

Preamble

It is desirable to provide greater certainty in the reconciliation of the private interests and public duties of members of the Legislative Assembly, recognizing the following principles:

1. The Assembly as a whole can represent the people of Ontario most effectively if its members have experience and knowledge in relation to many aspects of life in Ontario and if they can continue to be active in their own communities, whether in business, in the practice of a profession or otherwise.
2. Members' duty to represent their constituents includes broadly representing their constituents' interests in the Assembly and to the Government of Ontario.
3. Members are expected to perform their duties of office and arrange their private affairs in a manner that promotes public confidence in the integrity of each member, maintains the Assembly's dignity and justifies the respect in which society holds the Assembly and its members.
4. Members are expected to act with integrity and impartiality that will bear the closest scrutiny.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

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

“Commissioner” and “Integrity Commissioner” mean the person appointed as Integrity Commissioner under section 23; (“commissaire”, “commissaire à l'intégrité”)

“family”, when used with reference to a person, means,

- (a) his or her spouse and minor children, and
- (b) any other adult 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; (“famille”)

“household”, when used with reference to a person, means,

- (a) any individual who belongs to the person’s family,
- (b) the person’s same-sex partner, and
- (c) any adult who is related to the person’s same-sex partner, shares a residence with the person and is primarily dependent on the person or same-sex partner for financial support; ... (“ménage”)

“private company” has the same meaning as in the *Securities Act* (“compagnie fermée”)

“private interest” does not include an interest in a decision,

- (a) that is of general application,
- (b) that affects a member of the Assembly as one of a broad class of persons, or
- (c) that concerns the remuneration or benefits of a member or of an officer or employee of the Assembly; (“intérêt personnel”)

“same-sex partner” means a person who is the member’s same-sex partner within the meaning of Part III of the *Family Law Act*, but does not include a person from whom the member is separated, whether or not support obligations and property have been dealt with by a separation agreement or court order. (“partenaire de même sexe”)

“Speaker” means the Speaker of the Assembly; (“président”)

“spouse” means a person who is the member's spouse within the meaning of Part III of the *Family Law Act*, 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. (“conjoint”) 1994, c. 38, s. 1; 1999, c. 6, s. 36 (1).

PROVISIONS APPLYING TO ALL MEMBERS OF THE ASSEMBLY

Conflict of interest

2. A member of the Assembly shall not make a decision or participate in making a decision in the execution of his or her office if the member knows or reasonably should know that in the making of the decision there is an opportunity to further the member's private interest or improperly to further another person's private interest. 1994, c. 38, s. 2.

Insider information

3. (1) A member of the Assembly shall not use information that is obtained in his or her capacity as a member and that is 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. 1994, c. 38, s. 3.

Influence

4. A member of the Assembly shall not use his or her office to seek to influence a decision made or to be made by another person so as to further the member's private interest or improperly to further another person's private interest. 1994, c. 38, s. 4.

Activities on behalf of constituents

5. This Act does not prohibit the activities in which members of the Assembly normally engage on behalf of constituents in accordance with Ontario parliamentary convention. 1994, c. 38, s. 5.

Gifts

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

Non-application of subs. (1)

(2) Subsection (1) does not apply to,

(a) compensation authorized by law;

(b) a gift or personal benefit that is received as an incident of the protocol, customs or social obligations that normally accompany the responsibilities of office.

Disclosure

(3) Within 30 days of receiving a gift or personal benefit referred to in clause (2) (b) that exceeds \$200 in value, the member shall file with the Commissioner a disclosure statement in the form provided by the Commissioner, indicating the nature of the gift or benefit, its source and the circumstances under which it was given and accepted.

Same

(4) Subsection (3) also applies to gifts and benefits if the total value of what is received from one source in any 12-month period exceeds \$200.

