

SPECIAL COMMITTEE TO APPOINT A CONFLICT OF INTEREST COMMISSIONER



LEGISLATIVE ASSEMBLY
of BRITISH COLUMBIA

NOVEMBER 2019
FOURTH SESSION
OF THE 41ST PARLIAMENT



November 26, 2019

To the Honourable
Legislative Assembly of the
Province of British Columbia

Honourable Members:

We have the honour to present herewith the Report of the Special Committee to Appoint a Conflict of Interest Commissioner containing our unanimous recommendation.

Respectfully submitted on behalf of the Committee,

Ronna-Rae Leonard, MLA
Chair

Steve Thomson
Deputy Chair

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Composition of the Committee

Members

Ronna-Rae Leonard, MLA	Chair	Courtenay-Comox
Steve Thomson, MLA	Deputy Chair	Kelowna-Mission
Coralee Oakes, MLA		Cariboo North
Nicholas Simons, MLA		Powell River-Sunshine Coast

Committee Staff

Kate Ryan-Lloyd, Acting Clerk of the Legislative Assembly

Karan Riarh, Senior Research Analyst



Terms of Reference

On May 9, 2019, the Legislative Assembly agreed that a Special Committee be appointed to unanimously select and recommend to the Legislative Assembly the appointment of an individual to exercise the powers and duties assigned to the Conflict of Interest Commissioner for the province of British Columbia pursuant to the *Members' Conflict of Interest Act*, R.S.B.C. 1996, c.287.

The said Special Committee shall have the powers of a Select Standing Committee and in addition is empowered:

- a. to appoint of their number, one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee;
- b. to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;
- c. to adjourn from place to place as may be convenient;
- d. to retain such personnel as required to assist the Committee;

and shall report to the House as soon as possible, or following any adjournment, or at the next following Session, as the case may be; to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.

In Memoriam



Paul D.K. Fraser, Q.C., Conflict of Interest Commissioner, passed away on March 29, 2019. On behalf of all Members of the Legislative Assembly, we extend our deepest condolences to his family and friends. Mr. Fraser served with honour and dedication as British Columbia's Conflict of Interest Commissioner for over 10 years, supporting and guiding all Members with their ethical obligations. He is greatly missed.

Introduction

The Conflict of Interest Commissioner is responsible for ensuring Members of the Legislative Assembly fulfill their responsibilities under the *Members' Conflict of Interest Act*. A non-partisan, independent officer of the Legislative Assembly, the Commissioner's mandate includes reviewing Members' confidential disclosure statements, providing advice respecting their financial interests, and conducting and reporting on investigations and formal inquiries, when required. The Commissioner reports annually on the office's activities to the Legislative Assembly, through the Speaker.

The Commissioner is appointed by the Lieutenant Governor in Council on a motion of the Premier in the Legislative Assembly, and on the recommendation of two-thirds of the Members present, pursuant to section 14(2) of the Act. This procedure was used on May 23, 1991 to appoint Hon. E.N. (Ted) Hughes, Q.C. as the province's first Conflict of Interest Commissioner. In 1996, the Legislative Assembly authorized a parliamentary committee to select and unanimously recommend an individual to exercise the powers and duties assigned to the Conflict of Interest Commissioner. The committee recommended the appointment of Hon. H.A.D. Oliver, Q.C. and the Legislative Assembly unanimously agreed to recommend his appointment to the Lieutenant Governor in Council on the motion of the Premier; Hon. Oliver was reappointed in 2002.

In 2008, the Legislative Assembly established a special committee to unanimously recommend the appointment of an individual as Conflict of Interest Commissioner. The special committee unanimously recommended Paul D.K. Fraser, Q.C., and was subsequently recommended by the Legislative Assembly on the motion of the Premier. Special committees established in 2013 and 2018 recommended Mr. Fraser's reappointment to the Legislative Assembly, which on motions of the Premier unanimously recommended Mr. Fraser's reappointment to the Lieutenant Governor in Council. Mr. Fraser passed away on March 29, 2019.

On behalf of the Legislative Assembly, Committee Members extends their sincere appreciation to Hon. Lynn Smith, Q.C., for her dedicated service as Acting Commissioner since June 2019.

