

**Conflict of Interest
and
Post-employment Code
for Public Office Holders**

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Message from the Prime Minister

The attached document is a revised *Conflict of Interest and Post-employment Code for Public Office Holders*. This is the first updating of the *Code* since 1994. The objective of the *Code* is to enhance confidence in our system of government. Our government must uphold the public trust to the highest possible standard. This responsibility falls uniquely on all of us as public office holders.

This *Code* sets the standards that Canadians will expect of us all. Its principles are intended to guide us in our official duties and responsibilities, and should always inspire us to pursue and uphold the public interest.

By acting always in accordance with the principles and specific provisions of this *Code*, public office holders will provide Canadians with a greater assurance that our government is acting in an honest and transparent manner.

Paul Martin
Prime Minister of Canada

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CONFLICT OF INTEREST AND POST-EMPLOYMENT CODE FOR PUBLIC OFFICE HOLDERS

Short Title

1. This Code may be cited as the Conflict of Interest Code.

Part I

OBJECT AND PRINCIPLES

OBJECT

2. The object of this Code is to enhance public confidence in the integrity of public office holders and the decision-making process in government
 - (a) while encouraging experienced and competent persons to seek and accept public office;
 - (b) while facilitating interchange between the private and public sector;
 - (c) by establishing clear rules of conduct respecting conflict of interest for, and post-employment practices applicable to, all public office holders; and
 - (d) by minimizing the possibility of conflicts arising between the private interests and public duties of public office holders and providing for the resolution of such conflicts in the public interest should they arise.

PRINCIPLES

3. Every public office holder shall conform to the following principles:

Ethical Standards

- (1) Public office holders shall act with honesty and uphold the highest ethical standards so that public confidence and trust

in the integrity, objectivity and impartiality of government are conserved and enhanced.

Public Scrutiny

- (2) Public office holders have an obligation to perform their official duties and arrange their private affairs in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law.

Decision-Making

- (3) Public office holders, in fulfilling their official duties and responsibilities, shall make decisions in the public interest and with regard to the merits of each case.

Private Interests

- (4) Public office holders shall not have private interests, other than those permitted pursuant to this Code, that would be affected particularly or significantly by government actions in which they participate.

Public Interest

- (5) On appointment to office, and thereafter, public office holders shall arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interest from arising but if such a conflict does arise between the private interests of a public office holder and the official duties and responsibilities of that public office holder, the conflict shall be resolved in favour of the public interest.

Gifts and Benefits

- (6) Public office holders shall not solicit or accept transfers of economic benefit, other than incidental gifts, customary hospitality, or other benefits of nominal value, unless the transfer is pursuant to an enforceable contract or property right of the public office holder.

Preferential Treatment

- (7) Public office holders shall not step out of their official roles to assist private entities or persons in their dealings with the

government where this would result in preferential treatment to any person.

Insider Information

- (8) Public office holders shall not knowingly take advantage of, or benefit from, information that is obtained in the course of their official duties and responsibilities and that is not generally available to the public.

Government Property

- (9) Public office holders shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for anything other than officially approved activities.

Post-Employment

- (10) Public office holders shall not act, after they leave public office, in such a manner as to take improper advantage of their previous office.

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Part II

CONFLICT OF INTEREST COMPLIANCE MEASURES

INTERPRETATION

4. (1) The following definitions apply for the purposes of this Part and the Schedule:

“Common-law partner” means a person who is cohabitating with a public office holder in a conjugal relationship, having so cohabited for a period of at least one year.

“Dependent Child” means a child of a public office holder, or a child of the public office holder’s spouse or common-law partner, who has not reached the age of 18 years or who has reached that age but is primarily dependent on the public office holder or the public office holder’s spouse or common-law partner for financial support.

“Private Interest” does not include an interest in a matter

- (a) that is of general application;
- (b) that affects a person as one of a broad class of the public;
- or
- (c) that concerns the remuneration or benefits of a public office holder.