Travel points

(5) A member who receives promotional awards or points from airlines, hotels and other commercial enterprises as the result of travel for which he or she is reimbursed by the Government of Ontario shall not use them for personal purposes. 1994, c. 38, s. 6.

Government contracts with members

7. (1) No member of the Assembly shall knowingly be a party to a contract with the Government of Ontario under which the member receives a benefit.

Partnerships, private companies

(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 of Ontario under which the partnership or company receives a benefit.

Exception, existing contracts

(3) Subsections (1) and (2) do not apply to a contract that existed before the member's election to the Assembly, but they do apply to its renewal or extension.

Exception, nature of interest

(4) Subsection (2) does not apply if the Commissioner is of the opinion that the interest is unlikely to affect the member's performance of his or her duties.

Exception, management trust

(5) Subsection (2) does not apply if the member has entrusted his or her interest to one or more trustees on the following terms:

1. The provisions of the trust shall be approved by the Commissioner.
2. The trustees shall be persons who are at arm's length with the member and approved by the Commissioner.

3. The trustees shall not consult with the member with respect to managing the trust property, but may consult with the Commissioner.

4. Annually, the trustees shall give the Commissioner 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.

5. The trustees shall also 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.

Exception, pensions

(6) Subsection (1) does not prohibit a member from receiving benefits under the *Legislative Assembly Retirement Allowances Act*, the *Public Service Act*, the *Public Service Pension Act*, the *Teachers' Pension Act* or any other Act that provides for retirement benefits funded wholly or partly by the Government of Ontario.

Inheritance

(7) Subsection (2) does not apply until the first anniversary of the acquisition if the interest in the partnership or private company was acquired by inheritance. 1994, c. 38, s. 7.

Procedure on conflict of interest

8. A member of the Assembly who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Assembly or the Executive Council, or a committee of either of them, shall, if present at a meeting considering the matter,

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

(b) withdraw from the meeting without voting or participating in consideration of the matter. 1994, c. 38, s. 8.

Rights preserved

9. Nothing in this Act prohibits a member of the Assembly who is not a member of the Executive Council from,

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

(b) receiving fees for providing professional services under the *Legal Aid Services Act, 1998*;

(c) engaging in the management of a business carried on by a corporation;

(d) carrying on a business through a partnership or sole proprietorship;

- (e) holding or trading in securities, stocks, futures and commodities;
- (f) holding shares or an interest in any corporation, partnership, syndicate, cooperative or similar commercial enterprise;
- (g) being a director or partner or holding an office, other than an office that a member may not hold under another Act, 1994, c. 38, s. 9; 1998, c. 26, s. 107.

**PROVISIONS APPLYING TO
MEMBERS AND FORMER MEMBERS
OF THE EXECUTIVE COUNCIL**

Outside activities

10. A member of the Executive Council shall not,
- (a) engage in employment or 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 holding the office or directorship is one of the member's duties as a member of the Executive Council, or the office or directorship is in a social club, religious organization or political party. 1994, c. 38, s.

Investments

11. (1) A member of the Executive Council shall not hold or trade in securities, stocks, futures or commodities.

Exception

- (2) Subsection (1) does not apply to assets and liabilities described in subsection 21 (4).

Management trust

- (3) A member may comply with subsection (1) by entrusting the assets to one or more trustees on the following terms:

1. The provisions of the trust shall be approved by the Commissioner.
2. The trustees shall be persons who are at arm's length with the member and approved by the Commissioner.
3. The trustees shall not consult with the member with respect to managing the trust property, but may consult with the Commissioner.

4. At the end of each calendar year and at one or more intervals during the year, the trustees shall give the member 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.
5. The trustees shall also 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.
6. The trustee shall give the Commissioner copies of all information and reports given to the member.
7. The trust shall provide that the member may, at any time, instruct the trustees to liquidate all or part of the trust and pay over the proceeds to the member. 1994, c. 38, s. 11.

Partnerships and sole proprietorships

12. (1) A member of the Executive Council shall not carry on business through a partnership or sole proprietorship.