Meeting Schedule

The Committee met on the following dates for the purposes described below:

4th Session, 41st Parliament

Monday, May 13, 2019	Organizational meeting
Wednesday, May 29, 2019	Technical briefings: Hon. E.N. (Ted) Hughes, Q.C., Former Conflict of Interest Commissioner; Alyne Mochan, Legal Officer, Office of the Conflict of Interest Commissioner
Wednesday, October 9, 2019	Technical Briefing: Hon. Lynn Smith, Q.C., Acting Conflict of Interest Commissioner Deliberations
Wednesday, October 23, 2019	Interviews

Wednesday, October 30, 2019	Interviews
Friday, November 1, 2019	Interviews
Friday, November 8, 2019	Deliberations
Monday, November 18, 2019	Interview Deliberations
Wednesday, November 20, 2019	Adoption of Report

The Committee's documents, proceedings and this report are available at: <https://www.leg.bc.ca/cmt/coi>

Recruitment Process

The Special Committee to Appoint a Conflict of Interest Commissioner held an organizational meeting on May 13, 2019, and elected a Chair and Deputy Chair. The Committee also adopted a motion to hold all meetings and deliberations on a confidential, *in camera* basis, in keeping with the usual practice for special committees of appointment, and reviewed briefing materials, including a preliminary workplan and a position profile. As part of their work, the Committee received technical briefings on the position and the work of the Office of the Conflict of Interest Commissioner from: Hon. E.N. (Ted) Hughes, Q.C.; Alyne Mochan, Legal Officer, Office of the Conflict of Interest Commissioner; and Lynn Smith, Q.C., Acting Conflict of Interest Commissioner.

A call for applications was issued on June 21, 2019 with a closing date of August 30, 2019. Advertisements were placed in major national and provincial newspapers, and Indigenous media, and shared on the Legislative Assembly's social media accounts. It was also distributed to conflict of interest and ethics offices across Canada and to other related stakeholders.

The Committee received 41 applications. The applications were reviewed by Committee Members for leadership and administrative management experience, knowledge and understanding of the values of ethical standards and the role of the Commissioner, and understanding of legal principles, mediation and conflict resolution. Six candidates were selected for an interview.

Committee Members held interviews with the shortlisted candidates on October 23 and 30, and November 1, 2019. The interviews probed into each candidate's understanding of the mandate of the Conflict of Interest Commissioner and views regarding conflicts of interest, integrity and ethical behaviour for public office holders. The Committee also asked about approaches to decision-making and building trusting and respectful relationships, and experience with organizational and administrative management. A second interview focusing on interpersonal skills was held with one candidate. Reference checks were also conducted.

In reflecting on the selection process, Committee Members were impressed by all of the shortlisted candidates and noted how each candidate could have been suitable to fill the role of Commissioner. In coming to their recommendation, the Committee appreciated the broader lens Hon. Victoria Gray, Q.C., applied to the ethical responsibilities of the position with respect to public confidence in democratic institutions. This included her emphasis on the importance of public education on the work of the office for maintaining that confidence. She demonstrated a strong commitment, engagement and interest in public service, justice and community, both professionally and personally. Members further noted her understanding of and approaches to the dual aspect of the position as both a trusted advisor to Members and an adjudicator in questions of conflict. Her strong character and personal values have shaped her life of public service.

The Committee therefore unanimously agreed to recommend to the Legislative Assembly that Hon. Gray be appointed Conflict of Interest Commissioner.

Recommendation

The Committee unanimously recommends to the Legislative Assembly that Hon. Victoria Gray, Q.C., be appointed Conflict of Interest Commissioner for British Columbia, pursuant to section 14 of the *Members' Conflict of Interest Act*, for a term of five years.

