



Province of Alberta

## **PUBLIC SERVICE ACT**

Revised Statutes of Alberta 2000  
Chapter P-42

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### Office Consolidation

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# **PUBLIC SERVICE ACT**

## Chapter P-42

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### **Definitions**

**1** In this Act,

- (a) "Commissioner" means the Public Service Commissioner appointed pursuant to this Act;
- (b) "department" means
  - (i) a department of the Government or of the public service of Alberta established under the *Government Organization Act*,
  - (ii) a part of the public service of Alberta that is not part of a department referred to in subclause (i) and that is designated as a department for the purposes of this Act by the Lieutenant Governor in Council, or
  - (iii) the Legislative Assembly Office,  
and includes, as the case may be, the part of a department
  - (iv) administered by a department head referred to in clause (c)(viii)(B), or
  - (v) for which a deputy head referred to in clause (d)(viii)(B) is responsible to the department head;

- (c) “department head” means
- (i) the Speaker with respect to the Legislative Assembly Office,
  - (ii) the Auditor General with respect to the Office of the Auditor General,
  - (iii) the Ombudsman with respect to the Office of the Ombudsman,
  - (iv) the Chief Electoral Officer with respect to the Office of the Chief Electoral Officer,
  - (iv.1) repealed 2019 c15 s37,
  - (v) the Ethics Commissioner with respect to the Office of the Ethics Commissioner,
  - (vi) the Information and Privacy Commissioner with respect to the Office of the Information and Privacy Commissioner,
  - (vi.1) the Child and Youth Advocate with respect to the Office of the Child and Youth Advocate,
  - (vi.2) the Public Interest Commissioner with respect to the Office of the Public Interest Commissioner,
  - (vii) the chair of the Labour Relations Board with respect to the staff of that Board, or
  - (viii) with respect to any other department,
    - (A) the member of the Executive Council having the administration of the department, or
    - (B) where the administration of the department is assigned to 2 or more members of the Executive Council, each member with respect to the part of the department over which that member has the administration;
- (d) “deputy head” means
- (i) the Clerk of the Legislative Assembly with respect to the Legislative Assembly Office,
  - (ii) the Auditor General with respect to the Office of the Auditor General,

- (iii) the Ombudsman with respect to the Office of the Ombudsman,
- (iv) the Chief Electoral Officer with respect to the Office of the Chief Electoral Officer,
- (iv.1) repealed 2019 c15 s37,
- (v) the Ethics Commissioner with respect to the Office of the Ethics Commissioner,
- (vi) the Information and Privacy Commissioner with respect to the Office of the Information and Privacy Commissioner,
- (vi.1) the Child and Youth Advocate with respect to the Office of the Child and Youth Advocate,
- (vi.2) the Public Interest Commissioner with respect to the Office of the Public Interest Commissioner,
- (vii) the chair of the Labour Relations Board with respect to the staff of that Board, or
- (viii) with respect to any other department,
  - (A) the chief officer of the department, or
  - (B) if there is more than one chief officer of the department, the chief officer of that part of the department for which that chief officer is responsible to the department head;
- (e) “employee” means a person appointed to a position pursuant to this Act;
- (f) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

RSA 2000 cP-42 s1;2011 cC-11.5 s34;2012 cP-39.5 s60;  
2018 c11 s17;2019 c15 s37

#### **Application of Act**

**2(1)** Except as otherwise provided in this Act or any other enactment, this Act applies to all departments.

**(2)** The Auditor General, the Chief Electoral Officer, the Ombudsman, the Ethics Commissioner, the Information and Privacy Commissioner, the Child and Youth Advocate, the Public Interest Commissioner and the chair of the Labour Relations Board

shall be considered as employees for the purposes of this Act except in relation to their appointment, salary and tenure of office or any other conditions prescribed by the Act under which they are appointed.

(3) This Act does not impair nor otherwise affect an already established authority or control of the courts and judges over their officers.

(4) The Lieutenant Governor in Council may, on the recommendation of the Minister, make any provisions of this Act inapplicable to any employee or class or group of employees, other than an employee who is a member of a bargaining unit under the *Public Service Employee Relations Act*.

(5) A person who is appointed or employed

- (a) in accordance with,
- (b) pursuant to, or
- (c) subject to,

this Act, is an employee of the Crown in right of Alberta.

RSA 2000 cP-42 s2;2011 cC-11.5 s34;2012 cP-39.5 s60;  
2018 c11 s17;2019 c15 s37

3 Repealed 2003 c2 s1(27).

## **Part 1**

### **The Public Service Generally**

#### **Public Service Commission**

##### **Public Service Commission**

**4(1)** There is hereby established within the public service of Alberta an office to be known as the “Public Service Commission”.

**(2)** Subject to this Act, any employees required may be appointed to the staff of the Public Service Commission.

RSA 2000 cP-42 s4;2007 c15 s2;2016 c23 s6

##### **Public Service Commissioner**

**5(1)** The Lieutenant Governor in Council shall appoint a Public Service Commissioner who shall administer this Act subject to the general direction of the Minister.

**(2)** The Commissioner is

- (a) a Deputy Minister of the Minister responsible for this Act, and
  - (b) the deputy head of the Public Service Commission.
- (3)** The Commissioner may
- (a) delegate any powers, duties or functions conferred or imposed on the Commissioner by this Act or the regulations to an officer of the Public Service Commission;
  - (b) with respect to the employees of any department or any class or group of those employees, delegate any powers, duties or functions conferred or imposed on the Commissioner by this Act or the regulations to the deputy head of that department or an officer of that department;
  - (c) amend, replace or revoke any delegation made under this subsection;
  - (d) make any delegation made under this subsection subject to any conditions the Commissioner prescribes.