“Public office holder” means

- (a) a minister of the Crown, a minister of state or a parliamentary secretary;
- (b) a person, other than a public servant, who works an average of fifteen hours or more a week on behalf of a minister of the Crown or a minister of state, including persons working on a contractual or voluntary basis;
- (c) a Governor in Council appointee, other than the following persons, namely:
 - (i) a Lieutenant-Governor,
 - (ii) officers and staff of the Senate, House of Commons and Library of Parliament;
 - (iii) a person appointed or employed under the *Public Service Employment Act* who is a head of mission within the meaning of subsection 13(1)

- of the *Department of Foreign Affairs and International Trade Act*,
- (iv) a judge who receives a salary under the *Judges Act*,
 - (v) a military judge within the meaning of subsection 2(1) of the *National Defence Act*; and
 - (vi) an officer of the Royal Canadian Mounted Police, not including the Commissioner; and
- (d) a full-time ministerial appointee designated by the appropriate minister of the Crown as a public office holder.

“Public Registry” means the registry where public documents are maintained by the Ethics Counsellor for examination by the public.

“Spouse” includes a common-law partner, but does not include a person from whom the public office holder is separated where all support obligations and family property have been dealt with by a separation agreement or by a court order.

- (2) Ministers of the Crown, ministers of state and parliamentary secretaries are subject to the provisions of this Code when carrying out the duties and functions of their office as ministers of the Crown, ministers of state or parliamentary secretaries.
- (3) Staff of federal boards, commissions, and tribunals as defined in the *Federal Court Act*, separate employers as defined under the *Public Service Staff Relations Act*, the Canadian Armed Forces and the Royal Canadian Mounted Police, part-time ministerial appointees who are persons other than public servants who work on average fewer than fifteen hours a week on behalf of a minister of the Crown or a minister of state including persons working on a contractual or voluntary basis, and part-time Governor in Council appointees, who are not appointed on a full-time basis and are not in receipt of an annual salary or benefits from the appointment, are subject to the Principles set out in Part I and such other compliance measures as may be determined by the head of the organization in question, for whose application that individual is responsible.
- (4) Crown corporations as set out in the *Financial Administration Act* shall be subject to compliance measures

established by, and in accordance with, the established practices of their own organization.

- (5) Such provisions of this Part as may be relevant shall be brought to the attention of Lieutenant-Governors at the time of their appointment.

DUTIES OF THE ETHICS COUNSELLOR¹

5. (1) Under the general direction of the Clerk of the Privy Council, the Ethics Counsellor is charged with the administration of this Code and the application of the conflict of interest compliance measures set out in this Part as they apply to public office holders.
- (2) Information concerning the private interests of a public office holder provided to the Ethics Counsellor is confidential until a Public Declaration, if any, is made with respect to that information.
- (3) It is the responsibility of the Ethics Counsellor to ensure:
 - (a) that information provided under subsection (2) shall be kept in strict confidence and any record thereof kept in secure safekeeping in accordance with the *Privacy Act*;
 - (b) that any information provided by public office holders for a public purpose is placed in personal unclassified files in the Public Registry; and
 - (c) that no more than five years following an individual's departure from public office, the records and files referred to in (a) and (b) are destroyed, in accordance with National Archives policy and the *Privacy Act*, unless they are material to an ongoing complaint made regarding a public office holder's obligations under this Code.

¹If Bill C-34 of the 2nd session of the 37th Parliament, *An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence*, is reinstated and passed by the Parliament of Canada, this Code will be administered by the Ethics Commissioner established under that legislation, and the text of this Code will be amended accordingly.

CERTIFICATION

6. Before or on assuming their official duties and responsibilities, public office holders shall sign a document certifying that, as a condition of their holding office, they will observe this Code.

COMPLIANCE ARRANGEMENTS

7. (1) Once the arrangements made by a public office holder to comply with the conflict of interest compliance measures set out in this Code are completed, a Summary Statement described in subsection (2) and any Public Declaration made pursuant to sections 11, 14, 19, and 22 shall be signed by the public office holder and a certified copy of the Summary Statement and any Public Declaration shall be placed in the Public Registry.
- (2) The Summary Statement shall include:
 - (a) a statement by the public office holder of the methods of compliance used to comply with the conflict of interest compliance measures;
 - (b) a list of the matters which the Ethics Counsellor has determined could, as a result of the public office holder's private interests or other reasons the Ethics Counsellor considers relevant, create a conflict of interest, and on which the public office holder shall recuse in accordance with section 13(1), or for other reasons which the Ethics Counsellor may consider necessary;
 - (c) information regarding the process which must be put in place by the public office holder and others to administer the recusal; and
 - (d) a certification by the public office holder that he or she is fully cognizant of the post-employment compliance measures set out in Part III, where applicable.
- (3) Where there is doubt as to which method is appropriate in order that a public office holder may comply with the Code, the Ethics Counsellor shall determine the appropriate method and, in doing so, shall try to achieve mutual agreement with the public office holder.
- (4) All arrangements made by a public office holder to comply with the conflict of interest compliance measures set out in this Part shall be approved:

