

36139  
2001

**COMPARATIVE APPROACHES TO CONFLICT OF INTEREST: THE  
UNITED STATES, CANADA AND THE UNITED KINGDOM**

Kathy Lalazarian

WHAT IS CONFLICT OF INTEREST?.....	5
HOW ARE CONFLICT OF INTEREST ISSUES REGULATED?.....	6
WHO MUST DISCLOSE? .....	7
WHAT TYPES OF INFORMATION MUST BE DISCLOSED?.....	8
WHEN MUST DISCLOSURES BE SUBMITTED? .....	10
IF REGULAR DISCLOSURE IS NOT REQUIRED, DOES THIS ABSOLVE AN OFFICIAL FROM RESPONSIBILITY TO REPORT CONFLICTS OF INTERESTS? .....	10
WHAT INFORMATION MUST BE MADE AVAILABLE TO THE PUBLIC? .....	11
WHAT REMEDIES ARE AVAILABLE FOR CONFLICT OF INTEREST?.....	12
HOW ARE VIOLATIONS OF CONFLICT OF INTEREST REGULATIONS PUNISHED? .....	14
HOW IS IMPLEMENTATION OF CONFLICT OF INTEREST REGULATIONS MONITORED? .....	15
CONCLUSION .....	17
ANNEX 1 - DEFINITIONS .....	19
ANNEX 2 – WHO MUST FILE AND WHAT IS REPORTED: UNITED STATES, CANADA, UNITED KINGDOM.....	24
ANNEX 3 - ETHICS IN GOVERNMENT ACT: UNITED STATES .....	31

ANNEX 4 – CONFLICT OF INTEREST AND POST-EMPLOYMENT CODE: CANADA.....	51
ANNEX 5 – CODE OF CONDUCT: UNITED KINGDOM.....	67
ANNEX 6 – FINANCIAL DISCLOSURE FORM: UNITED STATES .....	94
ANNEX 7 – FINANCIAL DISCLOSURE FORM – CONFIDENTIAL REPORT: CANADA.....	99
ANNEX 8 – DISCLOSURE FORM – PUBLIC REPORT: CANADA.....	113

The following note addresses the issue of conflict of interest in the public sector and summarizes existing legislation and procedures regarding this issue in three countries with different approaches to the problem: Canada, the United Kingdom, and the United States. After reviewing the general principles of conflict of interest, this note focuses on the basic components and range of choices in drafting conflict of interest legislation and related enforcement mechanisms based on the country examples provided. Though these examples serve as useful illustrations, effective conflict of interest legislation will be based on shared expectations of what constitutes conflict of interest, the structure of relevant government institutions, and the state's capacity to monitor the private interests of public officials. Consequently, such legislation should be tailored to the particular circumstances within the Russian Federation.

## What is conflict of interest?

A conflict of interest arises when the decisions of public officials are influenced by their private interests over and above the public interest<sup>1</sup> (for specific examples, see Box 1). In such cases, individuals use their public office to advance their private gain, making decisions that do not necessarily coincide with the broader interests of their constituencies. While the definition of conflict of interest may be clear in theory, it is extremely difficult to characterize in practice, as there are not necessarily well-defined boundaries separating public and private interests. Moreover, these boundaries may be difficult and costly to monitor. As a result, there is considerable variation in the nature and scope of conflict of interest regulations across countries, as we explain below in this note.<sup>2</sup> Given limitations in the ability of regulations to specify clear and comprehensive definitions, a number of countries have established offices responsible for providing advice to public officials as well as formal rulings in actual cases regarding whether a conflict of interest in fact exists.

### Box 1 Examples of Conflict of Interest<sup>3</sup>

Vadim is an economist working for the federal government. He also owns a business in which he prepares tax declarations for private firms and ordinary citizens. Sometimes, he prepares declarations for his private clients while he is at work in his government office. (The conflict exists in the fact that he is using time he should be fulfilling his public duty for his private business.)

Vera is an employee of the Ministry of Economy, and has responsibility for supervising state-owned enterprises. As part of her official duties, Vera is a member of the board of a state-owned enterprise. She is paid by this enterprise for this work. (The conflict exists because Vera may not have an incentive to act in the public interest – for example, if it means closing the enterprise – because it could affect her income.)

Vadim works in the Presidential Apparatus. He tries to further an issue with a minister in favor of a company in which he is a shareholder. (The conflict exists in Vadim trying to influence the minister to further an issue that could benefit him financially.)

Igor is an inspector for the Ministry of Health. Igor's brother-in-law has just purchased a restaurant that Igor has been assigned to inspect. (The conflict exists in possible favoritism, or the 'appearance' of such, between Igor and his brother-in-law.)

Maria is an employee of the federal government, working on public procurement. In her spare time, she wants to open a business. She has made an offer to rent commercial space from a local developer. The developer has put in a bid to Maria's department to provide the government with office space, and Maria expects that she will be called upon to evaluate the bid. (The conflict exists in the fact that Maria will make an official decision on the developer's contract that may influence whether or not her private offer to rent commercial space from the developer is accepted.)

<sup>1</sup> TI (Transparency International). 1998. Conflict of Interest: Legislators, Ministers and Public Officials. Germany.

<sup>2</sup> See Annex 1 for definitions of elements of conflict of interest regulations in the United States, Canada, and the United Kingdom. See Annex 2 for a concise description of the conflict of interest systems of these three countries.

<sup>3</sup> Further examples of conflict of interest may be found in "An Ethics Handbook for Executive Branch Employees" 1995. United States Office of Government Ethics.

## How are conflict of interest issues regulated?

The main objectives of conflict of interest regulations are to: (i) define in concrete terms what constitutes the private interests of public officials; (ii) establish mechanisms for the disclosure of those private interests; (iii) set clear guidelines *ex ante* as to which forms of private interests are incompatible with decision-making in the public interest and to establish procedures for excluding such private interests from the decision-making process; (iv) define *ex post* procedures and sanctions for resolving accusations of conflict of interest; and (v) establish an office responsible for monitoring implementation of the legislation.

Technically, conflict of interest issues can be regulated in many ways. Conflict of interest procedures may be mandated in separate ethics codes, dedicated conflict of interest laws, or encompassed in existing civil service codes. In the United States, for example, there are separate ethics regulations (such as the *Ethics in Government Act*<sup>4</sup>) for each branch of government; each state has its own legislation for state-wide public officials.<sup>5</sup> In Canada, the *Conflict of Interest and Post-employment Code for the Public Service*<sup>6</sup> applies only to Ministers, Secretaries of State, and certain Parliamentarians (i.e. “public office holders”). Senators and Private Members of the House of Commons are bound by their own conflict of interest legislation as well as by the Standing Orders of the House of Commons and the Rules of the Senate. There are separate provincial statutes that regulate conflict of interest as well. In other countries, there may also be additional rules or standards of conduct for specific sectoral officials where conflict of interest issues are most likely to arise. France, for example, has specific standards of conduct for the Ministries of Transport, Infrastructure and Housing, while Poland has separate standards for its inspectors working in the Environment Protection, Sanitary Control, and State Labor Inspectorates.

The United Kingdom does not have a separate conflict of interest legislation, although the *Civil Service Management Code* outlines the values that civil servants are expected to uphold. The Code covers all civil servants, and there is not a separate code for local government. *The Code of Conduct for Members of Parliament* and the *Registration and Declaration of Members Interests* governs conflict of interest issues for Parliament.

Conflict of interest regulations usually must be drafted in conformity with the criminal and criminal procedures codes, so that violations can be punished not only with administrative and civil sanctions but also with criminal penalties. They are also supported by other types of legislation. A comprehensive system of conflict of interest monitors not just the behavior of public officials, but also the behavior of firms and individuals who might wish to influence the design of public policy. Laws governing political party and campaign financing regulate the sources of income of parties and require them to disclose these sources, in an attempt to ensure that wealthy constituencies do not have undue influence over the decisions of politicians. In some

---

<sup>4</sup> This act is provided in Annex 3.

<sup>5</sup> For the purposes of this paper the executive branch in the United States will mainly be discussed.

<sup>6</sup> The Civil Service Code from this act is provided in Annex 4.

countries, firms and individuals that lobby the government or legislature are required to register with the state and disclose the purpose of their contacts with public officials.<sup>7</sup>

A common element of all of these systems is that they require the disclosure of information. While this information is used by the state to monitor and address conflict of interest, the systems work most effectively when the information is made available to the public as well. Civic organizations and the media play an important role in investigating and publicizing important cases of conflicts of interest, so that public pressure is exerted on the state to remedy these problems. For this reason, these systems rely heavily on laws protecting the right of the public to state information,<sup>8</sup> which provide procedures for the public to access information that has been disclosed.

## Who must disclose?

Mechanisms for the disclosure of private interests of public officials are the basic foundation of any system of conflict interest prevention. Though it is impossible to reveal completely the private interests of any individual public official, disclosure practices identify proxy measures of such private interests. By so doing, disclosure mechanisms actually define in practice what constitutes private interests and, therefore, what should be monitored in the system of conflict of interest prevention. In any given country, the capacity of the government to obtain, monitor, and verify information about the private interests of public officials will determine how extensively conflict of interest can be effectively legislated.

The disclosure of the private interests of public officials is approached differently across countries, in particular regarding the definition of *who* must disclose. In the United Kingdom, only Parliamentarians must disclose. In Canada, Ministers, Secretaries of State, and certain Parliamentarians must disclose.<sup>9</sup> In the United States, the scope of officials that must disclose is much greater: it includes all executive branch employees as well as *candidates* for President and Vice-President.<sup>10</sup>

---

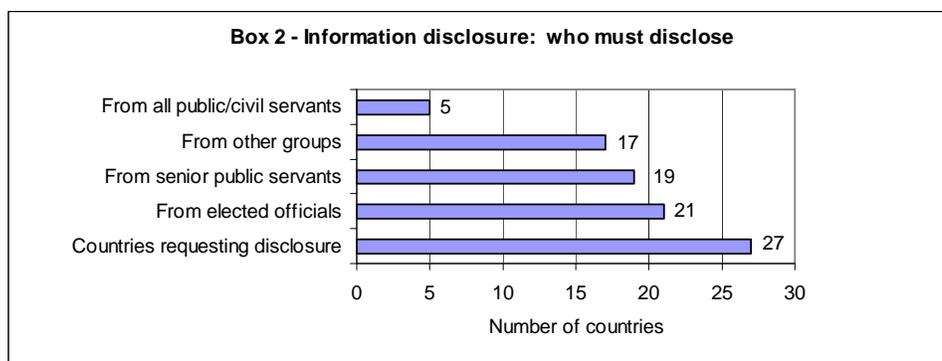
<sup>7</sup> The US and Canada both require lobbyists to register themselves and their activities. Canada also subjects lobbyists to a code of ethics. In contrast, the UK does not regulate lobbyists because of the concern that such regulations would impede access of the public to government and Parliament.

<sup>8</sup> Laws protecting the rights of the public to state information also protect the rights of state officials to privacy.

<sup>9</sup> This would specifically include Ministry of the Crown, including a Secretary of State; a Parliamentary Secretary; a member of ministerial staff, except public servants; a full-time Governor in council appointee (other than a Lieutenant-Governor of a province), officers and staff of the Senate, House of Commons and Library of Parliament; a public servant who is head of mission as defined in *the Department of Foreign Affairs and International Trade Act*; a judge who receives a salary under the *Judges Act*; a commissioned officer of the Royal Canadian Mounted Police, other than the Commissioner of the Royal Canadian Mounted Police; and a full-time ministerial appointee designated by the appropriate Minister of the Crown as a public office holder.

<sup>10</sup> In Canada, the executive and legislative branches are not completely separate; Cabinet sits in Parliament and has control over the legislative agenda (although appointment and oversight belong solely to the executive and to the prime minister). Thus, it is unlikely that Parliament will ever consider conflict of interest legislation that affects the Cabinet more harshly than Parliament. This is in contrast to US legislation, which places stricter ethics measures on the executive. One example of stricter executive rules in the US are those governing honoraria – executive branch rules prohibit

Box 2 demonstrates the variation in who must disclose across OECD countries. Of the 27 OECD countries mandating disclosure from public officials of their private interests, a majority require disclosures from all elected officials and senior public servants; only five require such disclosure from all public servants.



Source: OECD

The fact that only five OECD countries require all public servants to provide declarations reflects both a recognition that not all public officials have sufficient decision-making responsibility to warrant full disclosure as well as capacity constraints on the part of government to effectively monitor the disclosure of private interests of all public officials. There are clear tradeoffs defining the comprehensiveness, cost, and effectiveness of disclosure procedures that must be defined differently in each country, which depend upon the capacity of the state to monitor private interests of public officials.

Countries must also decide the extent to which disclosure is required for different members of the official's household. The United States, Canada, and the United Kingdom all require officials to report on the financial interests of themselves as well as their spouse and dependent children. Some countries – especially those where officials may be willing to allow their assets to be formally owned by friends and extended family – are not satisfied with this extent of disclosure.<sup>11</sup> When property rights are not easy to establish, it may be especially difficult to obtain the necessary evidence to punish officials who violate the law. However, extending the scope of disclosure beyond the official's family is often precluded by laws protecting the rights of individuals to privacy, not to mention limited government resources. In these cases, public scrutiny of financial disclosures becomes especially important element in creating a deterrent to conflict of interest.

## What types of information must be disclosed?

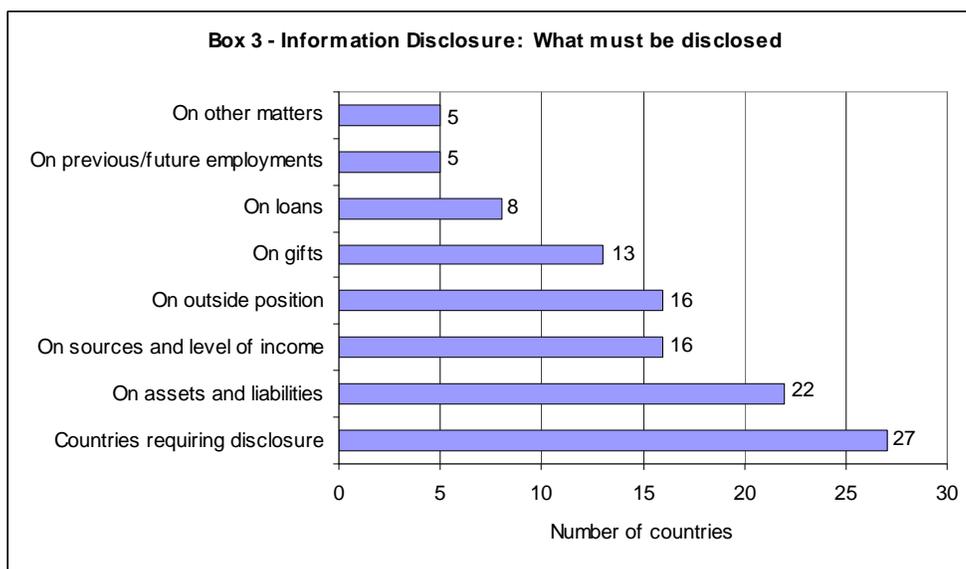
There is considerable variation across OECD countries on *what* is necessary to disclose. Financial disclosure is normally the foundation of the ethics enforcement

---

executive officials from receiving honoraria for any speeches, writings, etc., while legislative branch employees may earn money by receiving honoraria, and some may even receive up to three times their salaries.

<sup>11</sup> In Latvia, for example, the declaration lists the names of spouses, siblings and first degree relatives. It has also considered introducing a requirement for all residents to file income and assets disclosures.

system, although it is frequently accompanied by other types of disclosure such as past and future employment and gifts. Box 3 summarizes the number of OECD countries which have explicit disclosure requirements for each form of private interest. As the chart indicates, the most common proxy measure of private interests in disclosure practices is current assets and liabilities. However, a number of countries recognize a much broader range of potential private interests that could unduly influence the decisions of public officials, including gifts, outside employment or representation, and future employment opportunities. The determination of what must be disclosed is partly a function of which private interests can be effectively monitored and enforced. For example, only 5 of the 27 OECD countries with conflict of interest guidelines include future employment restrictions.



Source: OECD

Table 1 reviews what is required to report on financial disclosure forms in the United States,<sup>12</sup> Canada,<sup>13</sup> and the United Kingdom. The differences reflect slightly different emphases regarding the relationship between public and private interests in parliamentary versus presidential systems. In parliamentary system, such as the U.K. and Canada, there is a greater expectation that politicians represent specific interest groups and, thus, will maintain closer ties to such groups both while in office and subsequent to leaving office.<sup>14</sup> In presidential systems, there is a stronger expectation that all politicians will be guided by their perceptions of the broader public interest without representing specific social interests beyond their geographical constituencies.

<sup>12</sup> See Annex 6 for the disclosure form used in the United States.

<sup>13</sup> See Annex 7 for the disclosure form used in Canada.

<sup>14</sup> However, this does not apply to the civil service, which is intended to be strictly independent of external interests.

**Table 1 – What is Reported in Financial Disclosure Forms**

	Property Interests and Assets	Earned and Other Non-Investment Income	Gifts, Reimbursements, and Travel Expenses	Investment Income	Liabilities	Outside Positions While in Office	Agreements for Arrangements for Current or Future Employment	Agreements or Arrangements for a Leave of Absence from Private or other Non-Federal Employment	Agreement for Continuation of Payment by a Former Employer other than the Federal Government	Clients	Election expenses <sup>15</sup>
United States	☒	☒	☒	☒	☒	☒	☒	☒	☒		
Canada	☒	☒	☒	☒	☒	☒	☒				
United Kingdom	☒	☒	☒ <sup>16</sup>	☒		☒				☒	☒

## When must disclosures be submitted?

The emphasis of the conflict-of-interest systems in many OECD countries is on resolution of conflict of interest *ex ante*, before any crime has been committed. For this reason, countries such as the United States, Canada, and the United Kingdom require elected and appointed officials to submit declarations upon entry into office. The United States even requires Presidential and Vice-Presidential candidates to submit declarations *prior* to the election and Cabinet officials to submit declarations *prior* to their confirmation hearings in the Senate. These declarations are rigorously reviewed; if conflicts are identified, the officials are provided with alternative ways of resolving the conflict. After entry, regulated officials in the United States and the United Kingdom must file annually; regulated officials in Canada must submit declarations after they receive a gift or some other benefit or their portfolio of assets changes. Regulated officials in the United States and Canada must also file upon official separation from public office.

## If regular disclosure is not required, does this absolve an official from responsibility to report conflicts of interests?

<sup>15</sup> Election expenses are included in the disclosure report only for the UK, although that is not to say that the United States and Canada do not have to make transparent their political contributions through other means.

<sup>16</sup> This also includes overseas visits made by MPs and their spouses which relate to or arise out of membership of the House.

As shown in Figure 2, most OECD countries – including Canada and the United Kingdom – do not require disclosures from ordinary bureaucrats on a regular basis. Of course, this does not absolve them from their responsibility to disclose a conflict, should it arise. Usually, codes of ethics require officials to avoid conflicts of interest and, where unavoidable, to report the conflicts to their managers, ethics officers in their departments, or ethics officers in a central unit responsible for oversight of conflict of interest.

This type of decentralized system is effective only when officials at all levels understand what constitutes conflict of interest and have an incentive to report it when it arises. Conflict of interest is a complex concept with many nuances. Even countries with established systems invest a great deal in training officials to help them understand exactly what constitutes conflict of interest and how it can be avoided. In countries just embarking on the process of creating such a system, understanding of the concept among officials will be low and compliance with decentralized reporting requirements may be minimal. The incentive to seek guidance and to report conflict of interest can be strengthened by ensuring that punishment for violating conflict of interest regulations is swift and certain.