Management trust

(2) A member may comply with the requirements of subsection (1) by entrusting the business or his or her interest in the business to one or more trustees on the following terms:

1. The provisions of the trust shall be approved by the Commissioner.
2. The trustees shall be persons who are at arm's length with the member and approved by the Commissioner.
3. The trustees shall not consult with the member with respect to managing the trust property, but may consult with the Commissioner.
4. Annually, the trustees shall give the Commissioner 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.
5. The trustees shall also 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.
6. The member is entitled to be reimbursed from the Consolidated Revenue Fund for reasonable fees and disbursements actually paid for the establishment and administration of the trust, as approved by the Commissioner, but is responsible for any income tax liabilities that may result from the reimbursement. 1994, c. 38, s. 12.

Approved exceptions

13. A member of the Executive Council may engage in an activity prohibited by clause 10 (b) or (c) or subsection 11 (1) or 12 (1) if the following conditions are met:

1. The member has disclosed all material facts to the Commissioner.
2. The Commissioner is satisfied that the activity, if carried on in the specified manner, will not create a conflict between the member's private interest and public duty.
3. The Commissioner has given the member his or her approval and has specified the manner in which the activity may be carried out.
4. The member carries the activity out in the specified manner. 1994, c. 38, s. 13.

Time for compliance

14. A person who becomes a member of the Executive Council shall comply with section 10 and subsections 11 (1) and 12 (1), or obtain the Commissioner's approval under section 13, within 60 days after the appointment. 1994, c. 38, s. 14.

Acquisition of land

15. (1) A member of the Executive Council shall not, directly or indirectly, acquire an interest in real property, except for residential or recreational use by the member or a person who belongs to his or her household. 1994, c. 38, s. 15 (1); 1999, c. 6, s. 36 (2).

Exceptions

- (2) Subsection (1) does not apply to,
 - (a) an interest in real property that the member inherits;
 - (b) a mortgage that is granted to the member as mortgagee, or an interest in real property that the member acquires by foreclosing on a mortgage; or
 - (c) an interest in real property that is acquired to be used as part of an existing farming operation. 1994, c. 38, s. 15 (2).

Procedure on conflict of interest

16. A member of the Executive Council who has reasonable grounds to believe that he or she has a conflict of interest in a matter requiring the member's decision shall ask the Premier or Deputy Premier to appoint another member of the Executive Council to perform the member's duties in the matter for the purpose of making the decision, and the member who is appointed may act in the matter for the period of time necessary for the purpose. 1994, c. 38, s. 16.

Restrictions applicable to Executive Council

17. (1) The Executive Council and its members shall not knowingly,
- (a) award or approve a contract with, or grant a benefit to, a former member of the Executive Council until 12 months have passed after the date he or she ceased to hold office;
 - (b) award or approve a contract with, or grant a benefit to, a former member of the Executive Council who has, during the 12 months after the date he or she ceased to hold office, made representations to the Government of Ontario in respect of the contract or benefit;
 - (c) award or approve a contract with, or grant a benefit to, a person on whose behalf a former member of the Executive Council has, during the 12 months after the date he or she ceased to hold office, made representations to the Government of Ontario in respect of the contract or benefit.

Exception

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

Same

- (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. 1994, c. 38, s. 17.

Restrictions applicable to former members

18. (1) A former member of the Executive Council shall not knowingly, during the 12 months after the date he or she ceased to hold office,
- (a) accept a contract or benefit that is awarded, approved or granted by the Executive Council, a member of the Executive Council or an employee of a ministry (other than an employee of an agency, board or commission);
 - (b) make representations to the Government of Ontario on his or her own behalf or on another person's behalf with respect to such a contract or benefit;
 - (c) accept a contract or benefit from any person who received a contract or benefit from a ministry of which the former member was the minister.