- (a) in the case of ministers of the Crown, ministers of state and parliamentary secretaries, by the Prime Minister, in consultation with the Ethics Counsellor; and
 - (b) in the case of all other public office holders, by the Ethics Counsellor.
- (5) The information contained in Confidential Reports and the arrangements made by public office holders and their obligations under the Code will be reviewed annually by the Ethics Counsellor and the public office holder.
 - (6) On the recommendation of the Ethics Counsellor, a public office holder may be reimbursed for administrative costs incurred as a result of arrangements made under this Code, as set out in the Schedule.
 - (7) A public office holder shall not sell or transfer assets to family members or other persons for the purpose of circumventing the conflict of interest compliance measures set out in this Part.

TIME LIMITS

- 8. Unless otherwise authorized by the Ethics Counsellor, every public office holder shall:
 - (a) within 60 days after appointment, make a Confidential Report as required under sections 9 and 16;
 - (b) within 120 days after appointment
 - (i) where required, make a Public Declaration pursuant to sections 11, 14, 19 and 22(1);
 - (ii) divest controlled assets as required under section 12(2); and
 - (iii) sign a Summary Statement for placing in the Public Registry pursuant to section 7;
 - (c) within 30 days after receipt of a gift, hospitality or other benefit, notify the Ethics Counsellor as required under subsection 22(1), and within 60 days make a Public Declaration as required under that section; and
 - (d) within 30 days, inform the Ethics Counsellor of any material changes in his or her assets, liabilities and outside activities, and, in the case of a minister of the Crown, a minister of state or a parliamentary secretary, of any material changes in the assets, liabilities and outside activities of his or her spouse and dependent children, except for exempt assets.

ASSETS AND LIABILITIES

Confidential Report

9. (1) A public office holder shall make a Confidential Report to the Ethics Counsellor of all assets, income and of all direct and contingent liabilities. In the case of a minister of the Crown, a minister of state or a parliamentary secretary, the public office holder shall make arrangements for this information to be disclosed as well by his or her spouse and dependent children. Information on the spouse and dependent children is only for use by the Ethics Counsellor in advising the public office holder on his or her own compliance arrangements.
- (2) In addition to the information required under 9(1), a public office holder shall include in his or her Confidential Report any other information that the Ethics Counsellor may require to ensure compliance with this Code.

Exempt Assets

10. (1) Assets and interests for the private use of public office holders and their spouse and dependent children and assets that are not of a commercial character are not subject to public declaration or divestment. Such assets, hereinafter referred to as “exempt assets”, include:
 - (a) residences, recreational property and farms used or intended for use by public office holders or their spouse and dependent children;
 - (b) household goods and personal effects;
 - (c) works of art, antiques and collectibles;
 - (d) automobiles and other personal means of transportation;
 - (e) cash and deposits;
 - (f) Canada Savings Bonds and other similar investments issued or guaranteed by any level of government in Canada or agencies of those governments;
 - (g) Registered Retirement Savings Plans and Registered Education Savings Plans that are not self-administered or self-directed;
 - (h) investments in open-ended mutual funds;
 - (i) guaranteed investment certificates and similar financial instruments;

- (j) public sector debt financing not guaranteed by a level of government;
 - (k) annuities and life insurance policies;
 - (l) pension rights;
 - (m) money owed by a previous employer, client or partnership; or
 - (n) personal loans receivable from the members of the public office holder's immediate family and small personal loans receivable from other persons where the public office holder has loaned the moneys receivable.
- (2) Assets that are not exempt assets are either "declarable assets" or "controlled assets".

