



# 2021 REPORT OF THE CONFLICT OF INTEREST COMMISSIONER





Prince Edward Island    Île-du-Prince-Édouard  
Legislative Assembly    Assemblée législative

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of Interest Commissioner  
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February 1, 2022

Hon. Colin LaVie, MLA  
Speaker of the Legislative Assembly  
P.O. Box 2000  
Charlottetown, PE  
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Dear Mr. Speaker:

It is my honour and duty to submit to you the 2021 Annual Report of the Office of the Conflict of Interest Commissioner for the period January 1 to December 31, 2021.

This report is submitted pursuant to section 3(1) of the *Conflict of Interest Act*, R.S.P.E.I. 1988, Cap. C. 17-1.

Yours very truly,

Judy Burke, Q.C.  
Conflict of Interest Commissioner

## Conflict of Interest Annual Report for 2021

I am pleased to present my Annual Report for 2021 regarding the affairs of the Office of the Commissioner pursuant to Section 3 of the *Conflict of Interest Act R.S.P.E.I. 1988 Cap. 17.1* (the "Act").

### DISCLOSURE STATEMENTS

The *Act* requires all Members (Member), their spouses and dependent children to file private disclosure statements disclosing all their income, assets and liabilities, as well as any interests they hold in private corporations. Disclosures must be completed within 60 days of an election and every calendar year thereafter.

I met with each Member and any spouse who chose to attend in April and May of 2021 to complete and review each private disclosure statement for compliance with the *Act* and to provide assistance and advice where necessary or requested.

There was a by-election in November 2021 as a result of the resignation of a Member. I plan to meet with the new Member within the 60 day period set out in the *Act* to complete his private and public disclosure statements.

With the exception of the newly-elected Member, every Member has completed a private disclosure statement and a public disclosure statement. Those have been filed with the Clerk of the Legislative Assembly and are available on the Assembly's website.

Correspondence will soon be delivered to each Member to set meetings to complete private disclosure statements for the 2022 calendar year.

### TRUSTS

Four Ministers established trusts and appointed trustees to hold certain assets. Section 18(3) sets out the annual reporting requirements for those Ministers who have established trusts. All required information has been received.

One Member had previously established a Trust to hold certain assets. That Trust was collapsed in 2021 and an amended public disclosure statement was filed.

### OPINIONS TO MEMBERS

In 2021, my advice was sought on numerous occasions regarding the interpretation and application of the *Act* to a Member's personal circumstances. I responded to each of these requests by telephone, email and on some occasions by meeting personally with the Member.

Pursuant to Section 7 of the *Act*, all such advice is given in confidence unless the Member release the opinion or authorizes the Commissioner to release it.

In 2021, no written requests were received from Members pursuant to Section 28 of the *Act* to provide an opinion with respect to an alleged contravention of the *Act* by another Member.

#### AMENDMENTS TO THE ACT

Several Amendments to the *Act* were approved in the spring session of the Legislative Assembly and enacted in May of 2021.

The most significant of those amendments are summarized as follows:

1. Section 9 of the *Act* provides that no Member shall make a decision or participate in making a decision in the execution of the Member's office, if the member knows or reasonably should have known that in the making of the decision there is an opportunity
  - a) to further the member's private interest; or
  - b) to improperly further another person's private interest. 1999, c22 s9.

Section 1 of the *Act* has been amended to include a definition of what constitutes a furthering of a private interest. Previously the *Act* defined only what did not constitute a private interest.

2. Section 13 - Gifts: The value of a gift that must be reported in writing to the Commissioner pursuant to Section 13 of the *Act* has been reduced from \$500 to \$200 where either the value of one gift or the total value of gifts from one source exceeds \$200.

3. Section 24 has been amended to extend the time during which a former Minister shall not accept certain benefits or contracts or make representations to the Government of Prince Edward Island on a former Minister's own behalf or on behalf of another, from 6 months to 12 months.

4. Section 28.1 - Request by a Member of public. A new provision has been added to the *Act* which provides that any person may request that the Commissioner investigate any matter respecting an alleged breach or contravention of the *Act*. Previously only a Member could make such a request. The form and content for making such a request are set out in Section 28.1 (2) of the *Act* and mirror the provisions in Section. 28(2) of the *Act* which sets out the process for a Member making such a request. In particular any request shall:
  - a) be in writing;
  - b) set out the name and contact information of the person making the request;
  - c) set out the grounds for the person's belief that a breach or contravention of

this Act has occurred; and  
d) be supported by affidavit evidence.

5. Section 35(3) of the *Act* amends the provisions of the *Act* that provide that there shall be no reprisals for anyone, who in good faith has assisted the Commissioner or provided information or participated in an investigation or inquiry.

6. Section 36 Review of the *Act*. A new provision has been added to provide a review of this *Act* immediately after each general election. The review shall include an opportunity for members of the public to make recommendations and provides that the Commissioner shall submit a report on the review, including any recommendations to the Standing Committee on Legislative Assembly Management within 18 months after the general election.

The full text of the *Conflict of Interest Act R.S.P.E.I. 1988 Cap. 17.1* can be found online at: [https://www.princeedwardisland.ca/sites/default/files/legislation/c-17-1-conflict\\_of\\_interest\\_act.pdf](https://www.princeedwardisland.ca/sites/default/files/legislation/c-17-1-conflict_of_interest_act.pdf)

#### CANADIAN CONFLICT OF INTEREST NETWORK

Two meetings of the Canadian Conflict of Interest Network were held via Zoom in March and September 2021. Despite the limitations of Zoom, I found it enormously helpful to be able to seek input and advice from others in a similar role.

An in-person conference tentatively rescheduled for September 2021 has once again been tentatively rescheduled for September 2022.

#### CONCLUSION

Thanks once again to all of those who assisted me this year and to all Members for their continued cooperation. Special thanks to Ms. Barbara O'Donnell and to all the staff in the Clerk's office and the Office of the Speaker for their patience and assistance.