RSA 2000 cP-42 s5;2007 c15 s2;2016 c23 s6

**Duties of Commissioner**

- 6(1)** The Commissioner shall
- (a) advise the Minister respecting human resource policies, regulations and procedures;
  - (b) keep informed of developments in human resource administration so that they may be applied where desirable to the public service;
  - (c) advise and assist departments in the conduct of departmental human resource activities;
  - (d) provide on the request of a department, management advisory services in such areas as employee training and development, human resource planning and organization studies;
  - (e) advise the Minister as to how employee training programs of interdepartmental application may be co-ordinated between departments;
  - (f) conduct programs and investigations and prepare reports as required by the Minister or the Treasury Board concerning any aspect of staff utilization in the public service;

- (g) maintain the records that the Commissioner considers necessary for the proper administration of this Act or as directed by the Minister;
- (h) prescribe the use of forms as may be required for carrying out this Act and the regulations;
- (i) represent the Crown in right of Alberta under the *Public Service Employee Relations Act*.

(2) The Commissioner shall make an annual report to the Minister on the operations of the Public Service Commission for the preceding fiscal year that shall be laid before the Legislative Assembly at the next sitting of the Legislature.

RSA 2000 cP-42 s6;2007 c15 s2;2016 c23 s6

#### **Access to records**

7 The Commissioner and any officers of the Public Service Commission designated by the Commissioner for the purpose are entitled to access to the records and files of every department for the purpose of examining them and taking extracts from them or making copies of them when the records relate to human resource matters of that department or contain statistical information that is in the Commissioner's opinion required by the Commissioner for the purpose of enabling the Commissioner to carry out the Commissioner's duties under this Act and the regulations.

RSA 2000 cP-42 s7;2007 c15 s2;2016 c23 s6

#### **Organization and Management of Departments**

##### **Powers and duties of deputy head**

8(1) Subject to the general direction of the department head, the deputy head

- (a) shall oversee and control the attendance, conduct and work performance of the employees in the deputy head's department,
- (b) may, subject to any other Act relating to the organization of a department, divide the department into branches and divisions and assign duties to positions as required for the effective performance of the department's functions, and
- (c) may appoint an acting officer to have, during the absence of the incumbent, the power and authority of the office for which the acting officer is appointed to act, unless such an appointment is otherwise provided for by any other Act.

(2) For the purposes of this Act, a deputy head has the powers and may perform the duties of the deputy head's department head.

**(3)** A department head may appoint an employee of that department as the acting deputy head of that department, and an acting deputy head so appointed has, during the absence of the deputy head or a vacancy in the office of the deputy head, the powers and duties of the deputy head.

RSA 1980 cP-31 s7

#### **Delegation of powers and duties**

**9** A department head may, subject to the regulations, delegate any of the powers and duties granted to the department head by this Act to designated officials of the department head's department.

RSA 1980 cP-31 s8

### **Classification of Positions**

#### **Classification plan**

**10(1)** The Minister may with the approval of the Lieutenant Governor in Council establish one or more classification plans defining and designating the classes of positions in the public service

- (a) as a basis for uniform treatment of employees performing the same kind and level of work, and
- (b) to provide a systematic basis for organization and administration.

**(2)** Each position in a department shall be allocated to a class in a classification plan by the Commissioner.

**(3)** The Minister may from time to time amend a classification plan without the approval of the Lieutenant Governor in Council.

RSA 1980 cP-31 s9

#### **Exclusion from classification plan**

**11(1)** Notwithstanding section 10, the classification plan shall not include the positions of deputy ministers and any other positions or classes of positions that are excluded from it by the Minister with the approval of the Lieutenant Governor in Council.

**(2)** Before approving the exclusion of a position or class of positions from the classification plan, the Lieutenant Governor in Council shall obtain a report from the Commissioner as to the desirability of that action.

RSA 1980 cP-31 s10

#### **Regulations**

**12(1)** The Minister shall make regulations

- (a) providing for the establishment of one or more classification appeal boards,
  - (b) providing, in the case of each board so established, for the manner in which its members are to be appointed and its chair designated, and
  - (c) prescribing the procedure for appeals to a classification board and for the conduct of the appeals before a board.
- (2) An employee or a department head may appeal the allocation of a position in a classification plan in accordance with the regulations.
- (3) A classification appeal board shall, on concluding an appeal under this section, either dismiss the appeal or re-allocate the position concerned.
- (4) A decision of a classification appeal board under this section is binding on the Commissioner, the department head, the deputy head and the employee.

RSA 1980 cP-31 s11;1983 c45 s3

### Salary Determination

#### Official Pay Plan

- 13(1)** The Minister, with the approval of the Lieutenant Governor in Council, shall establish an Official Pay Plan for each classification plan established under section 10 showing in each case a salary range for each class in the classification plan.
- (2) If a position or class of positions is
- (a) included in a classification plan, but
  - (b) the person in the position or class is not included in or is excluded from a bargaining unit under the *Public Service Employee Relations Act*,

the Commissioner shall consult the head of any department concerned before recommending that the Official Pay Plan for that classification plan be amended.

- (3) The Minister may from time to time amend an Official Pay Plan without the approval of the Lieutenant Governor in Council.

RSA 1980 cP-31 s12;1983 c34 s4

**Salary recommendations**

**14(1)** The Commissioner shall, at the request of the Minister, prepare salary recommendations in respect of positions that are excluded from a classification plan pursuant to section 11.

**(2)** The Lieutenant Governor in Council shall establish salary ranges for positions so excluded.

RSA 1980 cP-31 s13

**Recruitment, Selection and Appointment****Policy governing appointments**

**15** Each appointment to, and promotion within, the public service shall be predicated on the selection of the most suitable applicant but wherever possible preference shall be given to in-service applicants in order to establish a career service and to provide incentive and reward for good work performance and self-development.

RSA 1980 cP-31 s14

**Filling of positions**

**16(1)** The Commissioner shall designate the positions or classes of positions in a classification plan as those to be filled by

- (a) in-service promotion where
  - (i) due to the necessity for prior experience in the public service or due to the existence of a formal in-service training plan, it is unlikely that better applicants can be found outside the service, and
  - (ii) the eligible employees are sufficiently well-known that competition procedure is unnecessary,
- (b) departmental competitions where the type of work is such that a large number of well-qualified applicants exists within the department,
- (c) limited competition where a large number of well-qualified applicants exists within the service, or
- (d) open competitions where sufficient in-service applicants would not normally be forthcoming to ensure a good selection.