Declarable Assets

11. (1) A public office holder shall make a Public Declaration of assets that are not controlled assets, as defined under section 12, in order to allow the public office holder to deal with those assets, subject to exercising vigilance to ensure that such dealings cannot give rise to a conflict of interest.
- (2) Declarable assets include:
- (a) interests in businesses that do not contract with the government, and do not own or control publicly traded securities, other than incidentally, and whose stocks and shares are not traded publicly;
 - (b) farms under commercial operations;
 - (c) real property that is not an exempt asset as described in section 10; and
 - (d) assets that are beneficially owned, that are not exempt assets as described in section 10, and that are administered at arm's length.
- (3) Declarable assets that are not publicly declared pursuant to subsection (1) shall, for the purposes of section 13, be considered to be controlled assets and divested.

Controlled Assets

12. (1) For the purposes of this section and section 13, "controlled assets" means assets that could be directly or indirectly affected as to value by Government decisions or policy.

- (2) Controlled assets, other than assets that may be retained under subsection 13(5), shall be divested, pursuant to subsection 13(1).
- (3) Controlled assets include:
 - (a) publicly traded securities of corporations and foreign governments, whether held individually or in an investment portfolio account;
 - (b) self-administered Registered Retirement Savings Plans and self-administered Registered Education Savings Plans, except when exclusively composed of exempt assets as described in section 10;
 - (c) commodities, futures and foreign currencies held or traded for speculative purposes; and
 - (d) stock options.

Divestment of Controlled Assets

- 13. (1) Subject to subsection (5), controlled assets are usually divested by one or more of the following:
 - (a) selling them in an arm's length transaction;
 - (b) making them subject to a trust or management agreement, the most common of which are set out in the Schedule; or
 - (c) through means of an appropriate recusal mechanism, approved by the Ethics Counsellor.
- (2) The Ethics Counsellor has the responsibility for determining that a trust or management agreement meets the requirement of this Code. Before an arrangement is executed or when a change is contemplated, a determination that the arrangement meets the requirements of this Code shall be obtained from the Ethics Counsellor.
- (3) Confirmation of sale or a copy of any executed instrument shall be filed with the Ethics Counsellor. With the exception of a statement that a sale has taken place or that a trust or management agreement exists, all information relating to the sale and the arrangement is confidential.
- (4) For the purposes of this Code, trust or management arrangements shall be such that they do not leave in the hands of the public office holder any power of management or decision over the assets.

- (5) Subject to the approval of the Ethics Counsellor, a public office holder is not required to divest controlled assets that are:
 - (a) pledged to a lending institution as collateral; or
 - (b) of such minimal value that, in the opinion of the Ethics Counsellor, they do not constitute any risk of conflict of interest in relation to the public office holder's official duties and responsibilities.

Liabilities

14. The Ethics Counsellor may require, with respect to liabilities, that particular arrangements be made to prevent any conflict of interest situation from arising. In addition, in the case of ministers of the Crown, ministers of state and parliamentary secretaries, the Ethics Counsellor may require public disclosure of the source and nature, but not the value, of liabilities.

OUTSIDE ACTIVITIES

General

15. Public office holders' participation in activities outside their official duties and responsibilities is often in the public interest. Subject to sections 16 to 19, such participation is acceptable where it is not inconsistent with their official duties and responsibilities and does not call into question their capacity to perform their official duties and responsibilities objectively.

Confidential Report of Outside Activities

16. Public office holders shall provide to the Ethics Counsellor in a Confidential Report a listing of all their outside activities, including those in which they were engaged during the two-year period before they assumed their official duties and responsibilities. In the case of a minister of the Crown, a minister of state or a parliamentary secretary, the public office holder shall make arrangements for this information to be disclosed as well by their spouse and dependent children. These lists shall include all involvements in activities of a philanthropic, charitable or non-

commercial character and involvements as trustee, executor or under power of attorney.

Prohibited Activities

17. Subject to section 18, public office holders shall not, outside their official duties and responsibilities,
- (a) engage in employment or the practice of a profession;
 - (b) actively manage or operate a business or commercial activity;
 - (c) retain or accept directorships or offices in a corporation;
 - (d) hold office in a union or professional association;
 - (e) serve as a paid consultant; or
 - (f) be an active partner in a partnership.