Biographical Information

The Hon. Victoria Gray, Q.C., received a Bachelor of Music degree (B.Mus.) from the University of Victoria and a Bachelor of Laws degree (LL.B.) from the University of Toronto. She was appointed to British Columbia's Supreme Court in 2001 and served as a Justice for sixteen years until her retirement in August 2017. Before her appointment as a judge, Ms. Gray practised law for nineteen years as a commercial litigator in Vancouver. She was appointed Queen's Counsel in 1997. From 1993-1998, while she was practicing law, she was also an Adjunct Professor at the Peter A. Allard School of Law, University of British Columbia, teaching civil litigation. Ms. Gray has served on a number of boards, including the Law Foundation of BC (Chair), YWCA Metro Vancouver (Chair), and West Coast LEAF (Legal Education and Action Fund) Society (Chair). Ms. Gray is also an active musician, recently playing oboe with the Victoria Symphony and Palm Court Light Orchestra.



Appendix A: Advertisement

The advertisement was placed in provincial and national daily newspapers, including the Vancouver Sun, Times-Colonist, and Globe and Mail, as well as Indigenous media. It was also distributed to Canadian conflict of interest and ethics offices and other related organizations, and shared on social media.

LEGISLATIVE ASSEMBLY OF BRITISH COLUMBIA

Special Committee to Appoint a Conflict of Interest Commissioner

Ronna-Rae Leonard, MLA, Courtenay-Comox, *Chair* Steve Thomson, MLA, Kelowna-Mission, *Deputy Chair*

CONFLICT OF INTEREST COMMISSIONER

The Conflict of Interest Commissioner is a non-partisan officer of the Legislative Assembly of British Columbia responsible for ensuring that Members of the Legislative Assembly fulfill their obligations under the *Members' Conflict of Interest Act* (RSBC 1996, c. 287).

The Commissioner's mandate includes reviewing Members' disclosure statements; providing advice respecting Members' financial interests; conducting investigations and formal inquiries when required; reporting annually on the affairs of his or her office; and issuing reports pursuant to investigations, which may include recommending the imposition of penalties.

The successful applicant will be recognized as a person of high standing and integrity within his or her professional community, with a strong legal or procedural understanding, and a proven record of senior-level decision-making. Applicants must be able to establish and maintain professional, impartial and trusted relationships with elected representatives of all political parties. The successful applicant will be able to provide independent, informed and objective advice to Members regarding conflict of interest considerations in a confidential manner, discern early signs of potential conflict and promote conflict avoidance and resolution. Excellent communication and media skills are required, including public education and outreach.

The Commissioner is to be paid compensation as may be set by the Lieutenant Governor in Council. The Commissioner holds office for a term of 5 years and may be reappointed for further terms.

Applications should be received by email, fax or mail at the address below no later than **August 30, 2019**. Although the Committee appreciates the interest of all applicants, only those who are invited for an interview will be contacted. All applications received will be held in confidence.

For further information, please visit our website at www.leg.bc.ca/cmt/coi or contact:

Kate Ryan-Lloyd, Acting Clerk of the Legislative Assembly
Parliamentary Committees Office
Room 224, Parliament Buildings
Victoria, B.C. V8V 1X4
Toll Free in BC 1.877.428.8337
T 250.356.2933 | F 250.356.8172
coic2019@leg.bc.ca



LEGISLATIVE ASSEMBLY
of BRITISH COLUMBIA

Appendix B: *Members' Conflict of Interest Act*

Members' Conflict of Interest Act [RSBC 1996] CHAPTER 287

(This Act is current to October 30, 2019)

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Definitions

1 In this Act:

"*child*" includes a person to whom a member has demonstrated a settled intention to treat as a

child of his or her family;

"commissioner" means the person appointed under section 14;

"member" means a member of the Legislative Assembly or of the Executive Council, or both;

"private corporation" means a corporation, all of whose issued and outstanding securities are subject to restrictions on transfer and are beneficially owned directly or indirectly by not more than 50 persons;

"private interest" does not include an interest arising from the exercise of an official power or the performance of an official duty or function that

- (a) applies to the general public,
- (b) affects a member as one of a broad class of electors, or
- (c) concerns the remuneration and benefits of a member or an officer or employee of the Legislative Assembly;

"spouse" means a person who is married to a member or a person who is living with a member in a marriage-like relationship, but does not include a person who is separated and living apart from a member and who

- (a) has entered into a written agreement under which they have agreed to live apart, or
- (b) is subject to an order of the court recognizing the separation.