**(2)** Notwithstanding subsection (1), a department head may request that any position designated to be filled by in-service promotion or departmental competition be filled by limited or open competition.

- (3)** The Commissioner may exempt an appointment from competition if the Commissioner is satisfied that
- (a) the person to be appointed has specialized knowledge or qualifications that are unlikely to be bettered through competition,
  - (b) the urgency of the requirement is such as to render the competition procedure impracticable, or
  - (c) the exemption is necessary for the effective utilization of employees.

RSA 1980 cP-31 s15;1983 c45 s4

**Competitions**

- 17(1)** Departmental competitions shall be conducted by the department head.
- (2)** Limited and open competitions shall be conducted by the Commissioner.
- (3)** Competitions conducted by a department head must be conducted in accordance with the rules and procedures prescribed by the Commissioner.

RSA 1980 cP-31 s16

**Appointments**

- 18(1)** All appointments to positions in a classification plan shall be made by the department head.
- (2)** When a position
- (a) is to be filled by in-service promotion or by limited or open competition, or
  - (b) is exempt from competition under section 16(3)(a) or (b),
- an appointment to the position is subject to certification that the person to be appointed is qualified for the position.
- (3)** The certification shall be made in accordance with the directions of the Commissioner and by the persons authorized to do so by those directions.
- (4)** Appointments made to positions excluded from a classification plan pursuant to section 11 shall be made by order of the Lieutenant Governor in Council on the recommendation of the department head.

RSA 1980 cP-31 s17;1983 c45 s5

**Probationary appointments**

**19(1)** On commencing employment in the public service, each employee is on probationary appointment during the period the regulations specify.

**(2)** An employee may be granted permanent appointment on satisfactory completion of a probationary period.

**(3)** An employee who is hired specifically for a temporary position may be granted a temporary appointment.

RSA 1980 cP-31 s18

**Conditions of Service****Oath of office**

**20(1)** Every new employee shall take and subscribe an oath in the following form:

I, \_\_\_\_\_, do swear that I will execute according to law and to the best of my ability the duties required of me as an employee in the public service of Alberta and that I will not, without due authorization, disclose or make known any matter or thing which comes to my knowledge by reason of my employment in the public service.

**(2)** Any employee who without due authorization discloses or makes known any matter or thing that comes to the employee's knowledge by reason of the employee's employment in the public service of Alberta is guilty of an offence and liable to a fine of not more than \$500.

RSA 1980 cP-31 s20

**Regulations**

**21** Subject to any collective agreement between the Crown in right of Alberta and a bargaining agent under the *Public Service Employee Relations Act*, the Minister may make regulations governing:

- (a) the attendance and hours of work of employees;
- (b) the granting of holidays;
- (c) overtime;
- (d) annual vacation, sick leave, educational leave and any other form of leave of absence;
- (e) the application of salary ranges;
- (f) the settlement of employee grievances;

- (g) the transfer, promotion or demotion of employees;
- (h) the conduct, discipline, dismissal or suspension of employees;
- (i) any other matter falling within the scope and purpose of this Act.

RSA 1980 cP-31 s21;1983 c45 s6

#### **Abolishment of position**

##### **22** When a position is abolished

- (a) every effort shall be made to place the employee who occupied that position in any other position in the public service for which the employee is qualified, but
- (b) if no suitable position can be found, the employee shall be released and shall be given preference for re-employment over equally qualified applicants.

RSA 1980 cP-31 s22

#### **Code of conduct and ethics**

**23(1)** The Lieutenant Governor in Council may make regulations respecting a code of conduct and ethics for the public service generally.

**(2)** Each department head may issue a supplementary code of conduct and ethics respecting matters of concern to the department head's department.

**(3)** A department head may hold an employee's failure to comply with a code of conduct and ethics or a supplementary code of conduct and ethics issued by the department head under subsection (2) to be misconduct for the purposes of disciplinary action under section 25.

RSA 2000 cP-42 s23;2014 c9 s3

**23.1** Repealed 2014 c9 s3.

#### **Certain dealings by employees prohibited**

**24(1)** Unless authorized by general regulations or particular orders made by the Lieutenant Governor in Council,

- (a) no employee
  - (i) shall be a bidder at a sale of Crown land, or
  - (ii) shall acquire an estate or interest in Crown land,

either directly or indirectly, in the employee's own name or through another person or in the name of a person in trust for the employee,

- (b) no employee shall
  - (i) be a shareholder or director of a corporation or company that has an estate or interest in Crown land, or
  - (ii) have directly or indirectly an interest in shares of a company that has an estate or interest in Crown land in the employee's own name or through another person or in the name of a person in trust for the employee,  
  
unless the shares of the company are regularly quoted and dealt in on a recognized stock exchange, and
- (c) no employee shall take or receive for the employee's own use a fee or emolument for negotiating or transacting any business connected with the employee's official duties.

(2) An employee who wilfully contravenes this section is guilty of an offence and liable to a fine of not more than \$500, and in default of payment to a term of imprisonment for not more than 3 months.

(3) An estate or interest in Crown land acquired in contravention of this section is void.

(4) In this section, "Crown land" means all land, mines and minerals belonging to the Crown in right of Alberta and any estate or interest in the land, mines and minerals, including, without limitation,

- (a) an agreement or mineral claim within the meaning of the *Mines and Minerals Act*,
- (b) a disposition within the meaning of the *Public Lands Act*, and
- (c) a lease, licence or permit under the *Forests Act*.

(5) Repealed 2009 cA-31.7 s17.

RSA 2000 cP-42 s24;2009 cA-31.7 s17

#### **Disciplinary action**

**25(1)** Subject to any collective agreement between the Crown in right of Alberta and a bargaining agent under the *Public Service Employee Relations Act*, an employee may be dismissed, suspended or subjected to other disciplinary action by the employee's department head

- (a) if the employee is unable to satisfactorily perform the employee's duties, or
- (b) for misconduct, improper conduct or negligence.