## **What information must be made available to the public?**

Disclosing information to ethics committees through confidential reports are a necessary means for internal scrutiny. Widening dissemination of these reports to the public allows the media and civic organizations the opportunity to investigate and discuss the contents of the disclosures, helping to build an understanding in society of the nature and consequences of conflict of interest. As the system becomes more effective in detecting and remedying conflicts, dissemination of credible disclosures can also help build public trust in the state.

Through the *Freedom of Information Act*, the US public may access financial disclosures. The Office of Government Ethics, which has oversight responsibility for addressing problems of conflict of interest, may provide such information after a written request has been made.<sup>17</sup> Canada's *Access to Information Act* grants any Canadian citizen access to any record under the control of a government institution, subject to certain provisions. The Canadian government provides data from the disclosures on an internet site.<sup>18</sup> The Parliament of the United Kingdom maintains a Register of Members' Interests, which contains the declarations of MPs. This Register is published soon after the beginning of a new Parliament and is published annually thereafter.

Not all information in a disclosure need to be made public. Privacy laws protect officials and their families from unnecessary public exposure by restricting the

---

<sup>17</sup> There are some noteworthy exceptions regarding whose information may be accessed. These include members of Congress, the Federal Courts, and Executive Office staff whose sole function is to advise and assist the President, as Congress concluded that some confidentiality is necessary for the government to function.

<sup>18</sup> See [http://strategis.ic.gc.ca/cgi-bin/sc\\_mrksv/coi/bin/coi.e/coi.phtml](http://strategis.ic.gc.ca/cgi-bin/sc_mrksv/coi/bin/coi.e/coi.phtml).

type of information that can be made public. Often it is in the public interest to provide greater information on elected officials and senior public servants, who possess greater decisionmaking authority. An example of how confidential disclosures may be summarized and disseminated to the public is provided by the Canadian system. There, officials provide confidential, written statements indicating ownership of an asset, receipt of a gift, hospitality or other benefit, or participation in any outside employment or activity. This statement is used to help to official to decide how his or her conflicts of interest can be remedied. Then, the official prepares a summary statement, which is made available to the public, outlining which remedies he or she will use, and also certifying that he or she is fully cognizant of the post-employment measures set out in the *Conflict of Interest and Post-Employment Code*. Annexes 7 and 8 provide the forms used in Canada to prepare the confidential and public statements.

## What remedies are available for conflict of interest?

When conflicts of interest are identified, the state works with the official to find a remedy so that his or her personal interest does not influence the decision-making process. Common remedies that are used to prevent conflict of interest are listed in Box 4.

### Box 4: Common Remedies for Conflict of Interest

**Recusal:** the official avoids or withdraws from activities or situations that would place him or her in a real, potential, or apparent conflict of interest relative to his or her official duties and responsibility;

**Delegation:** the official delegates any participation or decision-making to another official in an area where a real, potential or apparent conflict may arise;

**Resignation:** in rare instances, an official may decide to forego government employment in order to retain a personal interest or resign for a private position to remain in public office;

**Divestiture:** the official restricts or abandons the personal interest by:

- ③ **Declining gifts and other benefits:** the official returns gifts or benefits that raise or appear to raise conflict of interest
- ③ **Blind trusts:** the official places the assets under the trusteeship of a neutral third party;
- ③ **Sale:** the official fully removes him/herself from any potential conflict by selling the asset.

**Increased transparency and scrutiny of decision:** the government decides to ‘waive’ a conflict, but puts in place procedures enabling extra review of the official’s decisions

Source: US Office of Government Ethics

The choice of which of these methods is appropriate for a given circumstance of conflict of interest depends on the nature of the conflict. If the conflict could influence a narrow range of decisions an official must make, then recusal or delegation is an appropriate remedy. If the scope of influence is wide, then divestment, use of blind trusts, or sale may be necessary; if these remedies are not possible, then resignation may be the only other alternative. The availability of these methods depends on the institutional circumstances of a country. Recusal and delegation will only be effective if the official in conflict has no influence over the behavior of the delegated official. Blind trusts require a fairly sophisticated capital

market to be effective. Whichever remedy is selected, monitoring will be needed to evaluate its effectiveness over time.

## How are violations of conflict of interest regulations punished?

Practitioners in OECD countries emphasize the importance of the surety – as opposed to the severity – of the punishment in creating a deterrent to conflict of interest. In general, three types of penalties exist: civil (fines), administrative (job-related sanctions), and criminal (incarceration). Penalties are commonly weighted based upon the gravity of the situation, ranging from a warning to incarceration. The most common and effective penalties tend to be civil and administrative (see Box 5); criminal punishment is reserved for the most severe cases. Often, the penalty that is imposed for a violation of conflict of interest regulations is more serious for more senior officials. The argument is that more senior officials bear greater responsibility for public welfare. Consequently, violations of that duty have a more detrimental impact on public trust. Generally, employees who are punished for conflict of interest have the right to appeal administratively (if the sanction is administrative) and in the courts.

### Box 5. Common Civil and Administrative Sanctions

**Warning:** either in verbal or written form, reprimand, admonishment, rebuke, and summons (both public and private in Mexico), counseling (Australia);

**Monetary penalty:** material disadvantage by a sole penalty payment or by restraining and reducing the salary and/or complementary benefits:

- Fine
- Withholding of salary
- Salary reduction, reduction of benefits
- Reduction of pension
- Deprivation of pension

**Career penalty:** demotion, slow down in promotion, deprivation of title, or transfer with a change of residence;

**Suspension:** temporary dismissal;

**Dismissal:** disqualification.

Source: OECD

In the three countries discussed, each uses different procedures to apply civil and administrative sanctions. In the United States, the Attorney General may bring a civil action against a public official who purposefully claims false information, or fails to report any information which is required by the law. A civil penalty of no more than \$10,000 may be fined. Reports must also be filed on time – there is a filing fee for those reports which are filed after the required deadline in the United States. In addition to fines in the US system, the President, Vice-President, the Secretary concerned, the head of the agency which employs the official, the Office of Personnel Management, a congressional ethics committee or the Judicial Conference may take any appropriate personnel or other action in accordance with law or regulation against

any individual failing to file a report, falsifying or failing to report information required to be reported. Such includes removal from office or other administrative sanctions deemed appropriate.

In Canada, the *Conflict of Interest and the Post-Employment Code* is a condition of employment. When a public office holder does not comply with the Code or the disclosure methods, the Prime Minister will determine appropriate measures, including discharge or termination of employment. The UK system leaves any breach of conduct to be dealt with by the civil service departments' internal rules, which provide the only disciplinary procedure. The application of disciplinary procedures is left to the department concerned to implement, and is not legislated in general.

There are many obstacles to criminal prosecution and conviction of officials who violate conflict of interest statutes. Conflicts between these statutes and a country's criminal code and criminal procedures code; high standards of evidence for criminal prosecution; ineffective investigative techniques; absence of plea bargains;<sup>19</sup> inadequate cooperation among the bodies responsible for the processing of financial disclosures, investigating cases, and prosecuting cases; and politicized or corrupt courts are among these obstacles. Some countries have considered introducing amendments to their criminal code and criminal procedures code to reduce the standard of evidence that is needed to convict an official of conflict of interest.<sup>20</sup> Specifically, they have considered introducing the legal presumption that all income of public officials in excess of their official income is illicit, unless the official can prove otherwise. Practitioners in OECD countries usually warn *against* introducing these types of provisions because of their risk of being abused. The impediments presented by these many obstacles makes criminal punishment of conflict of interest difficult and uncertain, raising the importance of using civil and administrative penalties even when criminal prosecution is pursued.

## **How is implementation of conflict of interest regulations monitored?**

The effectiveness of conflict of interest legislation is determined largely by institutional arrangements for its implementation. Depending on the contours of the legislation, implementing arrangements take into account the need to: (i) clear officials upon entry into public office for possible conflicts of interest and provide them with remedies to avoid conflicts; (ii) educate officials about their rights and responsibilities with respect to conflict of interest; (iii) provide guidance and rule on specific cases of conflict of interest; (iv) monitor compliance of officials while they are in office; (v) monitor the post-employment activity of officials after they leave public office; and (vi) investigate and prosecute possible violations. These functions can be assigned to different public bodies in different ways and combinations, but

---

<sup>19</sup> Plea bargaining is a useful tools for prosecuting certain crimes, especially when the state's case is weak. It allows an accused person to eliminate the risk of being convicted of a serious crime by submitting a plea of guilty to a lesser charge. However plea bargains violate the principle of legality in some countries, which requires all cases to be prosecuted to their full extent.

<sup>20</sup> For example, Latvia.

they imply capacity in: (a) management; (b) data processing; (c) training; (d) counseling; (e) rulemaking; (f) investigation; and (g) prosecution.

The way in which these functions and corresponding capacities are allocated to different public sector bodies depends strongly upon the institutional circumstances of the country. Three main differences usually distinguish a country's implementation arrangements: (i) which body has oversight responsibility for the system and to whom that body reports; (ii) whether that body has rulemaking authority and, if so, the extent of that authority, and (iii) whether that body has investigative authority.

The United States and Canada have **independent offices of ethics**, which enforce and maintain ethical standards within the public sector. In the United States, the Office of Government Ethics (OGE) was established in 1978 by the *Ethics in Government Act* as a small agency within the federal government, whose head is appointed by the President for a five year term.<sup>21</sup> The main function of the OGE is to prevent conflicts of interest within the executive branch, and to resolve those conflicts of interest when they do occur. The OGE also reviews all federal agencies every four years, to ensure that the agencies are responsibly administering an ethics program. The United States places much emphasis on transferring ethics information to the public officials through training, counseling, printed information, and advisory services. The OGE has limited rulemaking authority,<sup>22</sup> and generally no investigative powers.<sup>23</sup> In the United States, many individual states, as well as cities, have their own office of ethics which enforces state conflict of interest legislation. The city of Chicago, for example, monitors lobbying activities in its jurisdiction, and has its own disclosure database.<sup>24</sup>

Similar to the United States, Canada has its own independent office of ethics, with individual provincial ethics offices as well. The Office of the Ethics Counselor was established in 1994, when Canada's first ethics counselor had been appointed by the Prime Minister. The ethics counselor has two main areas of responsibility: conflict of interest and lobbying. The ethics counselor is responsible for investigating allegations against Ministers and senior officials involving conflict of interest or lobbying.<sup>25</sup> In addition, the ethics counselor is available to offer guidance to lobbyists

---

<sup>21</sup> See OGE site index [http://www.usoge.gov/pages/misc\\_files/siteindex.html](http://www.usoge.gov/pages/misc_files/siteindex.html) for further information on this office.

<sup>22</sup> The Office of General Counsel and Legal Policy in OGE is responsible for establishing and maintaining a uniform legal framework of Government ethics for executive branch employees. This Office develops executive branch ethics program policies and regulations, interprets laws and regulations, assists agencies in legal and policy implementation, and recommends changes in conflicts of interest and ethics statutes.

<sup>23</sup> The Inspector General of the department or agency involved and, when necessary, the Federal Bureau of Investigation of the Department of Justice is responsible for investigating misconduct of federal employees. The 64 Inspector Generals in the Executive branch of the U.S. government conduct the majority of investigations into government wrong-doing. In addition they also coordinate investigations with their regular financial and management audits of federal agencies and programs. The coordinating body for the Inspectors General is the President's Council on Integrity and Efficiency of which the Office of Government Ethics is a member.

<sup>24</sup> See <http://w4.ci.chi.il.us/ethics> for the City of Chicago's Board of Ethics web page.

<sup>25</sup> Bodies also empowered to conduct investigations in Canada include: (i) internal audit departments, personnel and human resources, and other officials within departments who examine departmental practices and operations on an ongoing basis thus having the potential to uncover misconduct; (ii)

and their clients before they enter into dealings with the federal government. It does not have any rulemaking authority. Onus for complying to the Code is on the public official, and any violation of the Code are dealt with by the Prime Minister by termination of employment. The ethics counselor reports to Parliament yearly on matters associated with lobbying.

The United Kingdom is at an earlier stage in development its implementation arrangements. At the present time, it has a specific **committee** devoted to ethics. It is an advisory body sponsored by the Cabinet Office called the Committee on Standards in Public Life, known informally as the Nolan Committee. The Committee was established in 1994, with the aim to make recommendations regarding standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities. In 1997, it was assigned the additional task of making recommendations regarding the funding of political parties. The Nolan Committee recommended an independent body for enforcement, and the Office of Parliamentary Commissioner for Standards and a Select Committee on Standards and Privileges to monitor a code of conduct for its members was constructed.<sup>26</sup> Any breach of conduct by civil servants is dealt with by the civil servants' departments' internal rules, and the application of disciplinary procedures is left to the department concerned to implement, and is not legislated in general.<sup>27</sup>

## Conclusion

Practitioners in OECD countries emphasize that an effective system for monitoring and addressing conflict can take many years to develop. Even in the OECD, these systems are constantly evolving, in response to changing political, economic, and technological conditions. In fact, United States and the United Kingdom are both actively engaged in the process of reforming their systems.

Russia has established a basic system of financial disclosure, but still needs to develop a business process that enables it to more effectively monitor and remedy conflict of interest. A question that Russia faces is how to orient this development. While the primary focus of financial disclosure systems in the United States, Canada, and the United Kingdom is on identifying and resolving cases of conflict of interest *ex ante* before the official has committed the crime, the primary focus of the systems in Russia and many other countries in the former Soviet Union is on detecting and prosecuting cases of illicit enrichment and other corruption *ex post* after the crime has been committed.

---

comptroller general who examines overall public service practices; (iii) central agencies who advise senior government officials on misconduct; (iv) the Auditor General who audits the finances of all government operations; (v) and Royal Canadian Mounted Police who investigate breaches of law. The Attorney General is responsible for prosecuting crimes of misconduct and corruption in the public service.

<sup>26</sup> TI (Transparency International). 1998. *Conflict of Interest: Legislators, Ministers and Public Officials*. Germany.

<sup>27</sup> OECD (Organization For Economic Cooperation and Development). 2000. *Trust in Government: Ethics Measures in OECD Countries*. Paris.

The institutional requirements of the two systems are clearly different. The first system works most effectively when officials are knowledgeable about conflict of interest and find value in avoiding conflicts. Key sanctions involve loss of position and pension. This system implies an emphasis on training officials, and strengthening the system of administrative sanctions. The second system works best when the state possesses adequate analytical and computer capacity to track wealth over time and effective means of cooperation between the analytic, investigative, and prosecutorial bodies in the country. It implies an emphasis on investments in technology, strengthening cooperation between government bodies, and fine-tuning criminal law and procedures codes. Of course, these two types of systems are not mutually exclusive.

The formal system for monitoring, remedying, and prosecuting conflict of interest can also be made more effective by introducing additional measures where public official misconduct may be more prevalent. The majority of OECD countries conduct risk assessments in areas susceptible to misconduct. In almost all OECD countries, public officials are aware that they may be required to give reasons for administrative decisions. Italy mandates this practice in legislation. Many countries also have specific controls on public procurement procedures, as well as special provisions in bids for public contracts (companies found guilty of corruption are disqualified or suspended from future procurements). In Germany, the multiple presence principle is employed in public procurement, which requires each stage of the procurement process (planning, contract awarding, and settlement of accounts) to be assigned to different officials on the presumption that this institutional arrangement makes the process more difficult and costly to corrupt.

The task of building an effective system for remedying conflict of interest in Russia is daunting. While conflict of interest problems exist in all countries, addressing them is most complex where organizational boundaries between the public and private sectors is least transparent. Delineating these boundaries by strengthening the state's ability to detect and remedy conflicts of senior officials upon entry into public office might be a useful next step in developing the Russian system. Another possible step is targeting interventions to address specific vulnerabilities, such as in public procurement or tax and customs administration. In any case, the key to developing a successful system, especially when resources are scarce, will be to target them most effectively. A comprehensive system that is weakly applied will be much less effective than a targeted system that is fully applied. Whatever system is adopted requires political commitment to build sufficient capacity and to avoid the temptation of politicization.

## Annex 1 - Definitions

*Assets:* The property owned by a person.

**United States:** Example of **declarable assets** in the US system:

- stocks
- tax shelters,
- mutual funds,
- annuities
- trust holdings
- trades and businesses
- investment life insurance
- bonds, investment real estate
- pensions, commodity futures
- partnership interests, collectibles held for investment.

Examples of **investment income:**

- dividends
- rents and royalties
- interest
- capital gains

Examples of **earned/other income:**

- Fees
- Salaries
- Commissions
- Retirement Benefits
- Honoraria

In the US system all assets held for investment or for the production of income by the subject, subject's spouse or dependent children with a value greater than \$1,000 at the end of the reporting period, or which produced more than \$200 in income during the reporting period.

**Canada:** Canada divides its assets into three parts: **declarable, controlled, and exempt.**

**Declarable** assets include:

- 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;
- farms under commercial operation;
- real property that is not an exempt asset (see below for "exempt assets")
- assets that are beneficially owned, that are not exempt assets, and that are administered at arm's length.

**Controlled** assets are assets that could be directly or indirectly affected as to value by Government decisions or policy, and include:

- publicly traded securities of corporations and foreign governments, whether held individually or in an investment portfolio account;
- self-administered Registered Retirement Savings Plans, except when exclusively composed of exempt assets and
- commodities, futures and foreign currencies held or traded for speculative purposes.

**All controlled assets must be divested**, by selling them in an arm's length transaction or by making them subject to a trust or management agreement.

The following are considered **exempt** assets, and are not subject to public declaration or divestment:

- residences, recreational property and farms used or intended for use by public office holders or their families;
- household goods and personal effects;
- works of art, antiques and collectibles;
- automobiles and other personal means of transportation;
- cash and deposits;
- Canada Savings Bonds and other similar investments in securities of fixed value issued or guaranteed by any level of government in Canada or agencies of those governments;
- registered retirement savings plans that are not self-administered;
- investments in open-ended mutual funds;
- guaranteed investment certificates and similar financial instruments;
- annuities and life insurance policies;
- pension rights;
- money owed by a previous employer, client or partnership; and
- 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.

**United Kingdom:** Any land or property of substantial value, other than any home used solely for the personal residential purposes of the Member or the Member's spouse.

Member's are required to register the name of any public or private company or other body in which, to their knowledge, they have a beneficial interest in a shareholding having a nominal (i.e. face) value; (a) greater than 1% of the issued share of capital of the company or body; or (b) less than 1% of the issued share capital but more than 25,000 pounds. The requirement extends to holdings in which the interest is held by or on behalf of the member's spouse or dependent children.

*Divestment:* To sell off (property, assets) or to otherwise dispose of.

*Gift:* Anything of value, including tangible items and in-kind transportation, food, lodging and entertainment.

**United States:** Travel-related cash reimbursements received from one source during the reporting period totaling more than \$260. Gifts totaling over \$260 from any one source must be reported. Travel reimbursements given to subject's agency in relation to official business need not be reported.

**Canada:** 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 Counselor and make a Public Declaration that provides sufficient detail to identify the gift, hospitality or other benefit received, the donor, and the circumstances.

**United Kingdom:** Tangible gifts of over 125 pounds in value and other benefits over 235 pounds in value must be registered (covers gifts from both overseas and UK sources).

*Honoraria:* Payments (direct or indirect) or money or anything of value to the subject or the subject's spouse for an appearance, speech or an article, excluding necessary travel expenses. Also included are payments to charities in lieu of honoraria.

*Income: Investment:* Includes, but is not limited to, income derived from dealings in property, interest, rents, royalties, dividends, capital gains, income from annuities, the investment portion of life insurance contracts or endowment contracts, distributive share of partnership or joint venture income, gross business income, and income from an interest in an estate or trust.