Exception

- (2) Subsection (1) does not apply to contracts or benefits in respect of further duties in the service of the Crown.

Same

(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.

Ongoing transaction or negotiation

(4) A former member of the Executive Council shall not make representations to the Government of Ontario 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 member of the Executive Council, if the representation could result in the conferring of a benefit not of general application.

Offence

(5) A person who contravenes subsection (1) or (4) is guilty of an offence and liable, on conviction, to a fine of not more than \$50,000. 1994, c. 38, s. 18.

Parliamentary assistants

19. Sections 10 to 18 do not apply to parliamentary assistants or to former parliamentary assistants, as the case may be. 1994, c. 38, s. 19.

DISCLOSURE

Private disclosure statement

20. (1) Every member of the Assembly shall file with the Commissioner a private disclosure statement, in the form provided by the Commissioner,

- (a) within 60 days of being elected; and
- (b) thereafter, once in every calendar year on the date established by the Commissioner. 1994, c. 38, s. 20 (1).

Contents

- (2) The private disclosure statement shall,
 - (a) identify the assets and liabilities of the member and his or her spouse or same-sex partner and minor children, and state the value of the assets and liabilities;
 - (b) state any income the member and his or her spouse or same-sex partner and minor children have received during the preceding 12 months or are entitled to receive during the next 12 months, and indicate the source of the income;

- (c) state all benefits the member, his or her spouse or same-sex partner and minor children, and any private company in which any of them has an interest, have received during the preceding 12 months or are entitled to receive during the next 12 months as a result of a contract with the Government of Ontario, and describe the subject-matter and nature of the contract;
- (d) if the private disclosure statement mentions a private company,
 - (i) include any information about the company's activities and sources of income that the member is able to obtain by making reasonable inquiries, and
 - (ii) state the names of any other companies that are its affiliates, as determined under subsections 1 (2) to (6) of the *Securities Act*;
- (e) list all corporations and other organizations in which the member is an officer or director or has a similar position; and
- (f) include any other information that the Commissioner requires. 1994, c. 38, s. 20 (2); 1999, c. 6, s. 36 (3).

Meeting with Commissioner

(3) After filing the private disclosure statement, the member, and the member's spouse or same-sex partner if available, shall meet with the Commissioner to ensure that adequate disclosure has been made and to obtain advice on the member's obligations under this Act. 1994, c. 38, s. 20 (3); 1999, c. 6, s. 36 (4).

Statement of material change

(4) The member shall file a statement of material change with the Commissioner, in the form provided by the Commissioner, within 30 days after a change in the income, assets or liabilities of the member or his or her spouse or same-sex partner and minor children or an event that causes a person to become or to cease to be a member of the member's household, if the change or event would reasonably be expected to have a significant effect on the information previously disclosed. 1994, c. 38, s. 20 (4); 1999, c. 6, s. 36 (5).

Public disclosure statement

21. (1) After the meeting referred to in subsection 20 (3), the Commissioner shall prepare a public disclosure statement on the basis of the information provided by the member.

Contents

- (2) The public disclosure statement shall,

- (a) state the source and nature, but not the value, of the income, assets and liabilities referred to in subsection 20 (2), except those that are described in subsection (4) of this section;
- (b) list the names and addresses of all the persons who have an interest in those assets and liabilities;
- (c) identify any contracts with the Government of Ontario referred to in the private disclosure statement, and describe their subject-matter and nature;
- (d) list the names of any affiliated companies shown in the private disclosure statement; and
- (e) contain a statement of any gifts or benefits that have been disclosed to the Commissioner under subsection 6 (3).

Same

(3) In the case of a member of the Executive Council, the public disclosure statement shall also state whether the member has obtained the Commissioner's approval under section 13 for an activity that would otherwise be prohibited and, if the member has done so, shall,

- (a) describe the activity; and
- (b) in the case of a business activity, list the name and address of each person who has a 10 per cent or greater interest in the business, and describe the person's relationship to the member. 1994, c. 38, s. 21 (1 – 3).