(2) Subject to any collective agreement between the Crown in right of Alberta and a bargaining agent under the *Public Service Employee Relations Act*, if the employee is on permanent appointment the employee may appeal against the dismissal or other disciplinary action in the manner prescribed by the regulations.

(3) Nothing in this section or the regulations impairs or otherwise affects the right of the Lieutenant Governor in Council to reinstate or dismiss any employee.

RSA 1980 cP-31 s25

### Termination

#### Notice of termination and severance pay

**25.01(1)** In this section and sections 25.02 and 25.04,

- (a) "base salary" means one half of the employee's regular biweekly rate of pay at the time of termination;
- (b) "continuous service" means the last period of employment that is not interrupted by a break in service;
- (c) "office of the Legislature" means
  - (i) the Legislative Assembly Office,
  - (ii) the Office of the Auditor General,
  - (iii) the Office of the Ombudsman,
  - (iv) the Office of the Chief Electoral Officer,
  - (v) the Office of the Ethics Commissioner,
  - (vi) the Office of the Information and Privacy Commissioner,
  - (vii) the Office of the Child and Youth Advocate, and
  - (viii) the Office of the Public Interest Commissioner.

(2) This section does not apply to

- (a) an employee who is a member of a bargaining unit under the *Public Service Employee Relations Act*, or

- (b) an employee who
  - (i) holds a position excluded from a classification plan pursuant to section 11, and
  - (ii) is employed under a contract of employment that specifies the notice of termination, severance payments or combination thereof to which the employee is entitled on termination of employment.

**(3)** Notwithstanding any right existing at common law, an employee who is terminated without cause is entitled to a period of notice of termination no greater than the following:

- (a) where the employee has less than one year of continuous service, 2 weeks;
- (b) where the employee has one or more years of continuous service, 4 weeks for every full year of continuous service up to a maximum of 78 weeks.

**(4)** Subject to subsection (6), an employee who is terminated without cause may be provided severance pay, determined in accordance with subsection (5), in lieu of all or any portion of the period of notice of termination to which the employee is entitled under subsection (3).

**(5)** The amount of severance pay that may be provided under subsection (4) is the amount determined by the formula

$$1.16 \times A \times B$$

where

- A is the employee's base salary;
- B is the number of weeks for which severance pay is to be provided in lieu of notice of termination.

**(6)** No severance pay shall be provided under subsection (4) without the approval of

- (a) in the case of termination of an employee of an office of the Legislature, the deputy head of that office, or
- (b) in the case of the termination of an employee other than an employee of an office of the Legislature, the Commissioner and the Deputy Attorney General.

(7) The Deputy Attorney General may delegate to any person the authority to approve the provision of severance pay under subsection (6)(b).

(8) Where there is a conflict between this section and section 54 of the *Employment Standards Code*, this section prevails.

2019 c18 s15;2020 c23 s15

### Repayment

**25.02(1)** Where an employee who has received severance pay becomes employed with any of the following employers during the period of notice to which the severance pay is attributable, the employee shall repay the amount determined under subsection (1.1):

- (a) the Crown in right of Alberta;
- (b) a public agency to which the *Alberta Public Agencies Governance Act* applies;
- (c) an office of the Legislature.

(1.1) The amount to be repaid under subsection (1) is the lesser of

- (a) the gross amount of severance pay received by the employee, and
- (b) the gross amount of earnings of the employee from employment with the employer referred to in subsection (1) during the period of notice to which the severance pay received by the employee is attributable.

(2) An amount required to be repaid under subsection (1) is a debt due the Crown in right of Alberta and may be recovered by the Crown by action or by withholding the amount to be repaid from any salary or other money that would otherwise be payable to the employee by the employer referred to in that subsection.

2019 c18 s15;2020 c23 s15

### No constructive dismissal or breach of contract

**25.03** Neither the enactment or application of this section and sections 25.01, 25.02, 25.04 and 25.05 nor changes to the compensation that is payable to an employee as a result of those sections shall be considered constructive dismissal or breach of contract.

2019 c18 s15

### No cause of action

**25.04(1)** No cause of action or proceeding lies or shall be commenced against the Crown or any of its ministers, agents,

appointees or employees, or against the Legislative Assembly, the Speaker of the Legislative Assembly, an office of the Legislature, or any agents, appointees or employees of the Legislative Assembly or an office of the Legislature

- (a) as a direct or indirect result of the enactment of this section and sections 25.01 to 25.03 and 25.05, or
- (b) as a direct or indirect result of anything done or omitted to be done in order to comply with this section and sections 25.01 to 25.03 and 25.05, including any denial or reduction of compensation that would otherwise have been payable to any person.

(2) Without limiting the generality of subsection (1), that subsection applies to an action or proceeding in contract, restitution, tort, trust, fiduciary obligation or otherwise claiming any remedy or relief, including

- (a) specific performance, injunction or declaratory relief, and
- (b) any form of damages or a claim to be compensated for any losses, including loss of earnings, loss of revenue or loss of profit.

2019 c18 s15;2020 c23 s15

#### **No entitlement to compensation**

**25.05** Notwithstanding any other law, no person is entitled to be compensated for any loss or damages, including loss of expected earnings or denial or reduction of compensation that would otherwise have been payable to any person, arising from the enactment or application of this section and sections 25.01 to 25.04, or anything done in accordance with those sections.

2019 c18 s15

## **Part 2 Designated Office Holders**

### **Interpretation**

#### **Interpretation**

**25.1(1)** In this Part,

- (a) “designated office holder” means a designated office holder referred to in section 25.2;
- (b) “Ethics Commissioner” means the person appointed as Ethics Commissioner under the *Conflicts of Interest Act*;

- (c) “former designated office holder” means a designated office holder who has ceased to hold a position referred to in section 25.2;
- (d) “provincial agency” means a Provincial agency as defined in the *Financial Administration Act*, and includes a management body within the meaning of the *Alberta Housing Act* and a regional health authority and a subsidiary health corporation under the *Regional Health Authorities Act*.