Conflict of interest

2 (1) For the purposes of this Act, a member has a conflict of interest when the member exercises an official power or performs an official duty or function in the execution of his or her office and at the same time knows that in the performance of the duty or function or in the exercise of the power there is the opportunity to further his or her private interest.

(2) For the purposes of this Act, a member has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the member's ability to exercise an official power or perform an official duty or function must have been affected by his or her private interest.

Conflict of interest prohibition

3 A member must not exercise an official power or perform an official duty or function if the member has a conflict of interest or an apparent conflict of interest.

Insider information

4 A member must not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the member's private interest.

Influence

5 A member must not use his or her office to seek to influence a decision, to be made by another person, to further the member's private interest.

Activities on behalf of constituents

- 6 This Act does not prohibit the activities in which members normally engage on behalf of constituents.

Accepting extra benefits

- 7 (1) A member must not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.
- (2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.
- (3) If a gift or personal benefit referred to in subsection (2) exceeds \$250 in value, or if the total value received directly or indirectly from one source in any 12 month period exceeds \$250, the member must immediately file with the commissioner a disclosure statement, in the form prescribed by the regulations, indicating
- (a) the nature of the gift or benefit,
 - (b) its source, and
 - (c) the circumstances under which it was given and accepted.

Former members of Executive Council and former parliamentary secretaries

- 8 (1) The Executive Council, a member of the Executive Council or an employee of a ministry other than an employee of an agency, board or commission, must not knowingly
- (a) award or approve a contract with, or grant a benefit to, a former member of the Executive Council or former parliamentary secretary, until 24 months have expired after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office,
 - (b) award or approve a contract with, or grant a benefit to, a former member of the Executive Council or former parliamentary secretary who has, during the 24 months after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office, made representations in respect of the contract or benefit, or
 - (c) award or approve a contract with, or grant a benefit to, a person on whose behalf a former member of the Executive Council or former parliamentary secretary has, during the 24 months after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office, made representations in respect of the contract or benefit.
- (2) Subsection (1) (a) and (b) does not apply to contracts or benefits in respect of further duties in the service of the government.
- (3) Subsection (1) does not apply if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled.
- (4) A former member of the Executive Council or former parliamentary secretary must not, unless 24 months have expired after the date when he or she ceased to hold office,
- (a) accept a contract or benefit that is awarded, approved or granted by the Executive Council, a member of the Executive Council or an employee of a ministry other than an employee of an

agency, board or commission,

(b) make representations on his or her own behalf with respect to such a contract or benefit, and

(c) make representations on another person's behalf with respect to such a contract or benefit.

(5) Subsection (4) (a) and (b) does not apply to contracts or benefits in respect of further duties in the service of the government.

(6) Subsection (4) does not apply if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled.

(7) A former member of the Executive Council or a former parliamentary secretary must not make representations to the government in relation to any specific ongoing transaction or negotiation to which the government is a party and in which the former member of the Executive Council or former parliamentary secretary was directly involved if the representation would result in the conferring of a benefit not for general application.

(8) A person who contravenes subsection (4) or (7) commits an offence and is liable, on conviction, to a fine of not more than \$5 000.

Carrying on business

9 (1) A member of the Executive Council must not

(a) engage in employment or in the practice of a profession,

(b) carry on a business, or

(c) hold an office or directorship other than in a social club, religious organization or political party

if any of these activities are likely to conflict with the member's public duties.

(2) A person who becomes a member of the Executive Council must comply with subsection (1) within 60 days of being appointed.

(3) The commissioner may extend the period referred to in subsection (2) by giving the member a written notice to that effect, and may impose on the extension conditions that the commissioner considers just.

(4) If a member of the Executive Council complies with subsection (1) (b) by entrusting his or her business to one or more trustees,

(a) the provisions of the trust must be approved by the commissioner,

(b) the trustees must be persons who are at arm's length with the member and approved by the commissioner,

(c) the trustees must not consult with the member with respect to managing the trust property, and

(d) within 60 days after the formation of the trust, and after that annually, the trustees must provide the commissioner with a confidential report, in a form acceptable to the commissioner,

disclosing the assets, liabilities and financial interests contained in the trust.