Excluded private interests

(4) The following assets, liabilities and sources of income shall not be shown in the public disclosure statement:

1. An asset or liability worth less than \$2,500.
2. A source of income that yielded less than \$2,500 during the 12 months preceding the relevant date.
3. Real property that the member or a person who belongs to his or her household uses primarily as a residence or for recreational purposes.
4. Personal property that the member or a person who belongs to his or her household uses primarily for transportation, household, educational, recreational, social or aesthetic purposes.
5. Cash on hand, or on deposit with a financial institution that is lawfully entitled to accept deposits.

6. Fixed value securities issued or guaranteed by a government or by a government agency.
7. A registered retirement savings plan that is not self-administered, or a registered home ownership savings plan.
8. An interest in a pension plan, employee benefit plan, annuity or life insurance policy.
9. An investment in an open-ended mutual fund that has broadly based investments not limited to one industry or one sector of the economy.
10. A guaranteed investment certificate or similar financial instrument.
11. Any other asset, liability or source of income that the Commissioner approves as an excluded private interest. 1994, c. 38, s. 21 (4); 1999, c. 6, s. 36 (6).

Information withheld

(5) The Commissioner may withhold information from the public disclosure statement if, in his or her opinion,

- (a) the information is not relevant to the purpose of this Act; and
- (b) a departure from the general principle of public disclosure is justified.

Filing

(6) The Commissioner shall file the public disclosure statement with the Clerk of the ssembly.

Public access

(7) The Clerk shall make the public disclosure statement available for examination by members of the public, and shall provide a copy of it to any person who pays the fee fixed by the Clerk. 1994, c. 38, s. 21 (5 – 7).

Destruction of records

22. (1) The Commissioner shall destroy any record in his or her possession that relates to a member or former member of the Assembly, or to a person who belongs to his or her household, during the 12- month period that follows the tenth anniversary of the creation of the record. 1994, c. 38, s. 22(1); 1999, c. 6, s. 36 (7).

Exception

(2) If an inquiry to which a record may relate is being conducted under this Act, or if the 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 household, the record shall not be destroyed until the inquiry or the charge has been finally disposed of. 1994, c. 38, s. 22 (2); 1999, c. 6, s. 36 (8).

INTEGRITY COMMISSIONER

Commissioner

23. (1) There shall be an Integrity Commissioner who is an officer of the Assembly.

Appointment

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

Term of office

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

Same

(4) The person appointed continues to hold office after the expiry of the term until reappointed, or until a successor is appointed.

Removal

(5) The person appointed may be removed for cause, before the expiry of the term of office, by the Lieutenant Governor in Council on the address of the Assembly.

Acting Commissioner

(6) The Lieutenant Governor in Council may appoint an acting Integrity Commissioner if,

(a) the office of Integrity Commissioner becomes vacant during a session of the Assembly, but the Assembly does not make a recommendation under subsection (2) before the end of the session; or

(b) the office of Integrity Commissioner becomes vacant while the Assembly is not sitting.

Same

(7) The appointment of the acting Commissioner comes to an end when a new Integrity Commissioner is appointed under subsection (2).

Same

(8) If the Integrity Commissioner is unable to act because of illness, the Lieutenant Governor in Council may appoint an acting Commissioner, whose appointment comes to an end when the Integrity Commissioner is again able to act or when the office becomes vacant.

Salary

(9) The Commissioner shall be paid the remuneration and allowances that are fixed by the Lieutenant Governor in Council.

Staff

(10) The employees who are necessary for the performance of the Commissioner's duties shall be members of the staff of the Office of the Assembly. 1994, c. 38, s. 23.

Powers and duties

23.1 The Commissioner may exercise the powers and shall perform the duties assigned to him or her under this Act and any other Act, 1998, c. 27, s. 1 (1).