*Income: Earned/Other:* : Examples include fees, salaries, commissions, and retirement benefits

**United States:** All sources of salary and earned income for the subject greater than \$200 during the reporting period must be reported. For subject's spouse, all sources of salary and earned income if greater than \$1,000 (\$200 if honoraria) must be reported. No income needs for dependent children needs to be reported.

**Canada:** See "assets", above.

**United Kingdom:** Members are required to register any remunerated directorships which they hold in public or private companies. Members are also required to register directorships which are unremunerated if the companies are associated with or subsidiaries of a company in which the Member holds a remunerated directorship.

*Liability:* An obligation, a responsibility, or a debt

**United States:** Liability over \$10,000 owed to any creditor at any time during the reporting period.

**Canada:** The Ethics Counselor may require that particular arrangements be made to prevent any conflict of interest situation from arising

*Outside Positions:* All positions of employment outside the government.

**United States:** Examples of outside positions held during the reporting period (may also include positions no longer held) paid or unpaid which must be reported include: an officer, director, trustee, general partner, proprietor, representative, executor, employee or consultant at any of the following: (i) a corporation, company, firm, partnership, trust, or other business enterprise; (ii) a non-profit organization; (iii) a labor organization; (iv) an educational or other institution outside the government.

**Canada:** All public office holders are required to make a Public Declaration of the activities, and of directorships and official positions. The official may, in exceptional circumstances, and with approval, become or remain involved in certain outside activities, but may not accept remuneration for any activity. Additionally, a public official, with approval, may 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. In cooperation with the public office holder, the Ethics Counselor will prepare the Public Declaration of outside activities to be made by that office holder.

Prohibited positions include:

- the practice of a profession;
- management or operation of a business or commercial activity;
- retention or acceptance of directorships or offices in a financial or commercial corporation;
- holding an office in a union or professional association; or
- serving as a paid consultant.

**United Kingdom:** Members of Parliament must register in the *Register of Members' Interests* their sources of paid outside employment, and any Member who has an existing agreement or who proposes to enter into a new agreement *involving the provision of services in his or her capacity as a Member of Parliament* must deposit it in writing with the Parliamentary Commissioner for Standards. The agreements, which are available for public inspection, must include the fees or benefits payable in bands of up to 1,000 pounds, up to 5,000 pounds, and thereafter in bands of 5,000 pounds.

Continuing benefits, i.e. directorships, other employment and sponsorship, can be divested to release a Member from the restrictions imposed by this rule, provided that there is no expectation of renewal.

Remunerated directorships, and remunerated employment, office, profession, etc. must be registered.

Members are required to disclose the names of clients for whom they provide services which arise out of membership in the House; for example, sponsoring functions in the parliamentary buildings, making representations to Government Departments or providing advice on parliamentary or public affairs.

*Special Government Employee (US):* An officer or an employee of an agency who performs temporary duties, with or without compensation, for not more than 130 days in a period of 365 days, either on a full-time or intermittent basis.

*Sponsorship, or financial or material support (UK):* Donations, one-off benefits, entries relating to contributions to election expenses or to party leadership campaigns.

**United Kingdom:** All members of Parliament must register: (i) the source of any contribution to his or her election expenses at the last Election which exceeded 25% of the total; and (ii) any regular or continuing support from companies or organizations from which the Member receives any financial or material benefit in support of his or her role as a Member of Parliament. This includes any regular donation in excess of 500 pounds directly to the Member's candidacy in the constituency or to membership of the House.

*Dependent Child (U.S.):* Son, daughter, stepson or stepdaughter if such person is either: (i) unmarried, under age 21 and living in subject's household; or (ii) a "dependent" of subjects for Federal income tax purposes.

**United States:** Information applicable to the subject, spouse and dependent children are filed as their financial interests are attributed to the subject's under ethics rules in determining conflicts of interest.

**Canada:** In the case of Ministers, Secretaries of State and Parliamentary Secretaries, the public office holder shall make arrangements for disclosure information to be disclosed as well by their spouses and dependent children.

**United Kingdom:** Ministers and civil servants (and members of their immediate family) must declare any interests where there is a risk of an actual or apparent conflict of interest with their official duties.

## **ANNEX 2 – WHO MUST FILE AND WHAT IS REPORTED: UNITED STATES, CANADA, UNITED KINGDOM**

### ***UNITED STATES: EXECUTIVE***

The main method of disclosure for the United States federal government is financial disclosure, as outlined in the amended *Ethics in Government Act* of 1978. The primary use of the information is for review by Government officials to determine compliance with applicable Federal laws and regulations. The information may also be disclosed upon request to any requesting person.

#### **Who must file**

Executive branch employees must file financial interests and activities, both in the U.S. and abroad for themselves as well as their spouse and dependent children. The objective of the disclosure report is to allow sufficient information to be given regarding outside interests and activities so an informed decision may be made on compliance with applicable conflict of interest laws and standards of conduct regulations.

Those who must file include:

- Candidates for nomination or election to the office of President or Vice-President
- Presidential nominees to positions requiring the advise and consent of the Senate, other than those nominated for judicial office or as a Foreign Service Officer or for appointment to a rank in the uniformed services at a pay grade of O-6 or below.

The following newly elected or appointed officials:

- The President
- The Vice-President
- Officers and employees (including special Government employees, as defined in 18 U.S.C. section 202) whose positions are classified above GS-15 of the General Schedule, or the rate of basic pay for which is fixed, other than under the General Schedule, at a rate equal to or greater than 120% of the minimum rate of basic pay for GS-15 or the General Schedule.
- Members of the uniformed services in pay grade O-7 or above
- Officers or employees in any other positions determined by the Director of the Office of Government Ethics to be of equal classification to above GS-15
- Administrative law judges
- Employees in the excepted service in positions which are of a confidential or policy-making character, unless by regulation their positions have been excluded by the Director of the Office of Government Ethics
- The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the U.S. Postal Service and officers or employees of

the U.S. Postal Service or Postal Rate Commission in positions for which rate of basic pay is equal to or greater than 120% of the minimum rate of basic pay for GS-15 of the General Schedule.

- The Director of the Office of Government Ethics and each designated agency ethics official, and
- Civilian employees in the Executive Office of the President (other than special Government employees) who hold commissions of appointment from the President.

### **What is reported**

The Ethics in Government Act outlines in detail what must be reported by the necessary individuals.<sup>28</sup> Areas include the following:

- **Property Interests and Assets**
- **Earned and Other Non-Investment Income**
- **Honoraria:** aggregating more than \$200 from any one source.
- **Earned and other non-investment income:** Subject must report all income, exclusive of honoraria, from non-investment sources including fees, commissions, salaries and income from personal services or retirement.
- **Gifts, Reimbursements, and Travel Expenses**
- **Investment Income:** Subject must report investment income. Investment income includes, but is not limited to: income derived from dealings in property, interest, rents, royalties, dividends, capital gains, income from annuities, the investment portion of life insurance contracts, or endowment contracts, distributive share of partnership or joint venture income, gross business income, and income from an interest in an estate or trust.

Examples:

- Dividends
- Rents and Royalties
- Interest
- Capital Gains
- Investment Fund Income
- Trust Income
- Other Investment Income

The U.S. Office of Government Ethics has also issued standards of ethical conduct for executive employees, as outlined in the *Ethical Conduct Standards Rule*, effective February, 1993. The Rule gives guidance on the following areas:

- Obligation to public service
- Gifts from outside sources
- Gifts between employees

---

<sup>28</sup> For more detailed information as well as a copy of the disclosure form, please see standard form 278 Executive Branch Personnel Public Financial Disclosure Report [http://www.usoge.gov/pages/forms\\_pubs\\_otherdocs/fpo\\_files/forms/fr450fill\\_00.pdf](http://www.usoge.gov/pages/forms_pubs_otherdocs/fpo_files/forms/fr450fill_00.pdf)

- Conflicting financial interests
- Impartiality in performing official duties
- Seeking other employment
- Misuse of position
- Outside activities

In addition, there are certain “sensitive” positions within the government where special provisions apply. For example, for certain agency officials involved in procurement or in the administration of contracts, or who have had access to certain sensitive procurement information, there exist separate regulations. In some cases, these prohibitions apply to officials who have left Government service.

### **Enforcement**

The Inspector General of the department or agency involved and, when necessary, the Federal Bureau of Investigation of the Department of Justice investigates the alleged misconduct of Federal employees.

Any U.S. official who knowingly or willingly falsifies his or her information, or fails to report any information which is required to report, the Attorney General may bring a civil action against the individual in any appropriate U.S. court. The penalty, however, may not exceed \$10,000. Furthermore, the US issues a filing fee of \$200 for those reports that are filed late.

Public servants may expose wrongdoing, as they are protected under the Whistleblower Protection Act. This act will assure those who expose corruption or misconduct that they will receive legal protection from unfair reprisals or retaliation by agency officials. The Office of Special Council (OSG) receives the complaints and investigates them. Once the investigation is complete, the OSG may delay or restrain agency actions.<sup>29</sup>

Individual states have their own conflict of interest and financial disclosure laws for their state representatives. These laws regulates the conduct of all state, county and municipal employees and volunteers.

---

<sup>29</sup> OECD (Organization For Economic Cooperation and Development). 2000. *Trust in Government: Ethics Measures in OECD Countries*. Paris.

## **CANADA: EXECUTIVE**

Canada's primary conflict of interest legislation is the *Conflict of Interest and Post-employment Code for the Public Service*. As the relationship between the public and private sectors have grown tighter over the past few years, Canada has focused in more detail on these relationships and the consequences they may have on maintaining integrity and good ethical standards. Canada aims on focusing to avoid any real, potential or apparent conflict. As such, any public office holder must supply a summary statement outlining which methods of disclosure the office holder will use to comply with the conflict of interest compliance measures, and will also certify that he or she is fully cognizant of the post-employment compliance measures set out in the code (the United States also has provisions for employment after leaving office, set out in the *Ethical Conduct Standards Rule*).

### **Who must file**

Ministers, Secretaries of State and Parliamentary Secretaries ("public office holders") are the only Parliamentarians who are covered by the Code, as it applies only to the executive.<sup>30</sup> As in the United States, Senators and Private Members of the House of Commons are bound by their own conflict of interest legislation; those in Canada have certain statutory provisions, found in the *Criminal code* and the *Parliament of Canada Act*, as well as in the Standing Orders of the House of Commons and the Rules of the Senate – but do not have any additional rules or compliance measures. There are separate provincial statutes that regulate conflict of interest as well, that employ a combination of disclosure and other techniques which apply to all provincial legislators.

### **What is reported**

The public office holder must make a confidential report to the Ethics Counselor on all assets and of all direct and contingent liabilities. In the case of Ministers, Secretaries of State and Parliamentary Secretaries, the public office holder shall make arrangements for this information to be disclosed as well by their spouses and dependent children.

The public office holder must make a public declaration of assets that are not controlled assets (see Code for definitions), to ensure that such dealings cannot give rise to a conflict of interest.

Assets that are directly or indirectly affected by Government decisions or policy shall be divested.

---

<sup>30</sup> This would specifically include Ministry of the Crown, including a Secretary of State; a Parliamentary Secretary; a member of ministerial staff, except public servants; a full-time Governor in council appointee (other than a Lieutenant-Governor of a province, officers and staff of the Senate, House of Commons and Library of Parliament; a public servant who is head of mission as defined in the *Department of Foreign Affairs and International Trade Act*, a judge who receives a salary under the *Judges Act* a commissioned officer of the Royal Canadian Mounted Police, other than the Commissioner of the Royal Canadian Mounted Police, or a full-time ministerial appointee designated by the appropriate Minister of the Crown as a public office holder.

Public office holders must provide to the Ethics Counselor a list of all outside activities, including those in which they were engaged during the two-year period before they assumed their official duties and responsibilities. In addition, public office holders must not, outside of their official duties:

- Engage in the practice of a profession;
- Actively manage or operate a business or commercial activity;
- Retain or accept directorships or offices in a financial or commercial corporation;
- Hold office in a union or professional association; or
- Serve as a paid consultant.

In cooperation with the public office holder, the Ethics Counselor will prepare the public declaration of outside activities to be made by that office holder.

A public declaration is also required when a public office holder directly or indirectly receives any gift, hospitality or other benefit of \$200 or more.

### **Enforcement**

Where a public office holder does not comply with the above disclosure methods, the Prime Minister will determine appropriate measures, including discharge or termination of employment.

Compliance with the Code is a condition of employment.

## **UNITED KINGDOM**

The United Kingdom does not have a separate conflict of interest legislation, although the *Civil Service Management Code* outlines the values that civil servants are expected to uphold. The Code covers all civil servants, and there is not a separate code for local government. There are also many supporting pieces of legislation, such as the *Public Bodies Corrupt Practices Act of 1889*, which makes criminal direct active and possible corruption, *Prevention of Corruption Act of 1916*, which makes it an offense for a public servant to accept a gift. *The Code of Conduct for Members of Parliament* and the Registration and Declaration of Members Interests are also relevant.

Generally, the conflict of interest rules are more strict for Ministers than for members of Parliament. Within government, disclosure rules apply to relevant interests. Disclosure is required annually for members of Parliament, when joining the public service, or when relevant circumstances change for public bodies, Ministers and civil servants. With the exception of disclosure by MPs and members of public bodies, all declaration is confidential. It is used as a basis for managing any possible conflict of interest.

### **Register of Member's Interests**

The Register of Member's Interests indicates any extra sources of income or gifts which Members of Parliament receive, as well as outside service which MPs provide and the amount of money they receive for this work. Additionally any overseas visits, shareholdings, land and property, and sponsorship or financial or material support are listed. The Register is published soon after the beginning of a new Parliament and under the Committee on Standards and Privileges. The register is published annually thereafter. Between the yearly publications, the Register is updated in loose-leaf form, and may be viewed at the Committee Office of the House of Commons. It may also be viewed on the internet.<sup>31</sup>

When taking part in debates in the House, MPs must declare their relevant interests before they speak.

Any member having a registrable interest which is not registered may not undertake any action, speech, or proceeding of the House (except voting) to which the registration would be relevant.

Disclosure for those who are not MPs, however, is confidential. The rules for Ministers are usually more strict than that for MPs, and within government, disclosure requirements are limited only to relevant interests (disclosure policy in the Department of trade and Industry are likely to be more stringent than in other departments, for example).<sup>32</sup>

---

<sup>31</sup> <http://www.parliament.the-stationery-office.co.uk/pa/cm199798/cmregmem/memi02.htm>

<sup>32</sup> OECD (Organization For Economic Cooperation and Development). 2000. *Trust in Government: Ethics Measures in OECD Countries*. Paris

## **What is reported**

- Directorships (remunerated and unremunerated)
- Remunerated employment, office, profession, etc.
- Clients: any provision to clients of services which depend essentially upon, or arise out of, the Member's position as a Member of Parliament
- Sponsorships: (i) sponsorships prior to an election where, to the Member's knowledge, the financial support in the case exceeded 25% of the election expenses at that election; (ii) any other form of sponsorship of financial or material support as a Member of Parliament which involves any personal payment, benefit or advantage.
- Gifts, benefits and hospitality
- Overseas visits
- Overseas benefits and gifts
- Land and Property
- Shareholdings
- Miscellaneous: any relevant interest not falling within one of the above categories.

## Annex 3 - Ethics in Government Act: United States

### ETHICS IN GOVERNMENT ACT, TITLE I

As amendment by Public Laws 101-194, 101-280, 102-90, 102-378, and 104-65

#### TITLE I - FINANCIAL DISCLOSURE REQUIREMENTS OF FEDERAL PERSONNEL

##### § 101. Persons required to file

- (a) Within thirty days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section [102\(b\)](#) unless the individual has left another position described in subsection (f) within thirty days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.
- (b)(1) Within five days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a position as a Foreign Service Officer or a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O-6 or below) to a position, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section [102\(b\)](#). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section [102\(a\)\(1\)\(A\)](#) with respect to income and honoraria received as of the date which occurs five days before the date of such hearing. Nothing in this Act shall prevent any Congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.
- (2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.
- (c) Within thirty days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of President, Vice President, or Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President, Vice President, or Member of Congress shall file a report containing the information described in section [102\(b\)](#). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

- (d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section [102\(a\)](#).
- (e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section [102\(a\)](#) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f).
- (f) The officers and employees referred to in subsections (a), (d), and (e) are -
  - (1) the President;
  - (2) the Vice President;
  - (3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;
  - (4) each employee appointed pursuant to section 3105 of title 5, United States Code;
  - (5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;
  - (6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or Postal Rate Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;
  - (7) the Director of the Office of Government Ethics and each designated agency ethics official;
  - (8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special government (FOOTNOTE 1) employee) who holds a commission of appointment from the President;

(FOOTNOTE 1) So in original. Probably should be capitalized.

- (9) a Member of Congress as defined under section 109(12);
- (10) an officer or employee of the Congress as defined under section [109\(13\)](#);
- (11) a judicial officer as defined under section 109(10); and
- (12) a judicial employee as defined under section 109(8).
- (g)(1) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed ninety days.
- (2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of -
  - (i) the last day of the individual's service in such area during such designated period; or
  - (ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area. (B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.
- (h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), the congressional ethics committees, or the Judicial Conference, is not reasonably expected to perform the duties of his office or position for more than sixty days in a calendar year, except that if such individual performs the duties of his office or position for more than sixty days in a calendar year -
  - (1) the report required by subsections (a) and (b) shall be filed within fifteen days of the sixtieth day, and
  - (2) the report required by subsection (e) shall be filed as provided in such subsection.
- (i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than one hundred and thirty days in a calendar year, but only if the supervising ethics office determines that -
  - (1) such individual is not a full-time employee of the Government,
  - (2) such individual is able to provide services specially needed by the Government,
  - (3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and
  - (4) public financial disclosure by such individual is not necessary in the circumstances.

**§ 102. Contents of reports**

- (a) Each report filed pursuant to section [101\(d\)](#) and (e) shall include a full and complete statement with respect to the following:
  - (1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current

employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating \$200 or more in value and, effective January 1, 1991, the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and the reporting individual shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

- (B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds \$200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:
  - (i) not more than \$1,000,
  - (ii) greater than \$1,000 but not more than \$2,500,
  - (iii) greater than \$2,500 but not more than \$5,000,
  - (iv) greater than \$5,000 but not more than \$15,000,
  - (v) greater than \$15,000 but not more than \$50,000,
  - (vi) greater than \$50,000 but not more than \$100,000,
  - (vii) greater than \$100,000 but not more than \$1,000,000,
  - (viii) greater than \$1,000,000 but not more than \$5,000,000, or
  - (ix) greater than \$5,000,000.
- (2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or \$250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of \$100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.
- (B) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or \$250, whichever is greater and received during the preceding calendar year.
- (C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.
- (3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds \$1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse,, (FOOTNOTE 1) or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposits aggregating \$5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(FOOTNOTE 1) So in original.