Permissible Activities

18. (1) When the activities described in section 17 relate to the official duties and responsibilities of a public office holder, the public office holder may, in exceptional circumstances and with the approval required by subsection 7(4) and subject to the conditions specified by the Ethics Counsellor, become or remain involved in them, but may not accept remuneration for any activity, except as provided in subsections (3) and (4).
- (2) A public office holder may, with the approval required by subsection 7(4) and subject to the conditions specified by the Ethics Counsellor, retain or accept directorships in organizations of a philanthropic, charitable or non-commercial character, but the office holder shall take great care to prevent conflicts of interest from arising.
- (3) Where the Prime Minister or a person designated by the Prime Minister is of the opinion that it is in the public interest, full-time Governor in Council appointees to Crown Corporations, as defined in the *Financial Administration Act*, may retain or accept directorships or offices in a financial or commercial corporation, and accept remuneration therefore, in accordance with compensation policies for Governor in Council appointees as determined from time to time.
- (4) Ministerial support staff and other public office holders as defined at paragraph (b) of the definition of “public office holder” under subsection 4(1) may, in exceptional

circumstances and with the approval required by subsection 7(4), become or remain involved in activities that do not place on them demands inconsistent with their official duties and responsibilities or call into question their capacity to perform their official duties and responsibilities objectively.

Public Declaration of Outside Activities

19. (1) A public office holder shall make a Public Declaration of the activities referred to in subsections 18(1), (2) and (3) and of past and current directorships and other positions listed in a Confidential Report under section 16.
- (2) In co-operation with a public office holder, the Ethics Counsellor shall prepare the Public Declaration of outside activities to be made by that office holder.

GIFTS, HOSPITALITY AND OTHER BENEFITS

When Declined

20. (1) Gifts, hospitality or other benefits including those described in section 21 that could influence public office holders in their judgment and performance of official duties and responsibilities shall be declined.
- (2) In the case of ministers of the Crown, ministers of state and parliamentary secretaries, travel on noncommercial chartered or private aircraft for any purpose shall be prohibited except in exceptional circumstances and may only be accepted with the prior approval of the Ethics Counsellor.

When Permissible

21. (1) Any gifts, hospitality or other benefits of a value of \$200 or less from any one source in a twelve-month period need not be disclosed to the Office of the Ethics Counsellor.
- (2) Acceptance by public office holders of offers of gifts, hospitality or other benefits, greater than \$200, arising out of activities associated with the performance of their official duties and responsibilities is not prohibited if such gifts, hospitality or other benefits:

- (a) are within the normal bounds of propriety, a normal expression of courtesy or protocol or within the normal standards of hospitality;
 - (b) are not such as to bring suspicion on the office holder's objectivity and impartiality; and
 - (c) would not compromise the integrity of the Government.
- (3) Gifts, hospitality and other benefits of reasonable value received from governments or in connection with an official or public event are permitted, as are gifts, hospitality and other benefits from family members and close personal friends.

Public Declaration Required

22. (1) Notwithstanding section 21, where a public office holder directly or indirectly receives any gift, hospitality or other benefit that has a value of \$200 or more, other than a gift, hospitality or other benefit from a family member or close personal friend, the public office holder shall notify the Ethics Counsellor and make a Public Declaration that provides sufficient detail to identify the gift, hospitality or other benefit received, the donor and the circumstances.
- (2) Where a gift accepted under subsection 21(2) or 21(3), other than gifts from family members and close personal friends, has a value of \$1,000 or more, the public office holder shall also make arrangements for the gift to be placed into the government inventory.
- (3) Where travel has been accepted in accordance with subsection 20(2), from any source, the public office holder shall make a Public Declaration within 30 days that provides sufficient detail to identify the source and the circumstances.
- (4) Where there is doubt as to the need for a Public Declaration or the appropriateness of accepting an offer of a gift, hospitality or other benefit, including from family members and close personal friends, public office holders must consult the Ethics Counsellor and obtain his or her approval to accept the offer.