Annual report

24. (1) The Commissioner shall report annually on the affairs of the office to the Speaker, who shall cause the report to be laid before the Assembly.

Contents

(2) The annual report may summarize advice given by the Commissioner, but shall not disclose confidential information or information that could identify a person concerned. 1994, c. 38, s. 24.

Immunity

25. No proceeding shall be commenced against the Commissioner or an employee in his or her office for any act done or omitted in good faith in the execution or intended execution of the Commissioner's or employee's duties under this Act or any other Act. 1998, c. 27, s. 1 (2).

Testimony

26. Neither the Commissioner nor an employee of his or her office is a competent or compellable witness in a civil proceeding outside the Assembly in connection with anything done under this Act or any other Act. 1994, c. 38, s. 26; 1998, c. 27, s. 1 (3).

Extension of time

27. (1) A member of the Assembly whom this Act requires to do anything within a specified period of time may give the Commissioner a written request for an extension.

Same

(2) The Commissioner may, by giving the member a written notice, extend the time by a specified number of days, as the Commissioner considers reasonable and consistent with the public interest.

Same

(3) The Commissioner may impose on the extension such conditions as he or she considers just. 1994, c. 38, s. 27.

Opinion and recommendations

28. (1) A member of the Assembly may request that the Commissioner give an opinion and recommendations on any matter respecting the member's obligations under this Act and under Ontario parliamentary convention.

Inquiries

(2) The Commissioner may make such inquiries as he or she considers appropriate and shall provide the member with an opinion and recommendations.

Confidentiality

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

Writing

(4) The member's request, the Commissioner's opinion and recommendations and the member's consent, if any, shall be in writing. 1994, c. 38, s. 28.

Confidentiality

29. (1) Information disclosed to the Commissioner under this Act is confidential and shall not be disclosed to any person, except,

(a) by the member, or with his or her consent;

(b) in a criminal proceeding, as required by law; or

(c) otherwise in accordance with this Act.

Freedom of Information and Protection of Privacy Act

(2) Subsection (1) prevails over the *Freedom of Information and Protection of Privacy Act*, 1994, c. 38, s. 29.

ENFORCEMENT

Matter referred by member

30. (1) A member of the Assembly who has reasonable and probable grounds to believe that another member has contravened this Act or Ontario parliamentary convention may request that the Commissioner give an opinion as to the matter.

Request

(2) The request shall be in writing and shall set out the grounds for the belief and the contravention alleged.

Tabling

(3) The member making the request shall promptly give a copy of it to the Speaker, who shall cause the request to be laid before the Assembly if it is in session or, if not, within 10 days after the beginning of the next session.

Matter referred by Assembly

(4) The Assembly may, by resolution, request that the Commissioner give an opinion as to whether a member has contravened this Act or Ontario parliamentary convention.

Matter referred by Executive Council

(5) The Executive Council may request that the Commissioner give an opinion as to whether a member of the Executive Council has contravened this Act or Ontario parliamentary convention.

Inquiry by Assembly

(6) The Assembly and its committees shall not conduct an inquiry into a matter that has been referred to the Commissioner under subsection (1) or (4). 1994, c. 38, s. 30.

Inquiry by Commissioner

31. (1) When a matter is referred to the Commissioner under section 30, the Commissioner may conduct an inquiry, after giving the member whose conduct is concerned reasonable notice.

Same

- (2) If the matter was referred by a member or by the Assembly,
- (a) the Commissioner may elect to exercise the powers of a commission under Parts I and II of the *Public Inquiries Act*, in which case those Parts apply to the inquiry as if it were an inquiry under that Act; and
 - (b) the Commissioner shall report his or her opinion to the Speaker.

Same

- (3) The Speaker shall,
- (a) give a copy of the opinion to the member whose conduct is concerned and to the leader of each political party that is represented in the Assembly;
 - (b) if the matter was referred by a member, give a copy of the opinion to that member; and
 - (c) cause the opinion to be laid before the Assembly if it is in session or, if not, within 10 days after the beginning of the next session.