- (4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed \$10,000 at any time during the preceding calendar year, excluding -
  - (A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and
  - (B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it. With respect to revolving charge accounts, only those with an outstanding liability which exceeds \$10,000 as of the close of the preceding calendar year need be reported under this paragraph.
- (5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds \$1,000 -
  - (A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or
  - (B) in stocks, bonds, commodities futures, and other forms of securities. Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.
- (6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.
- (B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of \$5,000 in any of the two calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report -
  - (i) the identity of each source of such compensation; and
  - (ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source. The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.
- (7) A description of the date, parties to, and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

- (8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust, unless the trust instrument was executed prior to July 24, 1995 and precludes the beneficiary from receiving information on the total cash value of any interest in the qualified blind trust.
- (b)(1) Each report filed pursuant to subsections (a), (b), and
- (c) of section [101](#) shall include a full and complete statement with respect to the information required by -
- (A) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,
- (B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than thirty-one days before the filing date, and
- (C) paragraphs (6) and (7) of subsection (a) as of the filing date but for periods described in such paragraphs. (2)(A) In lieu of filling out one or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual. (B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item. (c) In the case of any individual described in section [101\(e\)](#), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.
- (d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), (5), and (8) of subsection (a) are as follows:
  - (A) not more than \$15,000;
  - (B) greater than \$15,000 but not more than \$50,000;
  - (C) greater than \$50,000 but not more than \$100,000;
  - (D) greater than \$100,000 but not more than \$250,000;
  - (E) greater than \$250,000 but not more than \$500,000;
  - (F) greater than \$500,000 but not more than \$1,000,000;
  - (G) greater than \$1,000,000 but not more than \$5,000,000;
  - (H) greater than \$5,000,000 but not more than \$25,000,000;
  - (I) greater than \$25,000,000 but not more than \$50,000,000; and
  - (J) greater than \$50,000,000.
- (2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with

respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

- (e)(1) Except as provided in the last sentence of this paragraph, each report required by section [101](#) shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:
  - (A) The source of items of earned income earned by a spouse from any person which exceed \$1,000 and the source and amount of any honoraria received by a spouse, except that, with respect to earned income (other than honoraria), if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.
  - (B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).
  - (C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.
  - (D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.
  - (E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.
  - (F) For purposes of this section, categories with amounts or values greater than \$1,000,000 set forth in sections [102\(a\)\(1\)\(B\)](#) and [102\(d\)\(1\)](#) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under this section in an amount or value greater than \$1,000,000 shall be categorized only as an amount or value greater than \$1,000,000. Reports required by subsections (a), (b), and (c) of section [101](#) shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.
- (2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the

marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

- (f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.
- (2) A reporting individual need not report the holdings of or the source of income from any of the holdings of -
  - (A) any qualified blind trust (as defined in paragraph (3));
  - (B) a trust -
    - (i) which was not created directly by such individual, his spouse, or any dependent child, and
    - (ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or
  - (C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.
- (3) For purposes of this subsection, the term "qualified blind trust" includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:
  - (A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who - (I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party; and (II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and (III) is not a relative of any interested party. (ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust - (I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party; (II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and (III) is not a relative of any interested party.
  - (B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.
  - (C) The trust instrument which establishes the trust provides that -
    - (i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;
    - (ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

- (iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than \$1,000;
- (iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;
- (v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;
- (vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and
- (vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.
- (D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.
- (E) For purposes of this subsection, "interested party" means a reporting individual, his spouse, and any minor or dependent child; "broker" has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and "investment adviser" includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.
- (F) Any trust qualified by a supervising ethics office before the effective date of title II of the Ethics Reform Act of 1989 shall continue to be governed by the law and regulations in effect immediately before such effective date.
- (4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the

reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than \$1,000.

- (B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that - (I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities; (II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility; (III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraphs (3)(C)(iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities; (IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and (V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to the effective date of this Act which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A). (ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.
- (5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of -
  - (i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and
  - (ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section. This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.
- (B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.
- (C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall -
  - (i) notify his supervising ethics office of such dissolution, and
  - (ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.
- (D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in

the same manner as a report is made available under section [105](#) and the provisions of that section shall apply with respect to such documents and lists.

- (E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.
- (6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.
- (B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.
- (C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$10,000. (ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$5,000.
- (7) Any trust may be considered to be a qualified blind trust if -
- (A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;
- (B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and
- (C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.
- (8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if -

- (A)(i) the fund is publicly traded; or (ii) the assets of the fund are widely diversified; and
- (B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.
- (g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.
- (h) A report filed pursuant to subsection (a), (d), or (e) of section [101](#) need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.
- (i) A reporting individual shall not be required under this title to report -
- (1) financial interests in or income derived from -
- (A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or
- (B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or
- (2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

### **§ 103. Filing of reports**

- (a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section [101\(e\)](#), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.
- (b) The President, the Vice President, and independent counsel and persons appointed by independent counsel under chapter 40 of title 28, United States Code, shall file reports required under this title with the Director of the Office of Government Ethics.
- (c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section [105\(a\)\(2\)\(A\)](#) or (B), [106\(a\)\(1\)\(A\)](#) or (B), or [107\(a\)\(1\)\(A\)](#) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress other than individuals nominated to be judicial officers and those referred to in subsection (f) shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.
- (d) Reports required to be filed under this title by the Director of the Office of Government Ethics shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

- (e) Each individual identified in section [101\(c\)](#) who is a candidate for nomination or election to the Office of President or Vice President shall file the reports required by this title with the Federal Election Commission.
- (f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.
- (g) Each supervising ethics office shall develop and make available forms for reporting the information required by this title.
- (h)(1) The reports required under this title shall be filed by a reporting individual with -
- (A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Clerk of the House of Representatives, an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section [101\(e\)](#), in any office or position referred to in this subclause), or an individual described in section [101\(c\)](#) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; and (II) the Secretary of the Senate, in the case of a Senator, an officer or employee of the Congress whose compensation is disbursed by the Secretary of the Senate, an officer or employee of the General Accounting Office, the Office of Technology Assessment, or the Office of the Attending Physician (including any individual terminating service, under section [101\(e\)](#), in any office or position referred to in this subclause), or an individual described in section [101\(c\)](#) who is a candidate for nomination or election as a Senator; and
- (ii) in the case of an officer or employee of the Congress as described under section [101\(f\)\(10\)](#) who is employed by an agency or commission established in the legislative branch after the date of the enactment of the Ethics Reform Act of 1989 - (I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or (II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years; and (B) the Judicial Conference with regard to a judicial officer or employee described under paragraphs (11) and (12) of section [101\(f\)](#) (including individuals terminating service in such office or position under section [101\(e\)](#) or immediately preceding service in such office or position). (2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.
- (i) A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 316(a) (FOOTNOTE 1) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within

the 30-day period beginning on the day the report is filed with the Clerk or Secretary.

(FOOTNOTE 1) See References in Text note below.

- (j)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.
- (2) A copy of each report filed under this title with the Secretary of the Senate shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the 7-day period beginning on the day the report is filed.
- (k) In carrying out th

#### **§ 104. Failure to file or filing false reports**

- (a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section [102](#). The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed \$10,000.
- (b) The head of each agency, each Secretary concerned, the Director of the Office of Government Ethics, each congressional ethics committee, or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported. Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral.
- (c) The President, the Vice President, the Secretary concerned, the head of each agency, the Office of Personnel Management, a congressional ethics committee, and the Judicial Conference, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.
- (d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of -
  - (A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or
  - (B) if a filing extension is granted to such individual under section [101\(g\)](#), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of \$200. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the supervising ethics office in the executive branch to other agencies in the executive branch..

(FOOTNOTE 1)

(FOOTNOTE 1) So in original.

- (2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

## § 105. Custody of and public access to reports

- (a) Each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or office or with the Clerk or the Secretary of the Senate, except that -
- (1) this section does not require public availability of a report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, the Central Imagery Office, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, be (FOOTNOTE 1) revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section [104\(a\)](#), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest; and

(FOOTNOTE 1) So in original. Probably should be "by".

- (2) any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40 of title 28, United States Code, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title.
- (b)(1) Except as provided in the second sentence of this subsection, each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within thirty days after any report is received under this title by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be,, (FOOTNOTE 2) permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section [101\(g\)](#). The agency, office, Clerk, or Secretary of the Senate, as the case may be (FOOTNOTE 3) may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(FOOTNOTE 2) So in original.

(FOOTNOTE 3) So in original. Probably should be followed by a comma.

- (2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating -
- (A) that person's name, occupation and address;

- (B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and
- (C) that such person is aware of the prohibitions on the obtaining or use of the report. Any such application shall be made available to the public throughout the period during which the report is made available to the public.
- (c)(1) It shall be unlawful for any person to obtain or use a report -
  - (A) for any unlawful purpose;
  - (B) for any commercial purpose, other than by news and communications media for dissemination to the general public;
  - (C) for determining or establishing the credit rating of any individual; or
  - (D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.
- (2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.
- (d) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be. Such report shall be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section [101\(b\)](#) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section [101\(c\)](#) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

**§ 106. Review of reports**

- (a)(1) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within sixty days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within sixty days after the date of transmittal.
- (2) Each congressional ethics committee and the Judicial Conference shall make provisions to ensure that each report filed under this title is reviewed within sixty days after the date of such filing.
- (b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

- (2) If the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, after reviewing any report under subsection (a) -
  - (A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or
  - (B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.
- (3) If the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by a congressional ethics committee, or a person designated by the Judicial Conference, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate -
  - (A) divestiture,
  - (B) restitution,
  - (C) the establishment of a blind trust,
  - (D) request for an exemption under section 208(b) of title 18, United States Code, or
  - (E) voluntary request for transfer, reassignment, limitation of duties, or resignation. The use of any such steps shall be in accordance with such rules or regulations as the supervising ethics office may prescribe.
- (4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position in the executive branch (other than in the Foreign Service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.
- (5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the Foreign Service or the uniformed services, the Secretary concerned shall take appropriate action.
- (6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency, the congressional ethics committee, or the Judicial Conference, for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

- (7) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

**§ 107. Confidential reports and other additional requirements**

- (a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section [101](#) shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section [105](#) shall not apply with respect to any such report.
- (2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.
- (3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.
- (b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.
- (c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

**§ 108. Authority of Comptroller General**

- (a) The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

- (b) No later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively.

### **§ 109. Definitions**

For the purposes of this title, the term -

- (1) "congressional ethics committees" means the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives;
- (2) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who -
  - (A) is unmarried and under age 21 and is living in the household of such reporting individual; or
  - (B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);
- (3) "designated agency ethics official" means an officer or employee who is designated to administer the provisions of this title within an agency;
- (4) "executive branch" includes each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office, and any other entity or administrative unit in the executive branch;
- (5) "gift" means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include -
  - (A) bequest and other forms of inheritance;
  - (B) suitable mementos of a function honoring the reporting individual;
  - (C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;
  - (D) food and beverages which are not consumed in connection with a gift of overnight lodging;
  - (E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or
  - (F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;
- (6) "honoraria" has the meaning given such

### **§ 110. Notice of actions taken to comply with ethics agreements**

- (a) In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, the appropriate committee of the Senate, the

congressional ethics committee, or the Judicial Conference, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than three months after the date of the agreement, if no date for action is so specified.

- (b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

### **§ 111. Administration of provisions**

The provisions of this title shall be administered by -

- (1) the Director of the Office of Government Ethics, the designated agency ethics official, or the Secretary concerned, as appropriate, with regard to officers and employees described in paragraphs (1) through (8) of section [101\(f\)](#);
- (2) the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (9) and (10) of section [101\(f\)](#); and
- (3) the Judicial Conference in the case of an officer or employee described in paragraphs (11) and (12) of section [101\(f\)](#). The Judicial Conference may delegate any authority it has under this title to an ethics committee established by the Judicial Conference.

# Annex 4 – Conflict of Interest and Post-Employment Code: Canada

## Conflict of Interest and Post-Employment Code For Public Office Holders

June 1994

---

### TABLE OF CONTENTS

#### PART I - OBJECT AND PRINCIPLES

[Object](#)  
[Principles](#)

#### PART II - CONFLICT OF INTEREST COMPLIANCE MEASURES

[Interpretation](#)  
[Duties of the Ethics Counsellor](#)  
[Certification](#)  
[Compliance Arrangements](#)  
[Time Limits](#)  
[Assets and Liabilities](#)  
[Outside Activities](#)  
[Gifts, Hospitality and Other Benefits](#)  
[Avoidance of Preferential Treatment](#)  
[Failure to Agree](#)  
[Failure to Comply](#)

#### PART III - POST-EMPLOYMENT COMPLIANCE MEASURES

[Interpretation](#)  
[Object](#)  
[Compliance Measures](#)  
[Exit Arrangements](#)  
[Dealings with Former Public Office Holders](#)

#### SCHEDULE

[Agreements](#)  
[Provisions Common to Blind Trusts](#)  
[Agreement Forms](#)  
[Filing of Agreements](#)  
[Reimbursement for Costs Incurred](#)

---

**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**

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 the 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.

---

## **Part II**

### **CONFLICT OF INTEREST COMPLIANCE MEASURES**

#### **INTERPRETATION**

- 4.(1) For the purposes of this Part and the Schedule, "public office holder" means:
- a. a Minister of the Crown, including a Secretary of State;
  - b. a parliamentary secretary;
  - c. a member of ministerial staff, except public servants;
  - d. a full-time Governor in Council appointee, other than:
    - i. a Lieutenant-Governor of a province,
    - ii. officers and staff of the Senate, House of Commons and Library of Parliament;
    - iii. a public servant who is a head of mission as defined in the *Department of Foreign Affairs and International Trade Act*, [amended September 25, 1998];
    - iv. a judge who receives a salary under the *Judges Act*, and
    - v. a commissioned officer of the Royal Canadian Mounted Police, other than the Commissioner of the Royal Canadian Mounted Police; or
  - e. 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."

(2) 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, and part-time ministerial or Governor in Council appointees 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.

(3) 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.

(4) 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 COUNSELLOR**

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) is placed in personal confidential files and in secure safekeeping;
- 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 following an individual's departure from public office, the files referred to in (a) and (b) are destroyed in accordance with National Archives policy and the *Privacy Act*.

## **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](#), [19](#), and [22](#) shall be signed by the office holder and a certified copy of the Statement and any Public Declaration shall be placed in the Public Registry.

(2) The [public office holder](#) shall, in the Summary Statement,

- a. state the methods of compliance used to comply with the conflict of interest compliance measures; and
- b. certify 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, by the Prime Minister; and
- b. in the case of all other public office holders, by the Ethics Counsellor.

(5) 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](#), [19](#) and [22](#);
    - ii. divest controlled assets as required under section [12](#), 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 section [22](#), and within 60 days make a Public Declaration as required in that section; and
  - d. within 30 days, inform the Ethics Counsellor of any changes in his or her assets, liabilities and outside activities.

## **ASSETS AND LIABILITIES**

### **Confidential Report**

9.(1) A [public office holder](#) shall make a Confidential Report to the Ethics Counsellor of all assets and of all direct and contingent liabilities. In the case of

Ministers, Secretaries of State and Parliamentary Secretaries, the public office holder shall make arrangements for this information to be disclosed as well by their spouses and dependent children. Information on spouses 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) Assets that are not [exempt assets](#) are either "[declarable assets](#)" or "[controlled assets](#)" unless, after a Confidential Report, the Ethics Counsellor determines that they are of such a value that they do not constitute any risk of conflict of interest in relation to the public office holder's duties and responsibilities.

### **Exempt Assets**

10. Assets and interests for the private use of public office holders and their families 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 families;
- 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 in securities of fixed value issued or guaranteed by any level of government in Canada or agencies of those governments;
- g. registered retirement savings plans that are not self-administered;
- h. investments in open-ended mutual funds;
- i. guaranteed investment certificates and similar financial instruments;
- j. annuities and life insurance policies;
- k. pension rights;
- l. money owed by a previous employer, client or partnership; and
- m. 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.

### **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 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 operation;

- 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 subsections [9\(2\)](#) or [13\(5\)](#), shall be divested.

(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, except when exclusively composed of exempt assets as described in [section 10](#); and
- c. commodities, futures and foreign currencies held or traded for speculative purposes.

### **Divestment of Controlled Assets**

13.(1) Subject to subsection (5), controlled assets are usually divested by selling them in an arm's length transaction or by making them subject to a [trust](#) or [management agreement](#), the most common of which are set out in the Schedule.

(2) The Ethics Counsellor has the responsibility for determining that a trust or management agreement meets the [requirements](#) 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:

- i. pledged to a lending institution as collateral; or
- ii. of such value as to be practically non-marketable.

## **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.

## **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 Ministers, Secretaries of State and Parliamentary Secretaries, the public office holder shall make arrangements for this information to be disclosed as well by their spouses 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,

- a. engage in the practice of a profession;
- b. actively manage or operate a business or commercial activity;
- c. retain or accept directorships or offices in a financial or commercial corporation;
- d. hold office in a union or professional association; or
- e. serve as a paid consultant.

### **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\(4\)](#) 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\(4\)](#) 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 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 [section 18](#) and of directorships and official 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. 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.

### **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 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 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, public office holders shall consult the Ethics Counsellor.

## **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) Ministers and Secretaries of State should not hire or contract with members of their [immediate families](#), that is, their spouse, 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.

(5) Ministers and Secretaries of State and the departments or agencies for which they are responsible should not hire or contract with the [immediate family](#) of another Minister, Secretary of State or party colleague in Parliament except by means of an impartial administrative process in which the Minister or Secretary 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.

## **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 must be designated by their Minister or Secretary of State 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 Secretaries 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, 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; and
- d. in the case of parliamentary secretaries, to the Minister of the Crown 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 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 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. 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 officer 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**

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. 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.

## **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

- a. reasonable legal, accounting and transfer costs to establish and dismantle a trust or management arrangement determined to be necessary by the Ethics Counsellor;
- b. 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;
- c. commissions for transferring, converting or selling assets where determined necessary by the Ethics Counsellor; and
- d. 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.

## Annex 5 – Code of Conduct: United Kingdom

### CHAPTER 4. CONDUCT AND DISCIPLINE

#### 4.1 Conduct: General Principles and Rules

4.1.1 Civil servants are servants of the Crown and owe a duty of loyal service to the Crown as their employer. Since constitutionally the Crown acts on the advice of Ministers who are answerable for their departments and agencies in Parliament, that duty is, subject to the provisions of the Civil Service Code at Annex A, owed to the duly constituted Government.

##### Authority

4.1.2 The Minister for the Civil Service is responsible for the central framework, outlined in Sections 4.2 to 4.4, which governs the conduct of civil servants. Departments and agencies are responsible for defining the standards of conduct they require of their staff and for ensuring that these fully reflect the Civil Service Code and central framework.

##### Principles

4.1.3 The central framework derives from the need for civil servants to be, and to be seen to be, honest and impartial in the exercise of their duties. They must not allow their judgement or integrity to be compromised in fact or by reasonable implication. In particular:

- a. civil servants must not misuse information which they acquire in the course of their official duties, nor without authority disclose official information which has been communicated in confidence within Government, or received in confidence from others. They must not seek to frustrate the policies, decisions or actions of Government either by declining to take, or abstaining from, action which flows from ministerial decisions or by unauthorised, improper or premature disclosure outside the Government of any information to which they have had access as civil servants;
- b. civil servants must not take part in any political or public activity which compromises, or might be seen to compromise, their impartial service to the Government of the day or any future Government;
- c. civil servants must not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. Conflicts of interest may arise from financial interests and more broadly from official dealings with, or decisions in respect of, individuals who share a civil servant's private interests (for example freemasonry, membership of societies, clubs and other organisations, and family). Where a conflict of interest arises, civil servants must declare their interest to senior management so that senior management can determine how best to proceed; and

d. civil servants must not receive gifts, hospitality or benefits of any kind from a third party which might be seen to compromise their personal judgement or integrity.

4.1.4 Neither the Civil Service Code nor this central framework is comprehensive. It does not deal for example with such issues as isolated neglect of duty, failure to obey a reasonable instruction or other forms of misconduct which may properly be dealt with under disciplinary arrangements.

## Rules

4.1.5 Departments and agencies must incorporate in the conditions of service of their staff the Civil Service Code at Annex A.