AVOIDANCE OF PREFERENTIAL TREATMENT

23. (1) A public office holder shall take care to avoid being placed or the appearance of being placed under an obligation to any person or organization, or the representative of a person or organization, that might profit from special consideration on the part of the office holder.
- (2) In the formulation of government policy or the making of decisions, a public office holder shall ensure that no persons or groups are given preferential treatment based on the individuals hired to represent them.
- (3) A public office holder shall not accord preferential treatment in relation to any official matter to family members or friends or to organizations in which they, family members or friends, have an interest.
- (4) A public office holder shall not use his or her position as a public office holder to influence a decision of another person so as to further the public office holder's private interests or those of a member of his or her family, or to improperly further another person's private interests.
- (5) A public office holder shall not use information obtained in his or her position as a public office holder that is not generally available to the public to further his or her private interests or those of a member of his or her family, or to improperly further another person's private interests.
- (6) Ministers of the Crown and ministers of state should not hire or contract with members of their immediate families, that is, their spouses, parents, children and siblings. As well, they should not permit departments or agencies for which they are responsible, or to which they are assigned, to hire or contract with members of their immediate families.
- (7) Ministers of the Crown, ministers of state and the departments or agencies for which they are responsible should not hire or contract with the immediate family of another minister of the Crown, minister of state or party colleague in Parliament except by means of an impartial administrative process in which the minister or minister of state plays no part in the selection of a candidate or the negotiation of the contract. Appointments to ministerial exempt staff are not subject to this restriction.

- (8) A public office holder shall not attempt to engage in any of the activities prohibited under subsections (1) to (7).

FAILURE TO AGREE

24. Where a public office holder and the Ethics Counsellor disagree with respect to the appropriate arrangements necessary to achieve compliance with this Code, the appropriate arrangements shall be determined by the Prime Minister or by a person designated by the Prime Minister.

FAILURE TO COMPLY

25. Where a public office holder does not comply with Part II, the office holder is subject to such appropriate measures as may be determined by the Prime Minister, including, where applicable, discharge or termination of appointment.

Part III

POST-EMPLOYMENT COMPLIANCE MEASURES

INTERPRETATION

26. For purposes of this Part, “public office holder” refers to the same positions subject to Part II, as set out in section 4, with the exception that ministerial staff and other public office holders as defined at paragraph (b) of the definition of “public office holder” under subsection 4(1) must be designated by their minister for this Part to apply.

OBJECT

27. Public office holders shall not act, after they leave public office, in such a manner as to take improper advantage of their previous public office. Observance of this Part will minimize the possibilities of:
- (a) allowing prospects of outside employment to create a real, potential or apparent conflict of interest for public office holders while in public office;
 - (b) obtaining preferential treatment or privileged access to government after leaving public office;
 - (c) taking personal advantage of information obtained in the course of official duties and responsibilities until it has become generally available to the public; and
 - (d) using public office to unfair advantage in obtaining opportunities for outside employment.

COMPLIANCE MEASURES

Before Leaving Office

28. (1) Public office holders should not allow themselves to be influenced in the pursuit of their official duties and responsibilities by plans for or offers of outside employment.
- (2) A public office holder shall disclose in writing to the Ethics Counsellor all firm offers of outside employment that could place the public office holder in a position of conflict of interest.

- (3) A public office holder who accepts an offer of outside employment shall immediately disclose in writing to the Ethics Counsellor as well as to his or her superior, the acceptance of the offer. In such an event, where it is determined by the Ethics Counsellor that the public office holder is engaged in significant official dealings with the future employer, the public office holder shall be assigned to other duties and responsibilities as soon as possible. The period of time spent in public office following such an assignment shall be counted towards the limitation period on employment imposed under section 30.
- (4) The public office holder shall also disclose the acceptance of the offer:
 - (a) in the case of ministers of the Crown and ministers of State, to the Prime Minister;
 - (b) in the case of deputy heads, to the Clerk of the Privy Council;
 - (c) in the case of ministerial staff and other public office holders as defined at paragraph (b) of the definition of “public office holder” under subsection 4(1), full-time ministerial appointees and full-time Governor in Council appointees other than those referred to in paragraph (b), to the appropriate minister of the Crown or minister of state; and
 - (d) in the case of parliamentary secretaries, to the minister whom the parliamentary secretary assists.

After Leaving Office

Prohibited Activities

29. (1) At no time shall a former public office holder switch sides by acting for or on behalf of any person, commercial entity, association, or union in connection with any specific ongoing proceeding, transaction, negotiation or case to which the Government is a party and where the former public office holder acted for or advised the Government.
- (2) Nor shall former public office holders give advice to their clients using information that is not available to the public concerning the programs or policies of the departments with which they were employed, or with which they had a direct and substantial relationship during the period of one year

immediately prior to the termination of their service in public office.