(5) For the purposes of this section, the management of routine personal financial interests does not constitute carrying on a business.

Procedure on conflict of interest

10 (1) A member who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Legislative Assembly or the Executive Council, or a committee of either of them, must, if present at a meeting considering the matter,

(a) disclose the general nature of the conflict of interest, and

(b) withdraw from the meeting without voting or participating in the consideration of the matter.

(2) If a member has complied with subsection (1), the Clerk of the Legislative Assembly or secretary of the meeting must record

(a) the disclosure,

(b) the general nature of the conflict of interest disclosed, and

(c) the withdrawal of the member from the meeting.

(3) The Clerk of the Legislative Assembly or secretary of the meeting must file the information recorded under subsection (2) with the commissioner,

(a) in the case of a meeting of the Legislative Assembly or a committee of the Legislative Assembly, as soon as practicable, and

(b) in the case of a meeting of the Executive Council or a committee of the Executive Council, as soon as practicable after the Executive Council's decision on the matter which has been the subject of the disclosure is made public.

(4) The commissioner must keep all information filed under subsection (3) in a central record kept for that purpose and must

(a) make the central record available for inspection by any person without charge during normal business hours, and

(b) on request by any person provide a copy of the record or portion of it on payment of a reasonable copying charge.

Performance of responsibilities by minister

11 (1) If, during the exercise of any official power or the performance of any official duty or function by a member of the Executive Council, a matter arises with respect to which the member has a conflict of interest or apparent conflict of interest, the member must

(a) refrain at all times from attempting to influence the matter, and

(b) at any subsequent meeting of the Executive Council or a committee of the Executive Council at which the matter is considered, disclose the general nature of the private interest and withdraw from the meeting without voting or participating in the discussion.

(2) The Lieutenant Governor in Council may appoint a member of the Executive Council to act in the place of a member referred to in subsection (1) for any matter with respect to which the member referred to in subsection (1) has a conflict of interest or apparent conflict of interest.

Voidability of transaction or procedure

12 The failure of any member to comply with section 10 does not of itself invalidate

(a) any contract or other financial transaction, or

(b) any procedure undertaken by the government with respect to a contract or other financial transaction

to which the failure to comply with section 10 relates, but the transaction or procedure is voidable at the instance of the government before the expiration of 2 years from the date of the decision authorizing the transaction, except as against any person who or organization that acted in good faith and without actual notice of the failure to comply with section 10.

Application for restitution

13 Despite anything in this Act, if any person, whether or not the person is or was a member, has realized financial gain in any transaction to which a violation of this Act relates, any other person affected by the financial gain, including the government or a government agency, may apply to the Supreme Court for an order of restitution against the person who has realized the financial gain.

Commissioner

14 (1) There must be appointed a commissioner who is an officer of the Legislative Assembly.

(2) On the motion of the Premier in the Legislative Assembly and on the recommendation of 2/3 of the members present, the Lieutenant Governor in Council must appoint the person so recommended to the office of commissioner.

(3) The commissioner holds office for a term of 5 years and may be reappointed for a further term or terms.

(4) The commissioner may be removed or suspended before the end of the term of office by the Lieutenant Governor in Council for cause on the recommendation of the Legislative Assembly.

(5) The commissioner must be paid compensation as may be set by the Lieutenant Governor in Council.

(6) If

(a) the commissioner is removed or suspended or the office of the commissioner becomes vacant when the Legislature is sitting but no recommendation under this Act is made by the Legislative Assembly before the end of that session, or

(b) the commissioner is suspended or the office of the commissioner is or becomes vacant when the Legislature is not sitting,

the Lieutenant Governor in Council may appoint an acting commissioner.

(7) The appointment of an acting commissioner under this section terminates

- (a) on the appointment of a new commissioner under subsection (2),
- (b) at the end of the period of suspension of the commissioner, or
- (c) immediately after the expiry of 20 sitting days after the day on which he or she was appointed,

whichever the case may be and whichever occurs first.

(8) The commissioner may employ or retain persons that the commissioner considers necessary and may

- (a) specify their duties and responsibilities, and
- (b) establish their remuneration and other terms and conditions of employment, or retainer.