4.1.6 Departments and agencies must define the standards of conduct they require of their staff. They must:

- a. make clear to staff their duties and obligations and the penalties they may incur if they fall short of them;
- b. comply with the rules in Sections 4.2 to 4.4; and
- c. ensure that the rules they lay down for their staff fully reflect the Civil Service Code and the standards of conduct described in Sections 4.2 to 4.4, and incorporate any additional rules necessary to reflect local needs and circumstances.

## 4.1 ANNEX A: THE CIVIL SERVICE CODE

1. The constitutional and practical role of the Civil Service is, with integrity, honesty, impartiality and objectivity, to assist the duly constituted Government of the United Kingdom, the Scottish Executive or the National Assembly for Wales<sup>1</sup> constituted in accordance with the Scotland and Government of Wales Acts 1998, whatever their political complexion, in formulating their policies, carrying out decisions and in administering public services for which they are responsible.

2. Civil servants are servants of the Crown. Constitutionally, all the Administrations form part of the Crown and, subject to the provisions of this Code, civil servants owe their loyalty to the Administrations<sup>1</sup> in which they serve.

3. This Code should be seen in the context of the duties and responsibilities set out for UK Ministers in the Ministerial Code, or in equivalent documents drawn up for Ministers of the Scottish Executive or for the National Assembly for Wales, which include:

accountability to Parliament<sup>2</sup> or, for Assembly Secretaries, to the National Assembly;

the duty to give Parliament or the Assembly and the public as full information as possible about their policies, decisions and actions, and not to deceive or knowingly mislead them;

---

<sup>1</sup> In the rest of this Code, we use the term Administration to mean Her Majesty's Government of the United Kingdom, the Scottish Executive or the National Assembly for Wales as appropriate.

<sup>2</sup> In the rest of this Code, the term Parliament should be read, as appropriate, to include the Parliament of the United Kingdom and the Scottish Parliament.

the duty not to use public resources for party political purposes, to uphold the political impartiality of the Civil Service, and not to ask civil servants to act in any way which would conflict with the Civil Service Code;

the duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice, in reaching decisions; and department;

the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice; department;

together with the duty to familiarise themselves with the contents of this Code. department.

4. Civil servants should serve their Administration in accordance with the principles set out in this Code and recognising:

the accountability of civil servants to the Minister<sup>3</sup> or, as the case may be, to the Assembly Secretaries and the National Assembly as a body or to the office holder in charge of their department;

the duty of all public officers to discharge public functions reasonably and according to the law;

the duty to comply with the law, including international law and treaty obligations, and to uphold the administration of justice; and

ethical standards governing particular professions.

5. Civil servants should conduct themselves with integrity, impartiality and honesty. They should give honest and impartial advice to the Minister or, as the case may be, to the Assembly Secretaries and the National Assembly as a body or to the office holder in charge of their department, without fear or favour, and make all information relevant to a decision available to them. They should not deceive or knowingly mislead Ministers, Parliament, the National Assembly or the public.

6. Civil servants should endeavour to deal with the affairs of the public sympathetically, efficiently, promptly and without bias or maladministration.

7. Civil servants should endeavour to ensure the proper, effective and efficient use of public money.

8. Civil servants should not misuse their official position or information acquired in the course of their official duties to further their private interests or those of others. They should not receive benefits of any kind from a third party which might reasonably be seen to compromise their personal judgement or integrity.

9. Civil servants should conduct themselves in such a way as to deserve and retain the confidence of Ministers or Assembly Secretaries and the National Assembly

---

<sup>3</sup> In the rest of this Code, Ministers encompasses members of Her Majesty's Government or of the Scottish Executive.

as a body, and to be able to establish the same relationship with those whom they may be required to serve in some future Administration. They should comply with restrictions on their political activities. The conduct of civil servants should be such that Ministers, Assembly Secretaries and the National Assembly as a body, and potential future holders of these positions can be sure that confidence can be freely given, and that the Civil Service will conscientiously fulfil its duties and obligations to, and impartially assist, advise and carry out the lawful policies of the duly constituted Administrations.

10. Civil servants should not without authority disclose official information which has been communicated in confidence within the Administration, or received in confidence from others. Nothing in the Code should be taken as overriding existing statutory or common law obligations to keep confidential, or to disclose, certain information. They should not seek to frustrate or influence the policies, decisions or actions of Ministers, Assembly Secretaries or the National Assembly as a body by the unauthorised, improper or premature disclosure outside the Administration of any information to which they have had access as civil servants.

11. Where a civil servant believes he or she is being required to act in a way which:

is illegal, improper, or unethical;

is in breach of constitutional convention or a professional code;

may involve possible maladministration; or

is otherwise inconsistent with this Code;

he or she should report the matter in accordance with procedures laid down in the appropriate guidance or rules of conduct for their department or Administration. A civil servant should also report to the appropriate authorities evidence of criminal or unlawful activity by others and may also report in accordance with the relevant procedures if he or she becomes aware of other breaches of this Code or is required to act in a way which, for him or her, raises a fundamental issue of conscience.

12. Where a civil servant has reported a matter covered in paragraph 11 in accordance with the relevant procedures and believes that the response does not represent a reasonable response to the grounds of his or her concern, he or she may report the matter in writing to the Civil Service Commissioners, Horse Guards Road, London SW1P 3AL.

13. Civil servants should not seek to frustrate the policies, decisions or actions of the Administrations by declining to take, or abstaining from, action which flows from decisions by Ministers, Assembly Secretaries or the National Assembly as a body. Where a matter cannot be resolved by the procedures set out in paragraphs 11 and 12 above, on a basis which the civil servant concerned is able to accept, he or she should either carry out his or her instructions, or resign from the Civil Service. Civil servants should continue to observe their duties of confidentiality after they have left Crown employment.

## 4.2 Conduct: Confidentiality and Official Information

4.2.1 Departments and agencies must remind staff on appointment, retirement or resignation that they are bound by the provisions of the criminal law, including the Official Secrets Acts, which protect certain categories of official information, and by their duty of confidentiality owed to the Crown as their former employer.

Standards of conduct to be reflected in local staff regulations

4.2.2 Civil servants are expected to be prepared to make available official information which is not held in confidence within Government, in accordance with Government policy and departmental or agency instructions. They must not, without relevant authorisation, disclose official information which has been communicated in confidence within Government or received in confidence from others. Government policy in this area is set out in the Code of Practice on Access to Government Information.

4.2.3 Civil servants must continue to observe this duty of confidentiality after they have left Crown employment.

4.2.4 Civil servants must not take part in any activities or make any public statement which might involve the disclosure of official information or draw upon experience gained in their official capacity without the prior approval of their department or agency. They must clear in advance material for publication, broadcasts or other public discussion which draws on official information or experience.

4.2.5 Civil servants must not publish or broadcast personal memoirs reflecting their experience in Government, or enter into commitments to do so, whilst in Crown employment. The permission of the Head of their Department and the Head of the Home Civil Service must be sought before entering into commitments to publish such memoirs after leaving the service.

4.2.6 Civil servants must not seek to frustrate the policies or decisions of Ministers by the use or disclosure outside the Government of any information to which they have had access as civil servants.

4.2.7 In discharging their duties under paragraphs 5 and 9 of the Civil Service Code (Section 4.1 Annex A), civil servants must maintain the long-standing conventions that new Administrations do not normally have access to papers of a previous Administration of a different political complexion. The conventions cover, in particular, Ministers' own deliberations and the advice given to them by officials, other than written advice from the Law Officers and those papers which were published or put in the public domain by the predecessor Administration. In applying the conventions to the devolved Administrations in Scotland and Wales, any information contained in the administrative and departmental records belonging to a Minister of the Crown or a UK Government department should be treated as if it were contained in papers of a previous Administration of a different political complexion.

4.2.8 Civil servants must not take part in their official capacities in surveys or research projects, even unattributably, if they deal with attitudes or opinions on political matters or matters of policy.

4.2.9 Civil servants who are elected national, departmental or branch representatives or officers of a recognised trade union need not seek permission before publicising union views on an official matter which, because it directly affects the conditions of service of members of the union as employees, is of legitimate concern to their members, unless their official duties are directly concerned with the matter in question. In all other circumstances they must conform to the standards set out above.

#### Leaked Select Committee Reports

4.2.10 Civil Servants in receipt of a leaked Select Committee report must not make any use of it nor circulate it further. They must return the report without delay to the Clerk of the relevant Committee, and only then may they inform their Ministers or Assembly Secretaries. Leaked reports from Committees of the devolved legislatures must be handled in the same way.

#### Crown copyright

4.2.11 By virtue of the Copyright, Designs and Patents Act 1988, works made by civil servants in the course of their official duties are subject to Crown copyright protection. The responsibility for the management and licensing of Crown copyright rests with the Controller of Her Majesty's Stationery Office (HMSO) in her capacity as Queen's Printer for works produced by UK Government departments, Northern Ireland departments and the National Assembly for Wales. For works produced by the Scottish Administration, the responsibility for management and licensing rests with the Queen's Printer for Scotland in accordance with the Scotland Act 1998. The Controller of HMSO, in her roles as Queen's Printer, and the Queen's Printer for Scotland, authorises the Copyright Unit of HMSO to administer the respective Crown copyrights on her behalf.

4.2.12 Civil servants must obtain the prior approval of their Head of Department or Agency Chief Executive before entering into any arrangements regarding the publication or dissemination of any Crown copyright protected material by private sector publishers or information providers. Such arrangements would usually be the subject of specific licensing, to be handled by HMSO's Copyright Unit. This would not apply in the following circumstances:

- a. where material is to be published in learned journals or in the proceedings of conferences or seminars;
- b. where the material in question is to be published in an official, authorised work specifically on behalf of the originating department or agency; or
- c. where the department or agency is authorised to license the material under specific delegated authority issued by the Controller of HMSO or the Queen's Printer for Scotland.

4.2.13 Where departments and agencies are authorised to license the reproduction of Crown copyright protected material which they originate, under the cases specified in paragraph 4.2.11 above, they must ensure that:

- a. there is an obligation placed on the publisher to acknowledge the Crown copyright source material;
- b. Crown copyright is not assigned to the publisher; and
- c. that the material is licensed on non-exclusive terms.

4.2.14 Crown copyright is not an issue if a civil servant produces a copyright work unconnected with their official duties and entirely in their own time. If, however, the work in question is linked to their official duties, they should in the first instance consult their Director of Personnel or the Head of their Department or Agency, who in turn may need to consult HMSO's Copyright Unit. Under these circumstances, the following factors need to be taken into account:

- a. whether the civil servant produced the work during official time;
- b. whether the work is based on existing Crown copyright source documents; and
- c. whether there are security considerations.

4.2.15 If a civil servant writes a book in their own time, which is unrelated to their official duties, but wishes to incorporate extracts of Crown copyright protected material within the work, permission to reproduce the material should be obtained from HMSO's Copyright Unit. It is customary in such cases for the licence to be granted in favour of the publisher rather than the author, as it is the publisher which is reproducing the material. It is permissible for the author to submit the application on the publisher's behalf. Where an individual is on secondment outside the Civil Service, copyright in any work which they produce during the term of their secondment will rest with their host organisation unless otherwise agreed.

4.2.16 A series of Guidance Notes on various aspects relating to copyright and official publishing can be obtained from HMSO, Cabinet Office.

### 4.3 Conduct: Standards of Propriety

#### Rules

4.3.1 Departments and agencies must not, unless the civil servant has fully disclosed the measure of his/her interest in the contract and senior management has given permission, let contracts to:

- a. any civil servant in the department or agency;
- b. any partnership of which a civil servant in the department or agency is a member; or
- c. any company where a civil servant in the department or agency is a director (except as a nominee of the department or agency).

To enforce this rule, departments and agencies must require their staff to report relevant business interests.

4.3.2 Departments and agencies must ensure that civil servants who are bankrupt or insolvent are not employed on duties which might permit the misappropriation of public funds.

4.3.3 Departments and agencies must not sell surplus Government property to civil servants who have been able to get special knowledge about the condition of the goods because of their official duties; or have been officially associated with the disposal arrangements; or at a discount that would not be available to a member of the public.

4.3.4 Departments and agencies must require staff to seek permission before accepting any outside employment which might affect their work either directly or indirectly and must make appropriate arrangements, which reflect the Business Appointments Rules (Annex A) and any local needs, for the handling of such requests.

4.3.5 Departments and agencies must inform staff, taking into account the principle in paragraph 4.1.3(d), of the circumstances in which they need to report offers of gifts, hospitality, awards, decorations and other benefits and of the circumstances in which they need to seek permission before accepting them. In drawing up such rules departments and agencies must draw the attention of staff to the provisions of the Prevention of Corruption Acts 1906 and 1916.

4.3.6 Departments and agencies must consult the Foreign and Commonwealth Office if a civil servant is offered a decoration or medal by a foreign government.

Standards of conduct to be reflected in staff handbooks

4.3.7 Civil servants must familiarise themselves with, and as appropriate abide by, the rules on the acceptance of outside appointments by Crown servants (Annex A).

4.3.8 Civil servants may freely invest in shareholdings and other securities unless the nature of their work is such as to require constraints on this. They must not be involved in taking any decision which could affect the value of their private investments, or the value of those on which they give advice to others; or use information acquired in the course of their work to advance their private financial interests or those of others<sup>1</sup>.

4.3.9 Civil servants must therefore declare to their department or agency any business interests (including directorships) or holdings of shares or other securities which they or members of their immediate family (spouse, including partner where relevant, and children) hold, to the extent which they are aware of them, which they would be able to further as a result of their official position. They must comply with any subsequent instructions from their department or agency regarding the retention, disposal or management of such interests.

---

<sup>1</sup> This is not intended to prevent civil servants from taking an equity stake in companies which exploit their research, subject to appropriate safeguards in accordance with the Cabinet Office guidance on this subject.

4.3.10 Civil servants who become bankrupt or insolvent must report the fact to their department or agency. Civil servants must let their department or agency know if they are arrested and refused bail, or if they are convicted of any criminal offence. This does not apply to a traffic offence unless an official car was involved, or the penalty included imprisonment or disqualification from driving.

#### 4.3 ANNEX A: RULES ON THE ACCEPTANCE OF OUTSIDE APPOINTMENTS BY CROWN SERVANTS

##### Introduction

1. It is in the public interest that people with experience of public administration should be able to move into business or other bodies, and that such movement should not be frustrated by unjustified public concern over a particular appointment. It is equally important that when a former Crown servant takes up an outside appointment there should be no cause for any suspicion of impropriety.

2. The Business Appointment Rules provide for the scrutiny of appointments which former Crown servants propose to take up in the first two years after they leave the service. To provide an independent element in the process of scrutiny, the Advisory Committee on Business Appointments is appointed by the Prime Minister, comprising people with experience of the relationships between the Civil Service and the private sector. The Committee gives advice on applications at the most senior levels, and reviews a wider sample in order to ensure consistency and effectiveness.

3. The aim of the rules is to maintain public trust in the Crown services and in the people who work in them, and in particular:

a. to avoid any suspicion that the advice and decisions of a serving officer might be influenced by the hope or expectation of future employment with a particular firm or organisation; or

b. to avoid the risk that a particular firm might gain an improper advantage over its competitors by employing someone who, in the course of their official duties, has had access to technical or other information which those competitors might legitimately regard as their own trade secrets or to information relating to proposed developments in Government policy which may affect that firm or its competitors.

4. Most applications submitted under the rules are approved without condition. In some cases approval may be given subject to a waiting period or other conditions. The imposition of conditions does not imply anything improper in a Crown servant's relationship with the prospective employer. Rather, it is an indication that an immediate move from Crown service to the employer, or one without conditions, might be open to criticism or misinterpretation. Experience has shown that employers generally are content to accept such constraints as being reasonable in an open society which places a high premium on the integrity and impartiality of its civil and military services.

5. This version of the rules applies to the Home Civil Service. There are corresponding requirements for other Crown servants including the Armed Forces, the

Diplomatic Service, and certain office holders. There are different requirements and different procedures for staff at different levels.

Who must apply?

6. Within two years of leaving Crown employment, and in the circumstances set out in the following paragraph, civil servants must obtain Government approval before taking any form of full, part-time or fee-paid employment:

- a. in the United Kingdom; or
- b. overseas in a public or private company or in the service of a foreign government or its agencies.

7. Applications for approval must be made by civil servants:

- if they are in the Senior Civil Service in salary band 4 or above and in a post attracting a minimum JESP score of 13; or if they are specialists or Special Advisers of equivalent standing; or
- if they have had any official dealings with their prospective employer during the last two years of Crown employment; or
- if they have had official dealings of a continued or repeated nature with their prospective employer at any time during their period of Crown employment; or
- if they have had access to commercially sensitive information of competitors of their prospective employer in the course of their official duties; or
- if their official duties during the last two years of Crown employment have involved advice or decisions benefitting their prospective employer, for which the offer of employment could be interpreted as reward, or have involved developing policy, knowledge of which might be of benefit to the prospective employer; or
- if they are to be employed on a consultancy basis (either for a firm of consultants or as an independent or self-employed consultant) and they have had any dealings of a commercial nature with outside bodies or organisations in their last two years of Crown employment.

8. The rules do not apply to:

- a. unpaid appointments in non-commercial organisations;
- b. appointments in the gift of Ministers; or
- c. in the case of part-time staff, appointments held with their department's or agency's agreement while they were civil servants.

9. Approval is required for:

- a. the initial appointment; and

- b. any further appointment within two years of leaving Crown employment.
10. Staff on secondment from the Civil Service to other organisations are subject to the rules in the same way as other civil servants.
11. Staff on secondment to the Civil Service from other organisations are also subject to the rules in the same way as civil servants unless they return to their seconding organisation at the end of their secondment and remain there for two years.
12. Special Advisers are subject to the rules in the same way as other civil servants unless they are offered a post by the same employer which they left on being appointed as advisers and remain there for two years. The rules do not apply to Special Advisers appointed before 1 April 1996 on terms exempting them from the rules, unless they have volunteered to be subject to them.

#### Reporting offers of employment

13. Departments and agencies must require staff considering any approach from an outside employer offering employment for which approval would be required under the rules (or which seems likely to lead to such an offer) to report the approach as follows:

- Heads of Department: inform the Minister in charge of the Department;
- Other members of the Senior Civil Service (or their equivalents): inform the Head of the Department or his or her deputy as appropriate;
- Other staff: inform a senior member of staff in the reporting chain.

14. Staff in sections concerned with procurement or contract work should report any such approach, particularly where it emanates from an outside employer with whom they or their staff have had official dealings, whether or not they are considering taking it up.

#### Applications

15. Departments and agencies must ensure that application forms are completed for all requests for approval for appointments under the rules. For this purpose:

- a. the applicant must be asked to supply:
- full details of the proposed employment;
  - details of any official dealings with a prospective employer or with any other organisation, including any competitors of the prospective employer; and
- b. departments must ensure that they seek the comments of a countersigning officer who can verify, as far as possible, the information supplied by the applicant.

Departments are strongly recommended to adopt the Cabinet Office model form for applicants.

## Terms of approval

16. Applications under these rules will be approved either:

a. unconditionally; or

b. subject to conditions which may apply for up to two years from the final day in Crown employment, or where different, the final day in post, as appropriate.

Conditions may include:

- a waiting period before taking up the appointment<sup>1</sup>;
- an absolute or qualified ban on the involvement of the applicant in dealings between the prospective employer and the Government;
- a ban on the involvement by the applicant in dealings between the prospective employer and a named competitor (or competitors) of that employer;
- in the case of consultancies, a requirement to seek official approval before accepting commissions of a particular nature, or from named employers.