Limitation Period

30. Former public office holders, except for ministers of the Crown and ministers of State for whom the prescribed period is two years, shall not, within a period of one year after leaving office:
- (a) accept appointment to a board of directors of, or employment with, an entity with which they had direct and significant official dealings during the period of one year immediately prior to the termination of their service in public office; or
 - (b) make representations for or on behalf of any other person or entity to any department with which they had direct and significant official dealings during the period of one year immediately prior to the termination of their service in public office.

Reduction of Limitation Period

31. (1) On application from a public office holder or former public office holder, the Prime Minister, with the approval of the Ethics Counsellor, may reduce the limitation period on employment imposed under section 30.
- (2) In deciding whether to reduce the limitation period on employment imposed under section 30, the Prime Minister will consider whether the public interest in granting the reduction outweighs the public interest in maintaining the prohibition. Factors to consider include:
- (a) the circumstances under which the termination of their service in public office occurred;
 - (b) the general employment prospects of the public office holder or former public office holder making the application;
 - (c) the significance to the Government of information possessed by the public office holder or former public office holder by virtue of that office holder's public office;
 - (d) the desirability of a rapid transfer from the Government to private or other governmental sectors of the public office holder's or former public office holder's knowledge and skills;

- (e) the degree to which the new employer might gain unfair commercial advantage by hiring the public office holder or former public office holder;
 - (f) the authority and influence possessed by the public office holder or former public office holder while in public office; and
 - (g) the disposition of other cases.
- (3) The decision made by the Prime Minister shall be communicated in writing to the applicant referred to in subsection (1).

EXIT ARRANGEMENTS

32. Prior to a public office holder's official separation from public office, the Ethics Counsellor shall, in order to facilitate the observance of the compliance measures set out in this Part, communicate with the public office holder to advise about post-employment requirements.

DEALINGS WITH FORMER PUBLIC OFFICE HOLDERS

Obligation to Report

33. (1) Public office holders who have official dealings, other than dealings that consist of routine provision of a service to an individual, with former public office holders who are or may be governed by the measures set out in this Part, shall report those dealings to the Ethics Counsellor.
- (2) On receipt of a report under subsection (1), the Ethics Counsellor shall immediately determine whether the former public office holder is complying with the compliance measures set out in this Part.
- (3) Public office holders shall not, in respect of a transaction, have official dealings with former public office holders, who are determined pursuant to subsection (2) to be acting, in respect of that transaction, contrary to the compliance measures set out in this Part.

Schedule

AGREEMENTS AND RECUSAL

1. The following are examples of the most common agreements that may be established by public office holders for the purpose of complying with the Code:
 - (a) **Blind Trust**

A blind trust is one in which the trustee makes all investment decisions concerning the management of the controlled assets, with no direction from or control by the public office holder who has placed the assets in trust. Assets are placed in a blind trust for the purpose of allowing investment in publicly traded securities of corporations or foreign governments.
 - (b) **Blind Management Agreement**

A blind management agreement places the assets of the public office holder in the hands of a manager who is at arm's length from the public office holder. The manager is empowered to exercise all of the rights and privileges associated with those assets. The agreement prevents the manager from seeking or obtaining the advice of the public office holder. The public office holder cannot offer or provide advice, nor can the public office holder participate in any discussion or decision-making processes, wherever they may arise, that may particularly or significantly affect the assets that are subject to the agreement. It is only in exceptional circumstances where an extraordinary corporate event is likely to materially affect the assets, that the public office holder may personally intervene, but only after the Ethics Counsellor has been consulted and determines that the intervention would not give rise to a conflict of interest, and only in the presence of the Ethics Counsellor. A public declaration identifying the assets placed in the blind management agreement must also be made. The public office holder is entitled throughout the duration of the agreement to be kept informed of the basic value of the assets.
 - (c) **Recusal**

Recusal is based on a determination by the Ethics Counsellor of matters which could create a conflict of interest for a public office holder. This could include a public office holder's assets which must be divested under section 13(1) of the Code, or other information which the Ethics Counsellor considers relevant. As provided at section 7(2) of the Code, matters determined to be subject for recusal

must be set out in the Public Registry, as well as information regarding the process for administering recusals.