**(2)** For the purposes of this Part, a person is directly associated with a designated office holder if that person is

- (a) the designated office holder’s spouse or adult interdependent partner,
- (b) a corporation having share capital and carrying on business or activities for profit or gain of which the designated office holder is a director or senior officer,
- (c) a private corporation carrying on business or activities for profit or gain of which the designated office holder owns or is the beneficial owner of shares,
- (d) a partnership
  - (i) of which the designated office holder is a partner, or
  - (ii) of which one of the partners is a corporation directly associated with the designated office holder by reason of clause (b) or (c),

or

- (e) a person or group of persons acting with the express or implied consent of the designated office holder.

**(3)** In this Part, “private interest” does not include the following:

- (a) an interest in a matter
  - (i) that is of general application,
  - (ii) that affects a designated office holder as one of a broad class of the public, or
  - (iii) that concerns the remuneration and benefits of a designated office holder;

- (b) an interest that is trivial;
  - (c) an interest of a designated office holder relating to publicly-traded securities held in the designated office holder's blind trust or investment arrangement approved by the Ethics Commissioner under section 25.24.
- (4) Sections 2(4) and 28(4) do not apply in respect of this Part.
- (5) Repealed 2020 c20 s5.

2014 c9 s3;2017 c20 s5

### Obligations

#### Deputy ministers and other designated office holders

**25.2** The following persons are designated office holders:

- (a) a person appointed to the position of deputy minister under section 4 of the *Government Organization Act*;
- (b) a member of the public service or a person employed by the Crown pursuant to a contract of employment holding a position designated by the Lieutenant Governor in Council for the purposes of this Part.
- (c) repealed 2017 c20 s5.

2014 c9 s3;2017 c20 s5

#### Decisions furthering private interests

**25.21** A designated office holder breaches this Part if he or she takes part in a decision in the course of carrying out his or her office or powers knowing that the decision might further a private interest of the designated office holder, a person directly associated with the designated office holder or the designated office holder's minor or adult child.

2014 c9 s3

#### Influence

**25.22** A designated office holder breaches this Part if the designated office holder uses his or her office or powers to influence or to seek to influence a decision to be made on behalf of the Crown or a provincial agency to further a private interest of the designated office holder, a person directly associated with the designated office holder or the designated office holder's minor child or to improperly further any other person's private interest.

2014 c9 s3

#### Insider information

**25.23** A designated office holder breaches this Part if he or she uses or communicates information not available to the general

public that was gained by the designated office holder in the course of carrying out his or her office or powers to further or seek to further a private interest of the designated office holder or any other person's private interest.

2014 c9 s3

**Restriction on holdings****25.24(1)** In this section,

- (a) "publicly-traded securities" means
  - (i) securities of a corporation that are listed or posted for trading on a recognized stock exchange, or
  - (ii) securities of a corporation that has more than 15 shareholders and any of whose issued securities were part of a distribution to the public;
- (b) "securities" means
  - (i) shares of any class or series of shares of a corporation, or
  - (ii) bonds, debentures, notes or other evidence of indebtedness or guarantees of a corporation, whether secured or unsecured,

but does not include shares or units in a mutual fund.

**(2)** A designated office holder breaches this Part if the designated office holder, after the expiration of the relevant period referred to in subsection (9), owns or has a beneficial interest in publicly-traded securities.

**(3)** Repealed 2017 c20 s5.

**(4)** Subsection (2) does not apply if

- (a) the publicly-traded securities are held in a blind trust approved under subsection (6) or in an investment arrangement approved under subsection (7),
- (b) prior to the expiration of the relevant period referred to in subsection (9), the designated office holder applies to the Ethics Commissioner for approval to retain ownership of or a beneficial interest in the publicly-traded securities and either obtains the Ethics Commissioner's approval or, if the approval is refused, takes any steps that the Ethics Commissioner directs with respect to the disposition of the ownership or beneficial interest, or

- (c) after the expiration of the relevant period referred to in subsection (9), the designated office holder acquires ownership of or a beneficial interest in publicly-traded securities with the prior approval of the Ethics Commissioner.

**(5)** The Ethics Commissioner may give an approval

- (a) under subsection (4)(b) or (c) if the Ethics Commissioner is of the opinion that the publicly-traded securities are securities of a corporation the interests of which are not likely to be affected by decisions of the Government, or
- (b) under subsection (4)(b) if the Ethics Commissioner is of the opinion that the designated office holder will sustain a financial loss if the publicly-traded securities are disposed of and the public interest does not require disposition of the publicly-traded securities by the designated office holder.

**(6)** The Ethics Commissioner may approve the retention of publicly-traded securities to be held in a blind trust if the blind trust will meet the following criteria:

- (a) the designated office holder is the settlor of the trust;
- (b) the trustee is approved as trustee by the Ethics Commissioner after the Ethics Commissioner is satisfied that there is no relationship between the designated office holder and the trustee that would affect or would appear to affect the discharge of the trustee's duties;
- (c) the terms of the trust, in the opinion of the Ethics Commissioner,
  - (i) give the trustee sole power over investment decisions,
  - (ii) preclude the designated office holder from having any knowledge of the specific investments in the trust at any time after a deposit in the trust,
  - (iii) require that the designated office holder may deposit in the trust only securities verified by the Ethics Commissioner as being publicly-traded securities, shares or units in a mutual fund, futures and forward contracts or exchange contracts, and
  - (iv) require the trustee to invest only in publicly-traded securities, in shares or units in a mutual fund, in futures and forward contracts, in exchange contracts or in certificates of deposit, deposit receipts or other evidence

of indebtedness given by a bank, trust company, credit union or treasury branch in consideration of a deposit made with the bank, trust company, credit union or treasury branch.

**(7)** The Ethics Commissioner may approve the retention of publicly-traded securities to be held in an investment arrangement if the investment arrangement will meet the following criteria:

- (a) it gives a person other than the designated office holder sole power over investment decisions,
- (b) it precludes the designated office holder from having any knowledge of the specific investments at any time after a deposit to the investment arrangement, and
- (c) it ensures there will be no relationship between the designated office holder and the person referred to in clause (a) that would affect or would appear to affect that person's investment decisions.

**(8)** An approval or direction given by the Ethics Commissioner under subsection (4) may be given subject to any conditions determined by the Ethics Commissioner.