Same

(4) If the matter was referred by the Executive Council, the Commissioner shall report his or her opinion to the Clerk of the Executive Council.

Refusal to conduct inquiry

(5) If the Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an inquiry, the Commissioner shall not conduct an inquiry and shall state the reasons for not doing so in the report.

Member not blameworthy

(6) If the Commissioner determines that there has been no contravention of this Act or of Ontario parliamentary convention, that a contravention occurred although the member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Commissioner shall so state in the report and shall recommend that no penalty be imposed.

Reliance on Commissioner's advice

(7) If the Commissioner determines that there was a contravention of this Act or of Ontario parliamentary convention but that the member was acting in accordance with the Commissioner's recommendations and had, before receiving those recommendations, disclosed to the Commissioner all the relevant facts that were known to the member, the Commissioner shall so state in the report and shall recommend that no penalty be imposed. 1994, c. 38, s. 31.

Police investigation or charge

32. If the Commissioner, when conducting an inquiry, discovers that the subject-matter of the inquiry is being investigated by police or that a charge has been laid, the Commissioner shall suspend the inquiry until the police investigation or charge has been finally disposed of, and shall report the suspension to the Speaker. 1994, c. 38, s. 32.

Reference to appropriate authorities

33. If the Commissioner, when conducting an inquiry, 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 Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to the Speaker. 1994, c. 38, s. 33.

Recommendation re penalty

34. (1) Where the Commissioner conducts an inquiry under subsection 31 (1) or (2) and finds that the member has contravened any of sections 2 to 4, 6 to 8, 10 to 12 or 14 to 18, has failed to file a private disclosure statement or a statement of material change within the time provided by section 20, has failed to disclose relevant information in that statement or has contravened Ontario parliamentary convention, the Commissioner shall recommend in his or her report,

- (a) that no penalty be imposed;
- (b) that the member be reprimanded;
- (c) that the member's right to sit and vote in the Assembly be suspended for a specified period or until a condition imposed by the Commissioner is fulfilled; or
- (d) that the member's seat be declared vacant.

Duty of Assembly

(2) The Assembly shall consider and respond to the report within 30 days after the day the report is laid before it.

Response

(3) If the Commissioner recommends that a penalty be imposed, the Assembly may approve the recommendation and order that the penalty be imposed, or may reject the recommendation, in which case no penalty shall be imposed.

Power of Assembly

(4) Despite section 46 of the *Legislative Assembly Act*, the Assembly does not have power to inquire further into the contravention, to impose a penalty if the Commissioner recommended that none be imposed, or to impose a penalty other than the one recommended.

Decision final

(5) The Assembly's decision is final and conclusive.

Vacancy

(6) If the member's seat is declared vacant, section 25 of the *Legislative Assembly Act* applies, with necessary modifications. 1994, c. 38, s. 34.

MISCELLANEOUS

Repeal

35. The *Members' Conflict of Interest Act* is repealed. 1994, c. 38, s. 35.

Transition

36. (1) Despite section 35, if the Commissioner's opinion was requested under section 14 or 15 of the *Members' Conflict of Interest Act* before the day this Act comes into force, the request shall be dealt with in accordance with that Act.

Same

(2) The following rules apply to members of the Assembly who are in office on the day this Act comes into force:

1. A member need not, until the day that is 60 days after that day, comply with restrictions or fulfil obligations that did not apply before the day this Act came into force.
2. Every member shall file a private disclosure statement under section 20 of this Act within 60 days after the day this Act comes into force.
3. After the filing required by paragraph 2, the member shall file a private disclosure statement once in every calendar year on the date established by the Commissioner. 1994, c. 38, s. 36.

Note: This Act was proclaimed into force on October 6, 1995.