On the basis of a determination, the public office holder must refrain from exercising any official power or performing any official duty or function with respect to the matter, and from attempting to influence the matter in any way.

The public office holder, with the advice of the Ethics Counsellor, will put in place appropriate procedures to prevent a conflict of interest on such matters, and to ensure the appropriate exercise of powers and performance of duties or functions. This could include:

- in the case of the Prime Minister, replacement on the matter by the Deputy Prime Minister or acting Prime Minister;
- in the case of a minister of the Crown, replacement on the matter by an acting Minister;
- in the case of a minister of state, the appropriate minister of the Crown acting on the matter in the stead of the minister of state; and
- in the case of a parliamentary secretary, the minister whom he or she assists seeing to the appropriate exercise of power or the performance of duty or function.

The Ethics Counsellor will maintain a confidential record of all recusals which the Ethics Counsellor may use in determining whether or not the minister has breached the requirements of the Code. The Ethics Counsellor will also report annually on recusal practices implemented under the Code.

PROVISIONS COMMON TO BLIND TRUSTS

2. Provisions common to blind trusts are:
- (a) **Custody of the Assets:** The assets to be placed in trust must be registered to the trustee unless these are in a RRSP account.
 - (b) **Power of Management or Control:** The public office holder (settlor) may not have any power of management or control over trust assets. The trustee, likewise, may not seek or accept any instruction or advice from the public office holder concerning the management or the administration of the assets.
 - (c) **Schedule of Assets:** The assets placed in trust shall be listed on a schedule attached to the trust agreement.
 - (d) **Duration of Trust:** The term of any trust is to be for as long as the public office holder who establishes the trust continues to hold an office that makes that method of divestment appropriate. A trust may be dismantled once the trust assets have been depleted.
 - (e) **Return of Trust Assets:** Whenever a trust agreement is dismantled, the trustee shall deliver the trust assets to the public office holder.
 - (f) **Information:** No information is provided to the public office holder (settlor) except information that is required by law to be filed and periodic reports on the overall value of the trust, but never its composition.
 - (g) **Income:** A public office holder who establishes a blind trust may receive any income earned by the trust, add or withdraw capital funds, and be informed of the aggregate value of the entrusted assets.
 - (h) **Trustee:** Any trustee who is appointed shall clearly be at arm's length from the public office holder and the Ethics Counsellor is to be satisfied that an arm's length relationship exists in each case. As other criteria, any trustee must be:
 - (i) a public trustee;

- (ii) a company, such as a trust company or investment company, that is public and known to be qualified in performing the duties of a trustee; or
- (iii) an individual who may perform trustee duties in the normal course of his or her work.

AGREEMENT FORMS

- 3. Acceptable blind trust and blind management agreements are available from the Ethics Counsellor. Any amendments to these agreements shall be submitted to the Ethics Counsellor before they are executed.

FILING OF AGREEMENTS

- 4. Public office holders are required to file with the Ethics Counsellor a copy of any blind trust or blind management agreement. Such agreements will be kept in the public office holder's confidential file and the Ethics Counsellor will not make them available to anyone for any purpose.

REIMBURSEMENT FOR COSTS INCURRED

- 5. On the recommendation of the Ethics Counsellor, the following reimbursements for costs to comply with the Conflict of Interest Compliance Measures set out in this Code may be permitted:
 - (a) Divestment of Assets;
 - (i) reasonable legal, accounting and transfer costs to establish and dismantle a trust or management arrangement determined to be necessary by the Ethics Counsellor;
 - (ii) annual, actual and reasonable costs to maintain and administer the trust or management arrangement, following rates set from time to time by the Ethics Counsellor;
 - (iii) commissions for transferring, converting or selling assets where determined necessary by the Ethics Counsellor; and
 - (iv) costs of other financial, legal or accounting services required because of the complexity of arrangements for such assets.
 - (b) Withdrawal from Activities

Costs of removing a public office holder's name from federal or provincial registries of corporations.

6. Reimbursement is not permitted for:
 - (a) charges for day-to-day operations of a business or commercial entity;
 - (b) charges associated with winding down a business; or
 - (c) costs for acquiring permitted assets using proceeds from required sale of other assets.

7. The public officer holder is responsible for any income tax adjustment that may result from the reimbursement of trust costs.

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