**(9)** For the purposes of subsections (2) and (4),

- (a) with respect to a designated office holder, the relevant period is
  - (i) in the case of a person who becomes a designated office holder after the coming into force of this section, 60 days after becoming a designated office holder or any longer period that the Ethics Commissioner directs, or
  - (ii) in the case of a person who is a designated office holder when this section comes into force, 60 days after the coming into force of this section or any longer period that the Ethics Commissioner directs,

and

- (b) with respect to a designated office holder who acquires ownership of or a beneficial interest in publicly-traded securities by gift or inheritance, the relevant period is 60 days after receiving the gift or inheritance or any longer period that the Ethics Commissioner directs.

2014 c9 s3

## Disclosure

### Disclosure statements

**25.3(1)** Every designated office holder shall file with the Ethics Commissioner a disclosure statement in the form and manner determined by the Ethics Commissioner

- (a) within 60 days after
  - (i) becoming a designated office holder, in the case of a person who becomes a designated office holder after the coming into force of this section, or
  - (ii) the coming into force of this section, in the case of a person who is a designated office holder when this section comes into force,

and

- (b) in each subsequent year at the time specified by the Ethics Commissioner.

**(2)** A designated office holder shall, within 30 days after the occurrence of any material changes to the information contained in a current disclosure statement, file with the Ethics Commissioner an amending disclosure statement in the form and manner determined by the Ethics Commissioner setting out the changes.

**(3)** Section 12(a) to (d) of the *Conflicts of Interest Act* apply for the purpose of establishing the contents of and additional time requirements for the disclosure statements referred to in subsection (1).

2014 c9 s3

### Returns relating to persons directly associated

**25.31(1)** Every designated office holder shall file with the Ethics Commissioner a return relating to persons directly associated with the designated office holder in the form and manner determined by the Ethics Commissioner

- (a) within 60 days after
  - (i) becoming a designated office holder, in the case of a person who becomes a designated office holder after the coming into force of this section, or
  - (ii) the coming into force of this section, in the case of a person who is a designated office holder when this section comes into force,

- (b) within 30 days after the occurrence of any material change in the information contained in a current return, and
- (c) within 30 days after the day he or she ceases to be a designated office holder.

**(2)** Section 15(1)(a) and (b) and (2) of the *Conflicts of Interest Act* apply for the purpose of establishing the contents of and additional time requirements for a designated office holder's returns under this section.

**(3)** On receipt of a return filed by a designated office holder under this section, the Ethics Commissioner shall provide a copy of the return,

- (a) in the case of a return filed by a deputy minister, to the Deputy Minister of Executive Council,
- (b) in the case of a return filed by the Deputy Minister of Executive Council, to the Premier,
- (c) in the case of a return filed by a member or person referred to in section 25.2(b), to the deputy minister to whom the member or person reports, and
- (d) repealed 2017 c20 s5.

2014 c9 s3;2017 c20 s5

#### **Failure to file**

**25.32(1)** A designated office holder breaches this Part if the designated office holder does not file within the time required by this Part, or if the designated office holder knowingly gives false or misleading information in,

- (a) a disclosure statement under section 25.3(1),
- (b) an amending disclosure statement under section 25.3(2), or
- (c) a return under section 25.31(1).

**(2)** If the Ethics Commissioner is of the opinion that a designated office holder has breached the time requirements for filing a disclosure statement, an amending disclosure statement or a return referred to in subsection (1), sections 30.1(1) to (8) and 30.2 of the *Conflicts of Interest Act* apply in respect of an administrative penalty.

**(3)** The Ethics Commissioner shall prepare a report setting out the following:

- (a) the name of the designated office holder required to pay an administrative penalty;
  - (b) the particulars of the breach;
  - (c) the amount of the administrative penalty;
  - (d) whether the administrative penalty was paid or appealed;
  - (e) any other information that the Ethics Commissioner considers appropriate.
- (4) The report referred to in subsection (3) must be provided
- (a) in the case of a breach by a deputy minister, to the Deputy Minister of Executive Council,
  - (b) in the case of a breach by the Deputy Minister of Executive Council, to the Premier, and
  - (c) in the case of a breach by a member or person referred to in section 25.2(b), to the deputy minister to whom the member or person reports.
  - (d) repealed 2017 c20 s5.

2014 c9 s3;2017 c20 s5

**Retention of statements and returns**

**25.33** The Ethics Commissioner shall retain each designated office holder's disclosure statements, amending disclosure statements and returns for a period of 3 years after the designated office holder ceases to be a designated office holder, after which the statements and returns may be destroyed.

2014 c9 s3

**Reimbursement for costs**

**25.34(1)** Designated office holders are entitled to be reimbursed for

- (a) costs associated with the completion of their disclosure statements, and
- (b) costs associated with the establishment and administration of a blind trust or an investment arrangement approved by the Ethics Commissioner under section 25.24.

(2) The amount of the reimbursement is subject to the approval of the Ethics Commissioner.

2014 c9 s3

### Post-employment Restrictions

#### Post-employment restrictions

**25.4(1)** No former designated office holder shall, for a period of 12 months from the last day the former designated office holder held a position referred to in section 25.2, lobby as defined in the *Lobbyists Act* any public office holder as defined in the *Lobbyists Act*.

**(2)** No former designated office holder shall, for a period of 12 months from the last day the former designated office holder held a position referred to in section 25.2, act on a commercial basis or make representations on his or her own behalf or on behalf of any other person in connection with any ongoing matter in connection with which the former designated office holder, while in office, directly acted for or advised a department or a provincial agency involved in the matter.

**(3)** No former designated office holder shall, for a period of 12 months from the last day the former designated office holder had a direct and significant official dealing with a department or provincial agency, make representations with respect to a contract with or benefit from that department or provincial agency.

**(4)** No former designated office holder shall, for a period of 12 months from the last day the former designated office holder had a direct and significant official dealing with a department or provincial agency, solicit or accept on his or her own behalf a contract or benefit from that department or provincial agency.