17. In view of their access to policy issues at the highest levels, all applications from Permanent Secretaries, including second Permanent Secretaries, and their direct equivalents which are referred to the Advisory Committee are subject to an automatic minimum waiting period of three months between leaving Crown employment and taking up an outside appointment, unless they have been appointed from outside the Civil Service on a limited period contract. The Advisory Committee has the discretion to recommend waiving the minimum waiting period if, in the Committee's view, the appointment is one which is entirely unconnected with the applicant's official knowledge and no questions of propriety arise. Although applicants serving on limited period contracts will not be required to serve the automatic waiting period, approval of applications may be subject to waiting periods or other conditions in the same way as any other application.

18. Appointments approved by the Prime Minister on the advice of the Advisory Committee on Business Appointments which are subsequently taken up may be the subject of a public announcement. Staff at those levels are required to confirm to their department (or former department) their intentions to take up any appointment for which an application has been considered by the Committee. The new employer may wish to include a reference to the Prime Minister's approval in their own announcement of the appointment, and applicants should discuss with the department and the new employer the terms of the statement; in other cases, the Government reserves the right to publish the terms of the Prime Minister's decision. A consolidated record of all appointments taken up will be included in the Advisory Committee's annual report.

## Procedures for Departments and Agencies

---

<sup>1</sup> if the Advisory Committee believes that the appointment is unsuitable, it may add that advice to its recommendation that the application be subject to a waiting period of two years, and that advice will be available for publication.

## Making staff aware of the rules

### 19. Departments and agencies must:

- a. draw the attention of staff to the existence of the rules in letters of appointment. Departments and agencies are advised to take special care to explain to staff recruited from outside the Crown service either on secondment or on a limited period contract their position under the rules on appointment;
- b. include a copy of the rules in departmental and agency staff handbooks;
- c. issue regular reminders to staff at all levels about the rules and the circumstances in which they apply, concentrating on particular areas as necessary;
- d. require members of the Senior Civil Service in signing their contracts of employment to acknowledge in writing that they have seen and are conversant with the rules - and ask them to provide a further, similar acknowledgement on retirement or resignation from the Crown Service or at the end of a period appointment;
- e. remind all staff of the rules:
  - on retirement;
  - on resignation;
  - at the end of a limited period appointment.

(In the case of staff who resign or come to the end of a limited period appointment this should normally take the form of providing them with a copy of the rules and an application form. The Cabinet Office model application form incorporates the relevant extracts from the rules for this purpose.)

### 20. Departments and agencies are advised:

- a. to take all opportunities provided by letters of resignation, exit interviews and requests for references to check whether an application under the rules is necessary; and
- b. to ensure that personnel and line managers of staff working in areas which involve contact of a commercial nature with outside organisations, particularly on procurement or contract work, are issued with regular reminders to monitor resignations by staff employed in those areas to ensure that applications are made where necessary.

## Approval of applications

21. Decisions on applications, other than those referred to the Prime Minister through the Advisory Committee and those by Special Advisers, rest with the Minister in charge of the Department after taking advice of the Cabinet Office as appropriate. The Minister may, however, approve arrangements under which defined categories of cases may be decided without reference to the Minister. Decisions on applications by Special Advisers taken at departmental level are the responsibility of

the permanent Head of the Department after taking advice of the Cabinet Office, as appropriate, which may consult the Head of the Home Civil Service or refer the application to the Advisory Committee.

22. In cases where it is proposed to impose a waiting period or other conditions, applicants should be given the opportunity of having an interview with an appropriate departmental officer if they so choose.

23. There may be occasions when a Minister decides that the national interest is the overriding consideration, regardless of the circumstances of the case. In all such cases, the normal procedures for dealing with applications must first be followed, including reference to the Advisory Committee where that is appropriate. A decision that the national interest should override other considerations may only be taken by the Minister in charge of the department or, in the case of applications referred to the Advisory Committee, by the Prime Minister.

24. Departments and agencies must:

- a. inform prospective employers of any conditions which have been attached to the approval of an appointment;
- b. make a careful record of all decisions to approve appointments under the rules, noting in particular any conditions that were applied;
- c. submit quarterly statistical returns, including nil returns, of applications dealt with under the rules to the Cabinet Office in the form requested.

Procedure for dealing with applications

25. All Permanent Secretary posts; other posts in departments which satisfy all of the following criteria: have a JESP score of 18 or more, have a pay range within the top three pay bands, and where the post reports direct to a Permanent Secretary or is itself the Head of a Department or Agency; and specialists and Special Advisers of equivalent standing.

Applications are normally approved by the Prime Minister on the advice of the Advisory Committee on Business Appointments (apart from those from Special Advisers). All cases must be referred to the Cabinet Office which will refer them to the Advisory Committee unless the Head of the Home Civil Service agrees that such reference would be inappropriate, for example where the appointment is to a non-commercial body, such as a university. Applications from Special Advisers of equivalent standing will be approved by the Head of the Home Civil Service on the advice of the Advisory Committee.

26. Other Heads of Department; other postholders in the Senior Civil Service in salary band 4 and above and in a post attracting a minimum JESP score of 13; and specialists and Special Advisers of equivalent standing.

All applications must be referred to the Cabinet Office which will consult the Head of the Home Civil Service.

27. Other members of the Senior Civil Service; and specialists and Special Advisers of equivalent standing.

Departments and agencies must consult the Cabinet Office unless:

- the applicant has had no official dealings with the prospective employer at any time during his or her period of Crown Service and there appears to be no risk of criticism; or
- the employment is with a non-commercial organisation.

28. Staff outside the Senior Civil Service.

Departments and agencies do not need to consult the Cabinet Office where:

- the applicant has had no official dealings with the prospective employer in the previous two years, or at most dealings of a casual nature; and
- there appears to be no risk of the disclosure of commercially sensitive information; or
- the appointment is with a non-commercial organisation.

29. Departments and agencies may refer any application to the Cabinet Office for advice. Any application may be referred to the Advisory Committee if the Head of the Home Civil Service and the Departmental Minister so agree.

30. When referring cases to the Cabinet Office departments must submit:

- a. a copy of a completed and countersigned application form;
- b. a covering letter, giving their own assessment of the application, including the outcome of any consultations with competitors of the prospective employer, and their proposed or recommended course of action.

31. Guidance for departments and agencies preparing assessments of applications for submission to Cabinet Office and considering applications for departmental approval is provided in Section 4.3 Annex B.

#### 4.3 ANNEX B: GUIDANCE FOR DEPARTMENTS AND AGENCIES ON THE RULES ON THE ACCEPTANCE OF OUTSIDE APPOINTMENTS BY CROWN SERVANTS

1. The rules are designed primarily to counter any suspicion that an appointment might be a “reward for past favours” granted by the applicant to the employer, or that a particular employer might gain an unfair advantage over its competitors by employing someone who had access to what they might legitimately regard as their own “trade secrets”.

2. An appointment might also be sensitive because of the employer’s relationship with the department and because of the nature of any information which the applicant possesses about Government policy.

3. While appointments must not only be but also be seen to be free from reproach and departments must therefore take account of public perception, departments should be prepared to defend an appointment which they were otherwise willing to approve when public concern can be shown to be unjustifiable.

#### The employer and the applicant

4. In most cases problems will occur only if the applicant has had some degree of contact with the prospective employer, giving rise to criticism that the post is a “reward for past favours”. Departments are asked to take the following into account:

- a. how much of the contact was in the course of official duties;
- b. how significant was the contact;
- c. the nature of the proposed employment;
- d. the connection between the new job and the applicant’s previous official duties.

5. In order to establish whether the applicant was able to exert any degree of influence over the outcome of contractual or other dealings with the prospective employers, departments are advised to establish:

- a. whether the individual was acting as a member of a team, jointly with other individuals in the department or in Government more widely, or taking sole responsibility;
- b. whether the employer benefitted substantially from such dealings;
- c. whether contact was direct;
- d. whether it was indirect (i.e. through those for whom the applicant was responsible, whether or not they normally worked for him or her).

6. Departments are advised to take into account contacts in the course of official duty which have taken place:

- a. at any time in the two years before resignation or retirement;
- b. earlier, where the association was of a continued or repeated nature.

7. Departments are advised to consider in particular whether the applicant has been:

- a. dealing with the receipt of tenders from the employer;
- b. dealing with the award of contracts to the employer;
- c. dealing with the administration or monitoring of contracts with the employer;
- d. giving professional or technical advice about such contracts whether before or after they were awarded;

e. involved in dealings of an official but non-contractual nature with the employer (this is particularly important in the circumstances set out in paragraph 9 below).

8. Departments should consider the circumstances of an applicant's departure as a component of considering each application on its merits. Staff-reduction policies will not justify reducing standards of propriety, or any weakening of the element of protection which the rules offer to third parties in respect of trade secrets. If a civil servant is asked to retire, or is offered early retirement, at relatively short notice, or is unexpectedly made redundant, any presumption that he or she had been paving the way to subsequent employment by offering favours to potential employers may largely be removed. Conversely a protracted period of uncertainty might heighten concerns that individuals were anticipating redundancy by cultivating potential employers improperly. On balance, where departments and agencies intend to reduce numbers during a relatively short period of a year or so, unexpected departures should normally be considered as a factor mitigating any concerns on grounds of rewards.

#### The employer and the Government

9. The relationship of the prospective employer to the Government may be a relevant factor in considering applications. Departments are advised to pay special attention to appointments where the employer:

- a. has a contractual relationship with the department;
- b. is regulated by the department;
- c. receives subsidies, loans, guarantees or other forms of financial assistance from the department;
- d. is one in which the Government is a shareholder; or
- e. is one with which departments or branches of Government or the Armed Services are, as a matter of course, in a special relationship.

#### Overseas employers

10. The same considerations apply to foreign publicly-owned institutions or companies as to their UK counterparts. If the prospective employer is a foreign government, departments are advised to consider whether the applicant has information that would benefit that government to the detriment of HM Government or its allies. This can arise where the person:

- a. has been giving advice to HM Government on policies affecting the foreign government; or
- b. would have been in a position to gain special knowledge of HM Government's policies and intentions concerning the foreign government.

#### Government policy or business

11. Many Crown servants deal with private interests on behalf of the Government. They have special knowledge of how the Government would be likely to react in particular circumstances. Departments are advised to consider whether the application could be, or could be thought to be, significantly helpful to the employer in dealing with matters where policy is developing or legislation is being prepared in a way which might disadvantage competitors of that employer. This applies in particular to specific areas where:

- a. there has been a negotiating relationship between the Department and the employer;
- b. the applicant has been involved in policy discussions within the department leading to a decision of considerable benefit to the employer;
- c. the applicant has been involved in policy discussions within the department, knowledge of which might give the employer an improper advantage over its competitors; or
- d. where there is a risk of public criticism that the applicant might have scope to exploit contacts in his or her former department for commercial purposes.

In such cases, departments are asked to consider the implications of the applicant's joining the employer, and be guided accordingly.

The employer and competitors' trade secrets

12. Appointments might be criticised on the grounds that the applicant had access to information about his or her prospective employer's competitors which they could legitimately regard as "trade secrets". Concern on this score can arise whether or not the applicant has had previous dealings with the prospective employer. Departments are strongly advised to consult competitors as a matter of course preferably using a standard letter based on the Cabinet Office model letter, to see whether they have any objections to the appointment.

Consultancies

13. Individuals who are to be employed on a consultancy basis (either for a firm of consultants or as an independent, self-employed consultant, competing for commissions in the open market—a "brass plate" consultancy) should be treated in the same way as other applicants under the rules. Extra care is needed, however, in dealing with such applications.

14. In the case of an applicant wishing to take up a salaried appointment with a firm of consultants, the "rewards for past favours" issue will relate almost exclusively to the nature of any previous dealings between the applicant and the firm he or she is seeking to join. Departments will, however, need to consider the "trade secrets" question both from the point of view of any competitors of the consultancy firm and then, more generally from the point of view of the service which the applicant will be offering on behalf of the consultant. It may be necessary to impose conditions on the appointment to protect the "trade secrets" of firms with which the applicant or the department had dealings.

15. Where an applicant wishes to set up a “brass plate” consultancy, the question of “rewards for past favours” does not arise in the usual way. But departments will wish to keep in mind the need:

- a. to counter any suspicion of impropriety that might arise if such individuals were to be given lucrative contracts by clients with which they or their former departments had dealings; and
- b. to protect “trade secrets” to which such individuals may have had access. There may be circumstances in which it would be undesirable for an independent consultant to offer services to a particular client where he or she has had access to the trade secrets of a competitor of the client. The fact that the competitor might also be free to use the same consultant, but did not choose to do so would not make the information any less sensitive or negate the potential advantage which could be gained by the client.

In approving applications to set up “brass plate” consultancies departments will, therefore, need to consider carefully the imposition of conditions in cases where such considerations apply.

16. Departments will also need to consider whether to apply conditions limiting contacts between applicants proposing to work as consultants and their former departments. This may be particularly relevant in the case of staff at senior levels, where there is a risk of public criticism that they could be exploiting contacts in their former departments for commercial purposes.

#### 4.4 Conduct: Political Activities

##### Rules

4.4.1 Departments and agencies must make clear to staff any restrictions on their taking part in political activities. Political activities that may be subject to restriction are defined as follows:

- a. at national level: holding, in a party political organisation, office which impinges wholly or mainly on party politics in the field of Parliament or the European Parliament; speaking in public on matters of national political controversy; expressing views on such matters in letters to the Press, or in books, articles or leaflets; being announced publicly as a candidate for Parliament or the European Parliament; and canvassing on behalf of a candidate for Parliament or the European Parliament or on behalf of a political party; and
- b. at local level: candidature for, or co-option to, local authorities; holding in a party political organisation, office impinging wholly or mainly on party politics in the local field; speaking in public on matters of local political controversy; expressing views on such matters in letters to the Press, or in books, articles or leaflets; and canvassing on behalf of candidates for election to local authorities or a local political organisation.

4.4.2 Departments and agencies must allow civil servants in industrial and non-office grades the freedom to take part in all political activities. These staff are known

as the “politically free” category. The groups of staff to be included in this category are subject to the approval of the Minister for the Civil Service (Servants of the Crown (Parliamentary, European Parliamentary and Northern Ireland Assembly Candidature) Order 1987).

4.4.3 Departments and agencies have discretion to permit other staff to take part in local or national political activities in accordance with paragraphs 4.4.9 and 4.4.10 below. In exercising their discretion, departments and agencies must pay due regard to the guidelines and principles in Annex A.

4.4.4 In giving permission to participate in political activities to groups of staff or individuals, departments and agencies must make clear to them that the permission can be withdrawn at any time and without prior notice if there is a change in relevant circumstances.

4.4.5 Departments and agencies must give civil servants who are refused permission to take part in political activities, or who have permission to do so withdrawn, a full explanation of the reasons for the decision, and inform them of their right of appeal to the Civil Service Appeal Board (see Section 12.1, Appeals).

4.4.6 Departments and agencies must reinstate civil servants in the politically free group who resign to stand for election (see paragraph 4.4.20 below) provided they apply within a week of declaration day if they are not elected. If they are elected, they must still be subsequently reinstated if:

- a. they cease to be a Member after an absence from the Civil Service of not more than 5 years; and
- b. they have had at least 10 years service before their election; and
- c. they apply for reinstatement within 3 months of ceasing to be a Member.

If the first two of these conditions are not met, reinstatement is at the discretion of the department or agency, but departments and agencies are encouraged to treat applications sympathetically.

4.4.7 Departments and agencies have discretion to reinstate civil servants who are not in the politically free category following resignation to stand for election to Parliament or the European Parliament. Discretion to reinstate should normally be exercised only where it is possible to post staff, at least initially, to non-sensitive areas.

4.4.8 Where a civil servant is reinstated, the period of the break will not count for pay or superannuation purposes. Salary will not be payable during the break.

Standards of conduct to be reflected in staff handbooks

4.4.9 Civil Servants in “the politically restricted” category i.e. members of the Senior Civil Service and civil servants at levels immediately below the Senior Civil Service, plus members of the Fast Stream Development Programme (Administrative and European), must not take part in national political activities (paragraph 4.4.1a). (Before 1 April 1996 this category would have included all staff at Grade 7 level and

above, plus Administration Trainees and Higher Executive Officers (D)). They must seek permission to take part in local political activities (paragraph 4.4.1b) and must comply with any conditions laid down by their department or agency.

4.4.10 Civil servants outside the “politically restricted” category (paragraph 4.4.9) and the “politically free” category (paragraph 4.4.2) must seek permission to take part in national or local political activities (paragraph 4.4.1) unless they are in a grade or area that has already been given permission to do so by means of a specific mandate from the department or agency. Where they already have permission under such a mandate, they must notify the department or agency of intended political activities prior to taking them up. They must comply with any conditions laid down by their department or agency.

4.4.11 Civil servants must not take part in any political activity when on duty, or in uniform, or on official premises.

4.4.12 Civil servants must not attend in their official capacity outside conferences or functions convened by or under the aegis of a party political organisation.

4.4.13 Civil servants not in the politically free category must not allow the expression of their personal political views to constitute so strong and so comprehensive a commitment to one political party as to inhibit or appear to inhibit loyal and effective service to Ministers of another party. They must take particular care to express comment with moderation, particularly about matters for which their own Ministers are responsible; to avoid comment altogether about matters of controversy affecting the responsibility of their own Ministers, and to avoid personal attacks.

4.4.14 They must also take every care to avoid any embarrassment to Ministers or to their department or agency which could result, inadvertently or not, from bringing themselves prominently to public notice, as civil servants, in party political controversy.

4.4.15 Civil servants who are not in the politically free category and who have not been given permission to engage in political activities must retain at all times a proper reticence in matters of political controversy so that their impartiality is beyond question.

4.4.16 Civil servants do not need permission to take part in activities organised by their trade unions. Elected trade union representatives may comment on Government policy when representing the legitimate interests of their members, but in doing so they must make it clear that they are expressing views as representatives of the union and not as civil servants.

4.4.17 Civil servants given permission to take part in local political activities must tell their department or agency if they are elected to a local authority.

4.4.18 Civil servants given permission to take part in political activities must give up those activities if they are moved to a post where permission cannot be granted.

4.4.19 Civil servants are disqualified from election to Parliament (House of Commons Disqualification Act 1975) and from election to the European Parliament

(European Parliamentary Elections Act 1978). They must therefore resign from the Civil Service before standing for election in accordance with paragraphs 4.4.20 and 4.4.21.

4.4.20 Civil servants in the politically free group are not required to resign on adoption as a prospective candidate. But to prevent their election being held to be void they must submit their resignation before they give their consent to nomination in accordance with the Parliamentary Election Rules.

4.4.21 All other civil servants, including civil servants on secondment to outside organisations, must comply with the provisions of the Servants of the Crown (Parliamentary, European Parliamentary and Northern Ireland Assembly Candidature) Order 1987. They must not issue an address to electors or in any other manner publicly announce themselves or allow themselves to be publicly announced as candidates or prospective candidates for election to Parliament or the European Parliament; and they must resign from the Civil Service on their formal adoption as a Parliamentary candidate or prospective candidate in accordance with the procedures of the political party concerned. Civil servants not in the politically free group who are candidates for election must complete their last day of service before their adoption papers are completed.

#### 4.4 ANNEX A: GUIDELINES AND PRINCIPLES ON PARTICIPATION IN POLITICAL ACTIVITIES

1. In exercising discretion over participation by civil servants in the political activities described in paragraph 4.4.3, departments and agencies must pay regard to the following principles:

- a. permission should normally only be refused where civil servants are employed in sensitive areas in which the impartiality of the Civil Service is most at risk. Permission may be granted to individuals or groups to undertake either only national or only local political activities;
- b. permission should normally be granted in all other circumstances, provided departments and agencies are satisfied that the civil servants concerned are aware of the need to observe the principles set out in paragraphs 4.4.10 and 4.4.11 and the other rules governing the conduct of civil servants, including those relating to the use of official information.

