



BACKGROUNDER  
*CONFLICT OF INTEREST ACT*

## Conflict of Interest Screens and other Compliance Measures

The [\*Conflict of Interest Act\*](#) gives the Conflict of Interest and Ethics Commissioner the authority to determine and enforce measures to ensure that public office holders comply with the Act. It authorizes the Commissioner to:

- determine the appropriate measures by which a public office holder shall comply with the Act (section 29); and
- order a public office holder, in respect of any matter, to take any compliance measure that the Commissioner determines is necessary to comply with the Act (section 30).

Divestment and recusal are identified as specific compliance measures, but the Act in no way limits the Commissioner's authority to these two areas. Conflict of interest screens are another compliance measure used by the Office of the Conflict of Interest and Ethics Commissioner and its predecessors.

*Divestment.* Under section 27, reporting public office holders must divest their controlled assets by selling them in an arm's length transaction or placing them in a blind trust. (Please see also [Guideline on Controlled Assets](#).)

*Recusal.* Section 21 requires all public office holders to recuse themselves from any discussion, decision, debate or vote on a matter where they would be in a conflict of interest. (Please see also information notice on [Recusal Obligations of Members of Administrative Tribunals](#).) Reporting public office holders must, within 60 days after the day on which a recusal took place, make a public declaration of the recusal.

Despite the Act's requirement that recusals by reporting public office holders be made public, it has been noted that the public registry contains few recusal notices. This is because in most cases the establishment of conflict of interest screens eliminates the likelihood of a situation arising that would require recusal.

*Conflict of Interest Screens.* The Office helps public office holders make formal arrangements in advance in order to avoid dealing with files that pose a real or potential conflict of interest. If a conflict of interest screen is in place, files that pose a potential conflict of interest are not brought to the public office holder's attention and therefore no recusal is required.

When the Office works with a public office holder to establish a conflict of interest screen, advisors identify the areas that pose a real or potential conflict of interest so the public office holder can put in place measures to avoid dealing with files in those areas. Under the Office's direction, someone in the public office holder's office is responsible for administering the conflict of interest screen.

There may be situations in which a public office holder chooses to exercise additional caution above and beyond his or her obligations under the Act and put in place measures to avoid dealing with files in certain areas not identified in the conflict of interest screen established by the Office. The administrator of the conflict of interest screen would be directed to ensure that matters relating to those areas—along with the areas identified in the conflict of interest screen established by the Office—were not brought to the public office holder's attention.

Any additional areas identified by the public office holder would not appear in the conflict of interest screen established by the Office and made public, but would appear in the documentation prepared by the public office holder or his or her office in order to guide the screen administrator.

Although there is no obligation under the *Conflict of Interest Act* to make conflict of interest screens public, the Commissioner has the discretion to formalize these measures as written agreements and post them in the public registry. Paragraph 51(1)(e) of the Act authorizes the Commissioner to include in the public registry any documents that she considers appropriate. All conflict of interest screens currently in place have been made public in the public registry. In the absence of legitimate privacy concerns involving third parties, they will continue to be made public.

*Ce document est également disponible en français.*

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