**(5)** No former designated office holder shall, for a period of 12 months from the last day the former designated office holder had a direct and significant official dealing with an individual, organization, board of directors or equivalent body of an organization, accept employment with that individual or organization or an appointment to the board of directors or equivalent body.

**(6)** Repealed 2017 c20 s5.

**(7)** Nothing in this section restricts a former designated office holder from accepting employment with a department of the public service or a provincial agency in accordance with Part 1 of this Act.

2014 c9 s3;2017 c20 s5

#### Waiver or reduction

**25.41(1)** A designated office holder or former designated office holder may apply to the Ethics Commissioner for a waiver or reduction of a time period set out in section 25.4, and the Ethics

Commissioner may waive or reduce any time period set out in section 25.4 if, in the opinion of the Ethics Commissioner,

- (a) the conditions on which and the manner in which the employment, appointment, contract or benefit is awarded, approved or given are the same for all persons similarly entitled,
- (b) the award, approval, grant or benefit results from an impartially administered process open to a significant class of persons, or
- (c) the activity, contract or benefit will not create a conflict between a private interest of the former designated office holder and the public interest.

(2) The Ethics Commissioner may under subsection (1)(c) waive or reduce a time period set out in section 25.4 on any conditions that the Ethics Commissioner determines.

2014 c9 s3

#### **Breach and offence**

**25.42(1)** A former designated office holder who contravenes section 25.4 and who at the time of the contravention is a member of the public service breaches this Part and may be subject to disciplinary action pursuant to section 25.

(2) A former designated office holder who contravenes section 25.4 and who at the time of the contravention is not a member of the public service is guilty of an offence and liable to a fine not exceeding \$50 000.

(3) A prosecution of an offence described in subsection (2) shall not be commenced more than 2 years after the date on which the alleged offence occurred.

(4) If a former designated office holder or any other person has realized financial gain in any transaction to which a conviction under subsection (2) relates, any person affected by the financial gain, including the Government or a provincial agency, may apply to the Court of Queen's Bench for an order of restitution against the former designated office holder or any other person who has realized the financial gain.

2014 c9 s3;2017 c20 s5

### **Ethics Commissioner's Role and Investigations**

#### **General role and duties of the Ethics Commissioner**

**25.5** Sections 13, 42, 43 and 44 of the *Conflicts of Interest Act* apply for the purposes of the role and duties to be performed by the Ethics Commissioner in regard to a designated office holder or former designated office holder.

2014 c9 s3

#### **Requests for investigation**

**25.51(1)** Any person may request, in writing, that the Ethics Commissioner investigate any matter respecting the following:

- (a) an alleged breach or contravention of this Part by a designated office holder or former designated office holder;
- (b) an alleged failure to comply with a code of conduct and ethics referred to in section 25.6.

**(2)** A request under subsection (1) must

- (a) be signed by the person making it and must identify that person to the satisfaction of the Ethics Commissioner, and
- (b) set out sufficient particulars of the matter to which the request relates for an investigation to be commenced.

2014 c9 s3

#### **Investigation**

**25.52(1)** Section 25(1) to (3) and (5) to (10) of the *Conflicts of Interest Act* apply for the purposes of

- (a) an investigation under this Part, and
- (b) an investigation of a failure to comply with a code of conduct and ethics referred to in section 25.6.

**(2)** If the Ethics Commissioner refuses to investigate or ceases to investigate an alleged breach or contravention, suspends an investigation of an alleged breach or contravention or refuses to re-investigate an alleged breach or contravention, the Ethics Commissioner shall provide a notice in accordance with subsection (4).

**(3)** If the Ethics Commissioner is of the opinion that a request made under section 25.51(1) was frivolous or vexatious or was not made in good faith, the Ethics Commissioner may state that opinion in a report provided in accordance with subsection (4).

- (4) A notice referred to in subsection (2) or a report referred to in subsection (3) must be provided
- (a) to the individual against whom the allegation was made,
  - (b) to the person who made the request under section 25.51,
  - (c) in the case of a notice or report relating to a deputy minister, to the Deputy Minister of Executive Council,
  - (d) in the case of a notice or report relating to the Deputy Minister of Executive Council, to the Premier,
  - (e) in the case of a notice or report relating to a member or person referred to in section 25.2(b), to the deputy minister to whom the member or person reports, and
  - (f) repealed 2017 c20 s5,
  - (g) in the case of a former designated office holder, to an individual referred to in clauses (c) to (f), as the Ethics Commissioner considers appropriate.

2014 c9 s3;2017 c20 s5

**Confidentiality**

**25.53(1)** Except as provided in this section, the Ethics Commissioner and any former Ethics Commissioner and a person who is or was employed or engaged by the Office of the Ethics Commissioner shall maintain the confidentiality of all information and allegations that come to their knowledge in the course of the administration of this Part.

- (2) Allegations and information to which subsection (1) applies may be
- (a) disclosed to the individual against whom the allegation was made,
  - (b) disclosed by a person conducting an investigation to the extent necessary to enable that person to obtain information from another person,
  - (c) disclosed in a notice or report made by the Ethics Commissioner under this Part, and
  - (d) disclosed to the Minister of Justice and Solicitor General or a law enforcement agency where the Ethics Commissioner believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Solicitor General or a law enforcement agency of an

alleged offence under this Part or any other enactment of  
Alberta or an Act of the Parliament of Canada

2014 c9 s3

### **Ethics Commissioner's report**

**25.54(1)** The Ethics Commissioner shall prepare a report regarding the outcome of an investigation under this Part.

**(2)** The report referred to in subsection (1) must be concise and may set out the following:

- (a) the facts relating to the alleged breach or contravention found by the Ethics Commissioner;
- (b) the Ethics Commissioner's findings as to whether a designated office holder or former designated office holder has breached or contravened this Part and, if so, the nature of the breach or contravention, including any contravention of advice, recommendations or directions or conditions of approval given by the Ethics Commissioner;
- (c) the Ethics Commissioner's recommendations, if any.

**(3)** If the Ethics Commissioner is of the opinion that the breach was trivial, inadvertent or committed in good faith, the Ethics Commissioner may recommend that no sanction be imposed.