2. In applying these principles, departments and agencies should regard posts as being “sensitive” if:

- a. they are closely engaged in policy assistance to Ministers (or to non-departmental Crown bodies) such as tendering advice or executing immediate Ministerial directives;
- b. they are in the private offices of Ministers or senior officials or in areas which are politically sensitive or subject to national security;

- c. they require the postholder regularly to speak for the Government or their department or agency in dealings with commercial undertakings, pressure groups, local government, public authorities or any other bodies;
- d. the postholder represents the Government in dealing with overseas governments; or
- e. the postholder is involved in a significant amount of face to face contact with members of the public who may be expected to know of the postholder's political activities and makes, or may appear to make, decisions directly affecting them personally.

3. Departments and agencies are advised to apply as helpful a postings policy as possible to staff who wish to become or remain politically active, provided the staff concerned understand that this may have the effect of limiting their range of experience; and to identify blocks of posts in which staff may be granted advance permission to take part in the political activities described in paragraph 4.4.1.

4. Where a civil servant is adopted as a parliamentary candidate and is therefore required to resign, departments and agencies may, at their discretion, make an ex-gratia payment equivalent to the period of notice to be given to the individual if the adoption process does not reasonably allow for the individual to give full notice.

#### 4.5 Discipline: Rules and Code of Practice

4.5.1 The Minister for the Civil Service is responsible for the central framework outlined in paragraphs 4.5.2 to 4.5.15.

4.5.2 Departments and agencies are responsible for their own disciplinary arrangements within the central framework set out below. They must:

- a. ensure that staff are aware of the disciplinary procedures that will apply to them and of the circumstances in which they may be invoked; and
- b. reflect the rules at paragraphs 4.5.9 to 4.5.15 and Annex A in their own disciplinary procedures.

The attention of departments and agencies is drawn to the following as guides to the drawing up of their own disciplinary procedures:

- a. the ACAS Code of Practice on Disciplinary and Grievance Procedures;
- b. the Equal Opportunities Commission Code of Practice for the elimination of discrimination on grounds of sex and marriage and the promotion of equality of opportunity in employment; and
- c. the Commission for Racial Equality Code of Practice: Race Relations.

These Codes of Practices are given significant weight in Employment Tribunal cases.

4.5.3 Recognised trade unions have the right to make representations on procedural matters and on general principles underlying disciplinary action. Such representations may be made centrally and at departmental and agency level.

4.5.4 Disciplinary procedures may be invoked in certain circumstances in addition to, or instead of, criminal investigations or legal proceedings. Departments and agencies should consult their legal advisers before taking disciplinary action in parallel with criminal proceedings.

4.5.5 It is for departments and agencies to define the circumstances in which initiation of disciplinary procedures may be appropriate. It is not necessary to attempt to define every circumstance. However departments' and agencies' rules for staff must make clear the circumstances in which the application of the disciplinary procedures may be considered. These must include:

- a. breaches of the organisation's standards of conduct or other forms of misconduct (see paragraph 4.1.4); and
- b. any other circumstances in which the behaviour, action or inaction of individuals significantly disrupts or damages the performance or reputation of the organisation.

4.5.6 The central rules on the limited efficiency and inefficiency procedures are given in Section 6.3.

4.5.7 The sanctions applied as a result of disciplinary proceedings are a matter for the department or agency concerned, in the light of the circumstances of each case.

## Rules

### Disciplinary procedures

4.5.8 Subject to the following rules, the level at which decisions are made whether or not to proceed with disciplinary action, the disciplinary procedures to be followed, and the arrangements for appeals, are matters for departments and agencies.

4.5.9 Disciplinary decisions must be taken by someone at least one level higher than the individual concerned and appeals must be heard by someone at least one level higher than the person making the disciplinary decision. Wherever possible, appeal decisions should be taken by someone independent of the original disciplinary decision.

4.5.10 Decisions concerning Permanent Secretary, Heads of Department and their direct equivalents and any other Heads of Department must be taken by the Head of the Home Civil Service after consultation with the Minister of the Department concerned and, as appropriate, the Prime Minister. Below that level, decisions concerning postholders in Senior Civil Service salary band 4 and above with a minimum JESP score of 13 must be taken by the Permanent Head of the Department or Chief Executive of the Agency. Decisions concerning Chief Executives below that level must be taken by the Permanent Head of Department. Individuals in these cases have a right of appeal to the Head of the Home Civil Service.

4.5.11 Decisions not to proceed with disciplinary action in cases of serious fraud, other than where the individual is being prosecuted, must be taken by the Head of Department or Chief Executive of the agency after consultation with the responsible Minister.

#### Trade union representation

4.5.12 Staff must be given the right to the assistance of a trade union representative or colleague throughout formal disciplinary proceedings.

#### Appeals

4.5.13 Departments and agencies must make clear to individuals their rights of appeal against disciplinary decisions. They must allow staff who are dismissed to appeal to the Civil Service Appeal Board if they are eligible to do so (see paragraph 12.1.27). They must allow a right of appeal under the personal grievance procedure (see paragraph 12.1.4) to:

- a. staff who are dismissed but ineligible to appeal to the Civil Service Appeal Board; and
- b. staff who are not dismissed.

#### Suspension from duty

4.5.14 Individuals under criminal investigation or disciplinary procedures may be suspended from duty if necessary to protect the public interest. Pay may be withheld wholly or partly during suspension. During suspension, only basic pay (defined as that which would be paid during the first six months of sickness absence) may be paid, and departments and agencies have discretion to decide whether the individual on suspension should receive full basic pay or a proportion of it. Pay withheld during suspension may be forfeited wholly or partly as a result of a disciplinary decision. Any pay not forfeited must be paid retrospectively and reckoned under the Principal Civil Service Pension Scheme in the normal way.

4.5.15 Departments and agencies must apply, where appropriate, the rules that apply to the recovery of losses to public funds on dismissal and to the forfeiture of superannuation benefits in respect of dismissal for certain criminal offences. These rules are set out in Annex A.

#### 4.5 ANNEX A: RECOVERY OF LOSSES TO PUBLIC FUNDS

1. On dismissal for an offence involving loss to public funds, any sums unpaid, for example in respect of salary or wages up to the last day of duty, or of income tax overpaid on salary may be withheld as a set-off against the loss. Similar set-offs should be made if someone who would have been dismissed for an offence resigns before the dismissal can be put into effect. The Inland Revenue should be notified of any sums so withheld in respect of income tax refund, and at the same time be requested themselves to withhold the refund of overpayment of tax. If the amount of tax from these sources is less than the loss to public funds, it may be possible to recover the balance from any superannuation benefits payable. Civil Service Pensions

Division, Cabinet Office should be consulted at an early stage and their authority obtained for the deduction to be made.

#### Forfeiture of Superannuation Benefits (see also Section 12.1)

2. Automatic loss of pension rights applies only where a civil servant is convicted of treason.
3. The Cabinet Office exercises the power under rule 8.2 of the Principal Civil Service Pension Scheme to withhold superannuation benefits in whole or in part if a civil servant or former civil servant is convicted of:
  - a. one or more offences under the Official Secrets Act 1989 for which the person concerned has been sentenced to a term of imprisonment of at least ten years or has been sentenced on the same occasion to two or more consecutive terms amounting in the aggregate to at least 10 years; or
  - b. an offence in connection with any employment to which the PCSPS applies, being an offence which is certified by a Minister of the Crown either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service.
4. The guaranteed minimum pension payable under the provisions of the Social Security Pensions Act 1975, as amended, must be paid in the case of paragraph 3b, but that element of a pension can be withheld if forfeiture is applied under paragraph 3a or as a result of a conviction for treason. Before the Cabinet Office exercises this power to withhold superannuation benefits, the case will be discussed on a “without prejudice” basis with the trade union side.
5. The Cabinet Office will normally advise Ministers on the certification of offences in accordance with paragraph 3b. Employment Conditions and Statistics Division, Cabinet Office should therefore be consulted at an early stage in any case in which criminal proceedings are pending and the charges are such that a withholding of superannuation benefits under either paragraph 3a or b will need to be considered. The decision on forfeiture is however a matter for the Civil Service Pensions Division, Cabinet Office which should be kept informed of discussions. Departments and agencies should subsequently notify both Divisions of the outcome of the trial and of the possibility of an appeal. If there is a conviction, the department or agency concerned may make recommendations about the forfeiture of superannuation benefits but these recommendations should not be made known to the individual(s) concerned. They should, however, be supplied with a copy of rule 8.2 of the PCSPS and advised that representations in writing about any matters relevant to the question of forfeiture may be submitted. Such representations may be made on their behalf by a colleague or trade union representative.
6. The department or agency concerned will be told whether or not it is proposed to withhold superannuation benefits and, if forfeiture is intended, what benefits will be withheld. The department or agency will be told also the period (normally 21 days) within which notice of intent to appeal must be made by the person concerned. It will be for the employing department or agency to pass that information to the person. Attention should be specifically drawn to the right of appeal and a further copy of rule

8.2 of the PCSPS should be provided. The individual should be advised that in the event of lodging an appeal full written representations may be made, prior to the hearing, to the Civil Service Appeal Board, whose judgement on whether or not, or to what extent, superannuation benefits should be forfeited will be accepted by the Cabinet Office. No action, therefore, should be taken either to pay superannuation benefits to a serving member of staff or to withhold them from somebody who is already retired until a final decision is promulgated by the Cabinet Office.

## Annex 6 – Financial Disclosure Form: United States

**INSTRUCTIONS FOR  
OGE FORM 450,  
CONFIDENTIAL FINANCIAL  
DISCLOSURE REPORT**

### A. Why You Must File

This report is a safeguard for you as well as the Government. It provides a mechanism for determining actual or potential conflicts between your public responsibilities and your private interests and activities. This allows you and your agency to fashion appropriate protections against such conflicts.

### B. Who Must File

Agencies are required to designate positions at or below GS-15, O-6, or comparable pay rates, in which the nature of duties may involve a potential conflict of interest. Examples include contracting, procurement, administering grants and licenses, regulating/auditing non-Federal entities, other activities having a substantial economic effect on non-Federal entities, or law enforcement.

All special Government employees (SGEs) must file, unless exempted by their agency or subject to the public reporting system. Agencies may also require certain employees in positions above GS-15, O-6, or a comparable pay rate to file.

### C. When To File

**New entrant reports:** Due within 30 days of assuming a position designated for filing, unless your agency requests the report earlier. No report is required if you left another filing position within 30 days prior to assuming the new position. (SGEs must file new reports upon each reappointment or redesignation, at the time specified by the agency.)

**Annual reports:** Due not later than October 31, unless extended by your agency.

### D. Reporting Periods

**New entrant reports:** The reporting period is the preceding twelve months from the date of filing.

**Annual reports:** The reporting period covers October 1 through September 30 (or that portion not covered by a new entrant report). However, no report is required if you performed the duties of your position for less than 61 days during that twelve-month period. (All reappointed or redesignated SGEs file reports, regardless of the number of days worked.)

### E. Where To File

With ethics officials at the agency in which you serve or will serve, or in accordance with their procedures.

### F. Definitions

**Dependent Child** - means your son, daughter, stepson, or stepdaughter if such person is either:

- (1) unmarried, under age 21, and living in your household; or
- (2) a "dependent" of yours for Federal income tax purposes. See 26 U.S.C. 152.

**Honoraria** - means payments (direct or indirect) of money or anything of value to you or your spouse for an appearance, speech or article, excluding necessary travel expenses. Also included are payments to charities in lieu of honoraria.

**Special Government Employee (SGE)** - is defined in 18 U.S.C. 202(a) as: an officer or employee of an agency who performs temporary duties, with or without compensation, for not more than 130 days in a period of 365 days, either on a full-time or intermittent basis.

### G. General Instructions

1. Filers must provide sufficient information about outside interests and activities so that ethics officials can

make an informed judgment as to compliance with applicable conflict of interest laws and standards of conduct regulations.

2. This form consists of five parts, which require identification of certain specific financial interests and activities. **NO DISCLOSURE OF AMOUNTS OR VALUES IS REQUIRED.** You must complete each part (except as indicated for Part V) and sign the report. If you have no information to report in any part or do not meet the threshold values for reporting, check the "None" box. New entrants and SGEs are not required to complete Part V.

3. You must include information applicable to yourself, your spouse, and dependent children on Parts I, II and V. This is required because their financial interests are attributed to you under ethics rules in determining conflicts of interest. Information about your spouse is not required in the case of divorce, permanent separation, or temporary separation with the intention of terminating the marriage or permanently separating. Parts III and IV require disclosures about yourself only.

4. You may distinguish any entry for a family member by preceding it with S for spouse, DC for dependent child, or J for jointly held.

### Part I: Assets & Income

#### Assets:

1. Report all assets held for investment or for the production of income by **you, your spouse, and dependent children**, with a value greater than \$1,000 at the end of the reporting period or which produced more than \$200 in income during the reporting period.

#### Salary and Earned Income:

1. **For yourself:** report all sources of salary and earned income greater than \$200 during the reporting period.
2. **For your spouse:** report all sources of salary and earned income if greater than \$1,000 (for honoraria, if greater than \$200).

## PROTECTED WHEN COMPLETED - PERSONAL INFORMATION

3. **For dependent children:** no earned income needs to be reported.

### Examples of Assets:

- Stocks
- Tax Shelters
- Mutual Funds
- Annuities
- Trust Holdings
- Trades & Businesses
- Investment Life Insurance
- Bonds
- Investment Real Estate
- Pensions
- IRA/401(k) Holdings
- Commodity Futures
- Partnership Interests
- Collectibles held for Investment

### Examples of Income:

- |                          |                            |
|--------------------------|----------------------------|
| <u>Investment Income</u> | <u>Earned/Other Income</u> |
| · Dividends              | · Fees                     |
| · Rents and Royalties    | · Salaries                 |
| · Interest               | · Commissions              |
| · Capital Gains          | · Retirement Benefits      |
|                          | · Honoraria                |

### Notes:

1. For **pensions**, you will ordinarily just need to indicate the name of the sponsoring employer. However, if you have control over the specific investment assets held in your pension account (it is not independently managed), you must also list those underlying investments or attach an account statement that lists them.
2. For publicly available **mutual funds**, you are only required to indicate the name of the fund, not the investments that the mutual fund holds in its portfolio. You must, however, always indicate the **full name** of the specific mutual fund in which you hold shares, not just the general family fund name.
3. For other publicly available investment funds, such as publicly offered units of **limited partnerships**, the disclosure requirements are the same as for mutual funds -- list the full name of the limited partnership, but not its underlying portfolio investments.
4. For a **privately held trade or business**, report its name, location, and description of activity.

### Do Not Report:

1. Your personal residence, unless you rent it out;
2. Federal Government salary or retirement benefits such as the Thrift Savings Plan;
3. Social Security benefits;
4. Money owed to you, your spouse, or dependent child by a spouse, parent, sibling or child;
5. Accounts including certificates of deposit, savings accounts, interest-bearing checking accounts, or any other forms of deposit in a bank, savings and loan association, credit union or similar financial institution;
6. Money market mutual funds and money market accounts;
7. U.S. Government obligations (including Treasury bonds, bills, notes and savings bonds);
8. Government securities issued by U.S. Government agencies or Government-sponsored corporations, such as TVA, GNMA, FNMA; and
9. The underlying holdings of a trust that: 1) was not created by you, your spouse, or dependent children, **and** 2) the holdings or sources of income of which you, your spouse, and dependent children have no past or present knowledge. An example is a trust created by a relative, from which you receive periodic income but have no knowledge about its assets. Just identify the trust by name and date of creation.

### Part II: Liabilities

#### Report for Yourself, Spouse, and Dependent Children:

1. Liabilities over \$10,000 owed to any creditor at any time during the reporting period.

### Do Not Report:

1. Mortgages on your personal residence unless you rent it out;
2. Personal liabilities owed to a spouse, or the parent, sibling, or child of you, your spouse, or dependent child;
3. Loans for personal automobiles, household furnishings, or appliances, where the loan does not exceed the purchase price; and
4. Revolving charge accounts where the outstanding liability does not exceed \$10,000 at the end of the reporting period.

### Part III: Outside Positions

#### Report for Yourself:

1. All positions outside the U.S. Government held at any time during the reporting period (including positions no longer held), whether or not paid.

**Positions include** an officer, director, trustee, general partner, proprietor, representative, executor, employee, or consultant of any of the following:

1. A corporation, company, firm, partnership, trust, or other business enterprise;
2. A non-profit organization;
3. A labor organization; and
4. An educational or other institution outside the Federal Government.

#### Do Not Report:

1. Positions held in any religious, social, fraternal, or political entity;
2. Positions solely of an honorary nature; and
3. Positions held by a spouse or dependent child.

# PROTECTED WHEN COMPLETED - PERSONAL INFORMATION

## Part IV: Agreements or Arrangements

### Report Your Agreements or Arrangements for:

1. Current or future employment;
2. A leave of absence from private or other non-Federal employment;
3. Continuation of payment by a former employer other than the Federal Government (including severance payments); and
4. Continuing participation in an employee pension or benefit plan maintained by a former employer other than the Federal Government.

### Do Not Report:

1. A spouse or dependent child's agreements or arrangements.

## Part V: Gifts and Travel Reimbursements

**Note:** Part V is not applicable to new entrants and SGEs.

### Report for You, Your Spouse, and Dependent Children:

1. Travel-related cash reimbursements received from one source during the reporting period totaling more than \$260.
2. Any other gifts totaling more than \$260 from any one source. A "gift" is defined as anything of value, unless you give something of equal or greater value to the donor. This includes tangible items and in-kind transportation, food, lodging, and entertainment.

**Note:** Gifts or reimbursements valued at \$104 or less need not be included in determining the over \$260 reporting threshold.

### Do Not Report:

1. Anything received from relatives, the U.S. Government, D.C., State, or local governments;
2. Bequests and other forms of inheritance;
3. Gifts and travel reimbursements given to your agency in connection with your official travel;
4. Gifts of hospitality (food, lodging, entertainment) at the donor's residence or personal premises; and
5. Gifts or reimbursements received by a spouse or dependent child totally independent of the relationship to the filer (*Example: a spouse's reimbursement in connection with private employment*).

### Privacy Act Statement

Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), Executive Order 12674, and 5 CFR Part 2634, Subpart I, of the Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this form is for review by Government officials of your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures of the information on this report may be made: (1) to a Federal, State or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter. This confidential report will not be disclosed to any requesting person unless authorized by law. See also the OGE/GOVT-2 executive branchwide Privacy Act system of records.

### Penalties

Falsification of information or failure to file or report information required to be reported may subject you to disciplinary action by your employing agency or other authority. Knowing and willful falsification of information required to be reported may also subject you to criminal prosecution.

### Public Burden Information

This collection of information is estimated to take an average of one and a half hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Associate Director for Administration, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917. Do not send your completed OGE Form 450 to this address. See Section E for where to file.

Pursuant to the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and no person is required to respond to, a collection of information unless it displays a currently valid OMB control number (that number, 3209-0006, is displayed here and in the upper right-hand corner of the first page of this OGE Form 450).

Mere disclosure of the required information does not authorize holdings, income, liabilities, affiliations, positions, gifts or reimbursements which are otherwise prohibited by law, Executive order, or regulation.