(9) The *Labour Relations Code* and the *Public Service Labour Relations Act* do not apply to a person employed or retained under subsection (8).

(10) [Repealed 1999-44-85.]

Annual report

15 The commissioner must report annually on the affairs of his or her office to the Speaker of the Legislative Assembly who must cause the report to be laid before the Legislative Assembly.

Disclosure statement

16 (1) Every member must, within 60 days of being elected, and after that annually, file with the commissioner a confidential disclosure statement in the form prescribed by the regulations.

(2) Subject to subsection (2.1), the disclosure statement must contain

- (a) a statement of the nature of the assets, liabilities and financial interests of the member, the member's spouse and minor children, and private corporations controlled by any of them, and
- (b) any other information that is prescribed by the regulations to be contained in the disclosure statement.

(2.1) The disclosure statement of a member of the Executive Council who has complied with section 9 (1) (b) by entrusting his or her business to one or more trustees need not contain a statement of the nature of the assets, liabilities and financial interests contained in the trust.

(3) After filing a disclosure statement, the member, and the member's spouse if the spouse is available, must meet with the commissioner to ensure that adequate disclosure has been made and to obtain advice from the commissioner on the member's obligations under this Act, and the commissioner may recommend the manner by which the member will comply with those obligations.

(4) If any asset, liability or financial interest described in the disclosure statement relates to a corporation, the commissioner must ascertain whether any other corporation is an affiliate of the first named corporation, as determined under section 2 (1) to (4) of the *Business Corporations Act*.

(5) If the commissioner determines that there is an affiliate of the first named corporation, he or she must

- (a) advise the member of the fact, in writing, and
 - (b) mention the fact in the public disclosure statement prepared under section 17.
- (6) After filing a disclosure statement, the member must continue to disclose any material change in the assets, liabilities and financial interests of the member, the member's spouse and minor children and private corporations controlled by any of them by filing a statement of material change with the commissioner within 30 days of the material change.
- (7) In subsection (6), "**material change**" means a material change as defined in the regulations.

Public disclosure statement

- 17 (1) After meeting with the member, and with the member's spouse if the spouse is available, the commissioner must prepare a public disclosure statement containing all relevant information provided by the member, and by the member's spouse if the spouse met with the commissioner, in respect of the member, the spouse and minor children, except
- (a) the municipal address or legal description of land that is primarily for the residential or recreational use of the member or the member's spouse or minor children, and
 - (b) personal property used for transportation or for household, educational, recreational, social or aesthetic purposes.
- (2) The public disclosure statement must contain a statement of any gifts or benefits that have been disclosed to the commissioner under section 7 (3).
- (3) The commissioner must, as soon as is practicable, file the public disclosure statement with the Clerk of the Legislative Assembly who must
- (a) make the statement available to any person for inspection without charge and during normal business hours, and
 - (b) provide a copy of the statement on payment of a reasonable copying charge.

Commissioner's opinions and recommendations

- 18 (1) A member may request, by application in writing, that the commissioner give an opinion or recommendation on any matter respecting the obligations of the member under this Act or under section 25 of the *Constitution Act*.
- (2) The commissioner may make such inquiries as the commissioner considers appropriate and provide the member with a written opinion and recommendations.
- (3) If the commissioner is of the opinion that a member has or may have a conflict of interest, the commissioner may, in the recommendations, specify the time by which the member must resolve the matter.
- (4) The opinion and recommendations of the commissioner are confidential, but may be released by the member or with the consent of the member in writing.
- (5) If the commissioner determines that a member has not contravened this Act, that determination is final for all purposes of the Act and any proceeding under the Act, so long as the facts presented

by the member to the commissioner under subsection (1) were accurate and complete.

Commissioner's opinion on referred question

19 (1) A member who has reasonable and probable grounds to believe that another member is in contravention of this Act or of section 25 of the *Constitution Act* may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the commissioner give an opinion respecting the compliance of the other member with the provisions of this Act.

(2) A member of the public who has reasonable and probable grounds to believe that there has been a contravention of this Act or of section 25 of the *Constitution Act* may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the commissioner give an opinion respecting the alleged contravention.