**(4)** Where it appears to the Ethics Commissioner that a report may adversely affect a designated office holder or former designated office holder, the Ethics Commissioner shall inform the designated office holder or former designated office holder of the particulars and give the designated office holder or former designated office holder the opportunity to make representations, either orally or in writing at the discretion of the Ethics Commissioner, before the Ethics Commissioner completes the report.

**(5)** Where the Ethics Commissioner considers it appropriate in the circumstances, the Ethics Commissioner may recommend that the designated office holder or former designated office holder be reimbursed, in an amount approved by the Ethics Commissioner, for his or her legal expenses incurred in respect of an investigation.

**(6)** The report referred to in subsection (1) may be disclosed

- (a) to the individual against whom an allegation was made,
- (b) to the Deputy Minister of Executive Council,
- (c) in the case of a report relating to a deputy minister, to the Minister to whom the deputy minister reports,

- (d) in the case of a report relating to the Deputy Minister of Executive Council, to the Premier,
- (e) in the case of a report relating to a member or person referred to in section 25.2(b), to the deputy minister to whom the member or person reports,
- (f) repealed 2017 c20 s5,
- (g) in the case of a former designated office holder, to an individual referred to in clauses (c) to (e), as the Ethics Commissioner considers appropriate, and
- (h) where the Ethics Commissioner believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Solicitor General or a law enforcement agency of an alleged offence under this Part or any other enactment of Alberta or an Act of the Parliament of Canada, to the Minister of Justice and Solicitor General or a law enforcement agency.

2014 c9 s3;2017 c20 s5

### Codes of Conduct

#### Designated office holders' codes of conduct and ethics

**25.6(1)** The Lieutenant Governor in Council may make regulations respecting one or more codes of conduct and ethics for designated office holders.

**(2)** One or more of the codes of conduct and ethics made under subsection (1) must provide that a designated office holder, subject to any entitlements to termination pay under the *Employment Standards Code*, shall not accept, or enter into an agreement providing for, more than one severance payment from the Government or a Provincial agency in a 5-year period commencing from the receipt of the first severance payment.

**(3)** Until replaced by a code of conduct and ethics referred to in subsection (1), the following codes of conduct and ethics and any applicable supplementary code of conduct and ethics referred to in section 23 apply, to the extent that they are consistent with this Part, to

- (a) a person appointed to the position of deputy minister under section 4 of the *Government Organization Act*, and
- (b) a member of the public service or a person employed by the Crown pursuant to a contract of employment holding a

position designated by the Lieutenant Governor in Council for the purposes of this Part.

(4) A designated office holder breaches this Part if he or she breaches a code of conduct and ethics, a supplementary code of conduct and ethics or a code of conduct that applies to the designated office holder by operation of this section.

2014 c9 s3;2017 c20 s5

## Regulations

### Regulations

**25.7** The Lieutenant Governor in Council may make regulations

- (a) respecting the application of those provisions of the *Conflicts of Interest Act* referred to in this Part that apply for the purposes of this Part;
- (b) respecting any transitional matter relating to this Part.

2014 c9 s3

## Part 3 General

### Wage employees

**26(1)** In this section, “wage employee” means a person employed in or under any department of the Government, including the Executive Council and the Legislative Assembly, who is paid at an hourly, daily, weekly or monthly rate.

(2) Wage employment may be used

- (a) under conditions that do not permit employment throughout a day, week or month, or
- (b) when necessitated by the employment practices of competitive private employers.

(3) This Act, except sections 20, 24 and this section, does not apply to wage employees.

(4) The Minister may make regulations governing the appointment, payment and conditions of service of wage employees.

RSA 1980 cP-31 s26;1983 c45 s7

### Certificate of appointment as evidence

**27** A certificate

- (a) purporting to be signed by a department head, and

- (b) stating that the person named in the certificate holds a designated position or office in the public service,

shall be admitted in evidence as proof, in the absence of evidence to the contrary, of that fact without proof of the signature or official character of the person appearing to have signed the certificate.

RSA 1980 cP-31 s28

### **Contract of employment**

**28(1)** Notwithstanding anything in this Act, a department head may, on behalf of the Government, enter into a contract of employment with any person in accordance with this section if the department head is authorized to do so under the regulations made pursuant to this section.

**(2)** A contract of employment shall not be entered into under this section with an employee who is part of a bargaining unit under the *Public Service Employee Relations Act*.

**(3)** A contract of employment under this section shall provide for

- (a) the remuneration to be paid to the employee;
- (b) the duration of the term of employment;
- (c) subject to clause (d), the period of notice required to be given by the employee or the department head to terminate the employment;
- (d) the amount of remuneration to be paid by the Government instead of the giving of notice to the employee;
- (e) the terms and conditions of the employment.

**(4)** A contract of employment under this section may

- (a) make inapplicable to the employee any of the provisions of this Act or the regulations under this Act;
- (b) vary, or qualify the application of, any of the provisions of this Act or any regulations under this Act.

**(5)** The Minister may make regulations

- (a) prescribing the circumstances and conditions under which a department head may enter into a contract of employment under this section;
- (b) prescribing any terms and conditions of employment under contracts authorized pursuant to clause (a).

(6) The contract of employment may exclude the employee from the Public Service Pension Plan.

RSA 1980 cP-31 s29;1983 c45 s8;1984 cP-35.1 s51

**Employment on fee-for-service basis**

**29(1)** The Lieutenant Governor in Council, on the recommendation of the Minister, may by order

- (a) engage any person to provide to the Government the services specified in the order;
- (b) authorize the payment of fees to that person and remuneration to be paid for that person's travelling and living expenses incurred while absent from the person's place of residence in the course of performing the person's services;
- (c) provide for any other matter in connection with the engagement of that person's services or the services required to be performed.

**(2)** The Lieutenant Governor in Council, on the recommendation of the Minister, may delegate the powers under subsection (1) to a department head either generally or in specified cases and in either case shall prescribe the circumstances under which and the conditions on which the department head may exercise the powers so delegated.

RSA 1980 cP-31 s30





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