**If you need assistance in completing this form, contact the ethics officials in the agency in which you serve or will serve.**

**PROTECTED WHEN COMPLETED - PERSONAL INFORMATION**

OGE Form 450, 5 CFR Part 2634, Subpart I  
U.S. Office of Government Ethics (4/99)  
(Replaces 2/96 edition)

Form Approved:  
OMB No. 3209-0006

**Executive Branch CONFIDENTIAL FINANCIAL DISCLOSURE REPORT**

Page Number   

Employee's Name (Last, first, middle initial)		Position/Title		Grade	Reporting Status: <input type="checkbox"/> New entrant <input type="checkbox"/> Annual
Agency		Branch/Unit and Address		Work Phone	If New Entrant, Date of Appointment
Check box if special Government employee (SGE) <input type="checkbox"/>	If an SGE, Home Address (Number, Street, City, State and ZIP Code)				
I certify that the statements I have made on this form and all attached statements are true, complete, and correct to the best of my knowledge.				Signature of Employee	Date

Date Received by Agency	On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (except as noted in "comments" box below).	Signature and Title of Supervisor/Other Intermediate Reviewer (If agency requires)	Date
Signature of Agency's Final Reviewing Official and Title		Date	Comments of Reviewing Officials

(Check box if continued on reverse)

**Part I: Assets and Income**

None

**Identify for you, your spouse, and dependent children:** 1) assets with a fair market value greater than \$1,000 at the close of the reporting period or producing income over \$200; and 2) sources of earned income such as salaries, fees, honoraria (other than U.S. Government salary or retirement benefits, such as the Thrift Savings Plan) which generated over \$200 in income during the reporting period. Earned income sources of your spouse must be reported if greater than \$1,000 (greater than \$200 for honoraria). No earned income needs to be reported for dependent children.

Assets include (but are not limited to): stocks, bonds, tax shelters, real estate, mutual funds, pensions, annuities, IRAs, trusts, commodity futures, trades and businesses, and partnership interests.

Exclude your personal residence, unless you rent it out, and deposit accounts in financial institutions. See instructions for additional exclusions.

**Use copies of blank pages for continuation**

Authorized for local reproduction

Assets and Income Sources (Identify specific employer, business, stock, bond, mutual fund, type/location of real estate, etc.)	(X) if no longer held	Nature of Income over \$200 (Rent, interest, dividends, capital gains, salary, etc.)	Date (Only for honoraria)
Examples			
Rental Condo, Anchorage, Alaska		Rent	
Dee, Jones & Smith, Hometown, USA	X	Salary	
(S) Alexandria Medical Clinic, Alexandria, VA		Salary	
Franklin Equity Mutual Fund		Dividends/Capital Gains	
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

OGE Form 450, 5 CFR Part 2634, Subpart I  
U.S. Office of Government Ethics (4/99)  
(Replaces 2/96 edition)

Form Approved:  
OMB No. 3209-0006

**Executive Branch CONFIDENTIAL FINANCIAL DISCLOSURE REPORT**

Page Number   

Employee's Name (Last, first, middle initial)				
---	--	--	--	--

**Part I: Assets and Income (Cont.)**

Assets and Income Sources (Identify specific employer, business, stock, bond, mutual fund, type/location of real estate, etc.)	(X) if no longer held	Nature of Income over \$200 (Rent, interest, dividends, capital gains, salary, etc.)	Date (Only for honoraria)
11			
12			
13			
14			
15			
16			
17			
18			

PROTECTED WHEN COMPLETED - PERSONAL INFORMATION

OGE Form 450, 5 CFR Part 2634, Subpart I  
U.S. Office of Government Ethics (4/99)

Page Number

Employee's Name (Last, first, middle initial)  Work Phone

**Part II: Liabilities** None

Report for you, your spouse, and dependent children liabilities over \$10,000 owed at any time during the reporting period (over \$10,000 at the end of the period if revolving charge accounts). Exclude a mortgage on your personal residence unless it is rented out; loans for autos, household furniture or appliances; and liabilities owed to certain family members (see instructions).

Creditors (Name and address)		Type of Liability (Mortgage, promissory note, etc.)
Example	First Alaska Bank, Anchorage, Alaska	Mortgage on rental property in Anchorage, AK
1		
2		
3		

**Part III: Outside Positions** None

Report any positions, whether or not compensated, which you held outside the U.S. Government during the reporting period. Positions include (but are not limited to) an employee, officer, director, trustee, general partner, proprietor, representative, executor, or consultant for a business, non-profit or labor organization, or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature. You need not report any positions of your spouse or dependent children.

Organization (Name and address)	Type of Organization	Position	(X) If no longer held	
Example	Dee, Jones & Smith, Hometown, USA	Law Firm	Associate	X
1				
2				
3				
4				

**Part IV: Agreements or Arrangements** None

Report your agreements or arrangements for current or future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. You need not report agreements or arrangements of your spouse or dependent children.

Terms of Any Agreement or Arrangement	Parties	Date	
Example	Will receive retained pension benefits (independently managed, fully funded, defined contribution plan)	Dee, Jones & Smith, Hometown, USA	2/99
1			
2			
3			

**Part V: Gifts and Travel Reimbursements** None

Do not complete this part if you are a new entrant or special Government employee.

Report for you, your spouse, and dependent children gifts or travel reimbursements you have received from one source totaling more than \$260. Exclude anything valued at \$104 or less; anything received by your spouse or dependent child totally independent of their relationship to you; anything from a relative or from the U.S. Government; anything given to your agency in connection with your official travel; and food, lodging, or entertainment received as personal hospitality at the donor's residence or premises.

Source	Description (For travel-related items, include itinerary)	Date	
Example	Dee, Jones & Smith, Hometown, USA	Leather briefcase as a departing gift	2/99
1			
2			
3			
4			

## Annex 7 – Financial Disclosure Form – Confidential Report: Canada

### CONFIDENTIAL REPORT

MADE UNDER THE AUTHORITY OF  
THE CONFLICT OF INTEREST AND POST-EMPLOYMENT CODE  
FOR PUBLIC OFFICE HOLDERS

---

*Privacy Act Statement*

*The information you provide in this document is collected under the authority of the Conflict of Interest and Post-Employment Code for Public Office Holders for purposes of advising you on the compliance measures applicable to your situation. This information will be kept in a personal confidential file in Program Record Number IC IC 140. Personal information that you provide is protected under the provisions of the Privacy Act.*

---

**Canada**

PROTECTED WHEN COMPLETED - PERSONAL INFORMATION

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**Office:**

Address: \_\_\_\_\_

Telephone: (    ) \_\_\_\_\_

Fax: (    ) \_\_\_\_\_

**Constituency Office:**

Address: \_\_\_\_\_

Telephone: (    ) \_\_\_\_\_

Fax: (    ) \_\_\_\_\_

**Home:**

Address: \_\_\_\_\_

Telephone: (    ) \_\_\_\_\_

Fax: (    ) \_\_\_\_\_

**I am a Minister/Parliamentary Secretary and a Confidential Report will be filed for:**

Spouse: 

No		Yes	
----	--	-----	--

 If yes, provide name: \_\_\_\_\_

Dependent(s): 

No		Yes	
----	--	-----	--

 If yes, provide name(s): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Definitions**

*\*spouse+, in relation to a Minister or Parliamentary Secretary, means a person to whom the public office holder is married or with whom the public office holder is living in a conjugal relationship outside marriage, but does not include a person to whom the public office holder is married if the public office holder and that person have separated (conjoint).*

*\*dependent+, in relation to a Minister or Parliamentary Secretary, means a minor child of the public office holder, or a minor who is dependent primarily on the public office holder or the public office holder=s spouse for financial support (personnes à charge).*

**1. Assets transferred to other persons in last twelve months?**

No	<input type="checkbox"/>	Yes	<input type="checkbox"/>
----	--------------------------	-----	--------------------------

If yes, specify below:

Assets	\$ Value	Name of person	Reasons

**2. Sole or joint ownership of real property such as residence, cottage, vacant land, farm, etc.:**

No	<input type="checkbox"/>	Yes	<input type="checkbox"/>
----	--------------------------	-----	--------------------------

If yes, specify below:

Description	Civic address	\$ Value	Your % ownership interest	Indicate use: e.g. recreational, personal, for sale, rented, etc.
a)				
b)				
c)				
d)				

**3. The properties listed above are jointly held:**

No	<input type="checkbox"/>	Yes	<input type="checkbox"/>
----	--------------------------	-----	--------------------------

If yes, specify below:

Description (repeat above)	Name of co-owners	Co-owner=s relationship to you e.g. husband, business associate, etc.	Describe dealings of co-owner=s relationship with the federal government, if any
a)			
b)			
c)			
d)			

**4. Personal assets:**

Household goods and personal effects:

Specify value:

Works of art, antiques and collectibles:

No		Yes	
----	--	-----	--

If yes, specify value:

Automobiles and other motorized vehicles:

No		Yes	
----	--	-----	--

If yes, specify value:

Cash and deposits:

No		Yes	
----	--	-----	--

If yes, specify amount:

**5. Registered Retirement Savings Plans, whether self-administered or not:**

No		Yes	
----	--	-----	--

If yes, provide most recent financial statements or specify below. For self-administered plan(s), provide most recent financial statements:

Plan number	Description of assets	Name of issuing institution	\$ Value

**6. Spousal Registered Retirement Savings Plans whether self-administered or not:**

No		Yes	
----	--	-----	--

If yes, provide most recent financial statements or specify below. For self-administered plan(s), provide most recent financial statements:

I am a contributor to the plan:  or, I am the owner of the plan:

Plan number	Description of assets	Name of issuing institution	\$ Value

**7. Registered Education Savings Plans and other similar savings plan registered with governments:**

No		Yes	
----	--	-----	--

If yes, provide most recent financial statements or specify below. For self-administered plan(s), provide most recent financial statements:

Plan number	Description of assets	Name of issuing institution	\$ Value

8. **Investments in: guaranteed investment certificates, term deposits, annuities, investments funds, mutual funds, pooled funds, segregated funds and securities issued or guaranteed by any level of government in Canada e.g. Canada Savings Bonds, Province of Ontario Bonds, Hydro Québec Bonds, etc.:**

No		Yes	
----	--	-----	--

If yes, specify below:

# of units	Description of assets	Name of issuing institution	\$ Value

9. **Annuities, life insurance policies (including jointly held) and pension rights, other than under federal government plans, and from which you do not derive any benefit yet:**

No		Yes	
----	--	-----	--

If yes, specify below:

Description of assets	Name of issuing institution	Indicate whether term or whole life	\$ Value

10. **Are you the beneficiary of a trust arrangement?**

No		Yes	
----	--	-----	--

If yes, provide most recent financial statements or specify below:

# of units/shares	Description of assets	Name of trustee/manager/firm	\$ Value

--	--	--	--

**11. Money owed to you?**

No		Yes	
----	--	-----	--

If yes, specify below:

\$ Amount	Owed by: name of person/organization	Relationship to you	Reasons

**12. Income from: employment, offices and directorships, retirement and disability benefits, business, trust, investment interests, dividends, royalties, etc. ?**

No		Yes	
----	--	-----	--

If yes, specify below:

\$ Amount (last 12 months)	\$ Amount (next 12 months)	Source

**13. Ownership interest, shares, debentures, mortgages, promissory notes or other liens held in: sole proprietorships, partnerships, joint ventures, registered businesses and incorporated companies, businesses and commercial farms which DO NOT CONTRACT WITH FEDERAL GOVERNMENT INSTITUTIONS, DO NOT OWN PUBLICLY TRADED SECURITIES AND, WHOSE STOCKS AND SHARES ARE NOT TRADED PUBLICLY ON ANY EXCHANGE:**

No		Yes	
----	--	-----	--

If yes, specify below where applicable:

.	Name of business:
.	Address:

. Legal Status e.g. registered, incorporated, etc.:

. Nature of business activities:

. Nature of your interest e.g. shares, debentures, etc.:

. Name of subsidiaries:

. Value and percentage of your interest:

. Names of business associates/co-owners:

. Associates=/co-owners= other business activities and business dealings, if any, with the federal government:

. Names of managers:

. Managers= other business activities and business dealings, if any, with the federal government:

**N.B.** Directorships and other official positions held by you are to be reported under Question 19.

. Name of business:

. Address:

. Legal Status e.g. registered, incorporated, etc.:

. Nature of business activities:

. Nature of your interest e.g. shares, debentures, etc.:

. Name of subsidiaries:

. Value and percentage of your interest:

. Names of business associates/co-owners:

. Associates=/co-owners= other business activities and business dealings, if any, with the federal government:

. Names of managers:

. Managers= other business activities and business dealings, if any, with the federal government:

**14. Ownership interest, shares, debentures, mortgages, promissory notes or other liens held in: sole proprietorships, partnerships, joint ventures, registered businesses and incorporated companies, businesses and commercial farms WHICH CONTRACT WITH FEDERAL GOVERNMENT INSTITUTIONS, OR OWN PUBLICLY TRADED SECURITIES:**

No		Yes	
----	--	-----	--

If yes, specify below where applicable:

. Name of business:

. Address:

. Legal Status e.g. registered, incorporated, etc.:

. Nature of business activities:

. Nature of your interest e.g. shares, debentures, etc.:

. Name of subsidiaries:

. Value and percentage of your interest:  
. Names of business associates/co-owners

. Associates=/co-owners= other business activities and business dealings, if any, with the federal government:

. Names of managers:

. Managers= other business activities and business dealings, if any, with the federal government:

. Nature of dealings with federal government:  
. Nature of contract with federal government:  
. Completion date of contract:  
. \$ Value of contract:  
. Provide financial statements for publicly traded securities held by the business:

**N.B.** Directorships and other official positions held by you are to be reported under Question 19.

. Name of business:  
. Address:  
. Legal Status e.g. registered, incorporated, etc.:  
. Nature of business activities:  
. Nature of your interest e.g. shares, debentures, etc.:  
. Name of subsidiaries:  
. Value and percentage of your interest:  
. Names of business associates

. Associates=/co-owners= other business activities and business dealings, if any, with the federal government:

. Names of managers:

. Managers= other business activities and business dealings, if any, with the federal government:

. Nature of dealings with federal government:  
. Nature of contract with federal government:  
. Completion date of contract:  
. \$ Value of contract:  
. Provide financial statements for publicly traded securities held by the business:

**15. Ownership of publicly traded securities, bonds, debentures, index participation units and other similar financial instruments of public corporations including insurance companies and banks:**

No		Yes	
----	--	-----	--

If yes, most recent financial statements are preferred or specify below:

Number and type of units/shares	Issuing company	Wholly or jointly owned	\$ Value

--	--	--	--

**16. Options, warrants, commodities, futures and foreign currencies (speculative instruments):**

No		Yes	
----	--	-----	--

If yes, specify below:

Description of assets	Contract terms	Wholly or jointly owned	\$ Amount invested

**17. Debts such as: mortgages, personal loans, student loans, guarantees, lines of credit, support obligations, tax arrears, credit cards with unpaid balances over \$4,000:**

No		Yes	
----	--	-----	--

If yes, specify below:

\$ Amount outstanding	Institution or person to whom money is owed	Description/reason for debt

--	--	--

**18. Debts, mortgages, guarantees, tax arrears and other similar liabilities owed by your business interests:**

No		Yes	
----	--	-----	--

If yes, specify below:

\$ Amount outstanding	Institution or person to whom money is owed	Description/reason for debt

**19. Past (2 years) and current employment and involvement in: professional, business, financial, commercial, consulting, union, charitable, philanthropic, non-commercial organizations, and any other type of organizations or associations:**

No		Yes	
----	--	-----	--

If yes, specify below:

Position held e.g. member, director	Name of organization and nature of activities	Indicate whether current/past

--	--	--

20. Do any of the above organizations have contractual dealings with the federal government or make representations to its institutions in an attempt to influence the development or amendment of legislative proposals, Bills, regulations, policies, programs or to seek any grants, contributions or other financial benefits?

No		Yes	
----	--	-----	--

If yes, specify below:

Name of organization	Purpose of dealings	Government institution to which representations are made

21. Do any members of your immediate family (spouse, parents, children or siblings) have contractual dealings with the federal government or make representations to its institutions in an attempt to influence the development or amendment of legislative proposals, Bills, regulations, policies, programs or to seek any grants, contributions or other financial benefits?

No		Yes	
----	--	-----	--

If yes, specify below:

Name of person and relationship to you	Purpose of dealings	Government institution to which representations are made

22. Sole or jointly held trusteeships, executorships, powers of attorney:

No		Yes	
----	--	-----	--

If yes, specify below:

Describe your responsibilities and provide name of others when jointly held	Name of person(s) you represent and relationship to you	Indicate whether active/inactive	If active, provide description and \$ value of assets

--	--	--	--

**Please take note:**

**23. Gifts, Hospitality or Other Benefits:**

*There is no requirement to report to the Ethics Counsellor the receipt of any gift, hospitality or benefit less than \$200 received from anyone source in a 12 (twelve) month period, but all gifts, hospitality and benefits that could influence public office holders in the discharge of their official duties and responsibilities must be declined.*

*Gifts, hospitality and benefits greater than \$200 are generally acceptable if they arose out of activities associated with the discharge of a public office holder=s official duties and responsibilities and must be reported to the Ethics Counsellor for the purposes of making a public declaration.*

*Where there is doubt as to the acceptability, the Ethics Counsellor should be consulted.*

**The information below is to be provided within 30 days of receipt, when having to report gifts, hospitality or other benefits:**

Description	Date of receipt	Name of donor and title	Event/occasion/circumstances

**Please take note:**

**24. Changes to Your Personal Situation:**

*You must inform the Ethics Counsellor of any change to your assets, investments, debts, and outside activities, within 30 days of the change taking place.*

**25. The above Confidential Report has been completed to the best of my knowledge, information and belief.**

**DATE:** \_\_\_\_\_

**SIGNATURE:**

\_\_\_\_\_

Office of the Ethics Counsellor  
22<sup>nd</sup> Floor, 66 Slater Street  
Ottawa, Ontario

K1A 0C9  
(613) 995-0721

## Annex 8 – Disclosure Form – Public Report: Canada

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

**Code régissant la conduite  
des titulaires de charge publique  
en ce qui concerne  
les conflits d'intérêts  
et l'après-mandat**

### SUMMARY STATEMENT

### DÉCLARATION SOMMAIRE

I, the undersigned, certify that in the position I now occupy, I have complied with the conflict of interest compliance measures set out in Part II of the *Conflict of Interest Code* as stated below.

Je, soussigné(e), atteste que dans le poste que j'occupe présentement, je me suis conformé(e) aux mesures d'observations énoncées dans la partie II du *Code régissant les conflits d'intérêts* telles qu'indiquées ci-dessous.

#### METHODS OF COMPLIANCE USED

#### MÉTHODES D'APPLICATION UTILISÉES

**Confidential Report**

**Rapport confidentiel**

**Public Declaration of**

**Déclaration publique de**

- Declarable Assets

- biens pouvant être déclarés

- Outside Activities

- activités extérieures

- Gifts, Hospitality or Other Benefits

- cadeaux, marques d'hospitalités ou autres avantages

**Divestment by**

**Dessaisissement par**

- Sale

- vente

- Trust

- fiducie

- Blind Management Agreement

- accord de gestion sans droit de regard

This Summary Statement is made in the knowledge that a certified copy will be placed in the Public Registry maintained by the Ethics Counsellor where it will be available to the public while I hold office and until file destruction approximately two years after I leave office.

Cette Déclaration sommaire est faite sachant qu'une copie conforme sera versée au Registre public maintenu par le conseiller en éthique laquelle sera accessible au public pour la durée de ma nomination et jusqu'à sa destruction, soit généralement deux ans après mon départ.

Date	Name/Nom	Signature
YYYY/MM/DD		Original signed by/ Original signé par