(3) The Executive Council may request that the commissioner give an opinion on any matter respecting the compliance of a member of the Executive Council or a parliamentary secretary with the provisions of this Act or of section 25 of the *Constitution Act*.

(4) The Legislative Assembly may request that the commissioner give an opinion on any matter respecting the compliance of a member with the provisions of this Act or of section 25 of the *Constitution Act*.

Special assignments

20 At the request of the Lieutenant Governor in Council or the Legislative Assembly, the commissioner may undertake special assignments that he or she considers appropriate.

Inquiry

21 (1) On receiving a request under section 19, and on giving the member concerned reasonable notice, the commissioner may conduct an inquiry.

(2) For the purposes of preparing an opinion under section 19 or conducting a special assignment under section 20, the commissioner may order a person to do either or both of the following:

(a) attend, in person or by electronic means, before the commissioner to give evidence on oath or affirmation or in any other manner;

(b) produce for the commissioner a record or thing in the person's possession or control.

(2.1) An order under subsection (2) must be in the form of a summons, served on the person by personal delivery or registered mail to the person's last known address.

(3) If the request for an opinion is made under section 19 (1), the commissioner must report his or her opinion to the Speaker of the Legislative Assembly who must cause the report to be laid before the Legislative Assembly if it is in session or, if not in session, to the Clerk of the Legislative Assembly who must send a copy of it to all members of the Legislative Assembly.

(4) If it appears to the commissioner that the report may adversely affect the member, the commissioner must inform the member of the particulars and give the member the opportunity to make representations, either orally or in writing, at the discretion of the commissioner, before the commissioner finalizes the report.

(5) If the commissioner is of the opinion that the member making the application under section 19 (1) had no reasonable and probable grounds for making it, the commissioner may state that in his or her report, and if he or she does so, the commissioner must report the matter to the Speaker who must lay the report before the Legislative Assembly and the Legislative Assembly may, after considering the matter, hold the member in contempt of the Legislative Assembly.

(6) If the request for an opinion is made under section 19 (3), the commissioner must report his or her opinion to the Secretary of the Executive Council.

Power to enforce summons and punish for contempt

21.1 (1) The commissioner may make an order finding a person to be in contempt, and may impose a fine on or commit the person for contempt, if the person has been served with a summons under section 21 and fails or refuses to do any of the following:

- (a) attend before the commissioner;
- (b) take an oath or make an affirmation;
- (c) answer questions;
- (d) produce records or things in the person's possession or control.

(2) The commissioner may call on the assistance of any peace officer to enforce an order made under this section, and, if called on, the peace officer may take any action that is necessary to enforce the order and may use such force as is reasonably required for that purpose.

Penalties

22 (1) If the commissioner finds

- (a) after an inquiry under section 21 that a member has contravened section 3, 4, 5, 7, 8, 9 or 10 (1), or
- (b) that a member has refused to file a disclosure statement within the time provided by section 16 or that a member has failed to comply with a recommendation of the commissioner under section 16 (3) or 19,

the commissioner may recommend, in a report that is laid before the Legislative Assembly

- (c) that the member be reprimanded,
- (d) that the member be suspended for a period specified in the report,
- (e) that the member be fined an amount not exceeding \$5 000, or
- (f) that the member's seat be declared vacant until an election is held in the member's electoral district.

(2) The Legislative Assembly must consider the commissioner's report and respond to it as subsection (3) provides

- (a) within 30 days after it is laid before the Legislative Assembly, or
- (b) within 30 days after the next session begins if the Legislative Assembly is not in session.

(3) The Legislative Assembly may order the imposition of the recommendation of the commissioner under subsection (1) or may reject the recommendation, but the Legislative Assembly must not further inquire into the contravention or impose a punishment other than the one recommended by the commissioner.

Protection of commissioner

23 No action of any kind lies against the commissioner for anything he or she does under this Act.

Appropriation

24 Money required for the operation of the office of the commissioner may be paid out of the consolidated revenue fund.

Offence Act

25 Section 5 of the *Offence Act* does not apply to this Act.

Power to make regulations

26 Subject to the approval of the Lieutenant Governor in Council, the commissioner may make regulations prescribing any matter that is contemplated in this Act to be prescribed by regulations.

