

# **CONFLICT OF INTEREST CODE FOR SENATORS**

## **PURPOSES**

### **Purposes**

1. The purposes of this Code are to

(a) maintain and enhance public confidence and trust in the integrity of Senators and the Senate;

(b) provide for greater certainty and guidance for Senators when dealing with issues that may present foreseeable real or apparent conflicts of interest; and

(c) establish clear standards and a transparent system by which questions relating to proper conduct may be addressed by an independent, non-partisan adviser.

## **PRINCIPLES**

### **Principles**

2. (1) Given that service in Parliament is a public trust, the Senate recognizes and declares that Senators are expected

(a) to remain members of their communities and regions and to continue their activities in those communities and regions while serving the public interest and those they represent to the best of their abilities;

(b) to fulfil their public duties while upholding the highest standards so as to avoid conflicts of interest and maintain and enhance public confidence and trust in the integrity of each Senator and in the Senate; and

(c) to arrange their private affairs so that foreseeable real or apparent conflicts of interest may be prevented from arising, but if such a conflict does arise, to resolve it in a way that protects the public interest.

### **Privacy**

(2) The Senate further declares that this Code shall be interpreted and administered so that Senators and their families shall be afforded a reasonable expectation of privacy.

## **INTERPRETATION**

## Definitions

3. (1) The following definitions apply in this Code.

"Committee"  
« *Comité* »

"Committee" means the Committee designated or established under section 35.

"common-law partner"  
« *conjoint de fait* »

"common-law partner" means a person who is cohabiting with a Senator in a conjugal relationship, having so cohabited for at least one year.

"Intersessional Authority"  
« *autorité intersessionnelle* »

"Intersessional Authority on Conflict of Interest for Senators" means the committee established by section 38.

"parliamentary duties and functions"  
« *fonctions parlementaires* »

"parliamentary duties and functions" means duties and activities related to the position of Senator, wherever performed, and includes public and official business and partisan matters.

"Senate Ethics Officer"  
« *conseiller sénatorial en éthique* »

"Senate Ethics Officer" means the Senate Ethics Officer appointed under section 20.1 of the *Parliament of Canada Act*.

"spouse"  
« *époux* »

"spouse" means a person to whom a Senator is married but does not include a person from whom the Senator is separated where all support obligations and family property have been dealt with by a separation agreement or by a court order.

## Family members

(2) The following are the family members of a Senator for the purposes of this Code:

(a) a Senator's spouse or common-law partner; and

(b) a child of a Senator, a child of a Senator's spouse or common-law partner, or a person whom a Senator treats as a child of the family, who

(i) has not reached the age of 18 years, or

(ii) has reached that age but is primarily dependent on a Senator or a Senator's spouse or common-law partner for financial support.

## **ACTIVITIES AND JURISDICTION PRESERVED**

### **Assisting the public**

**4.** Senators are encouraged to continue to assist members of the public as long as their actions are consistent with their obligations under this Code.

### **Carrying on activities**

**5.** Senators who are not ministers of the Crown may participate in any outside activities, including the following, as long as they are able to fulfil their obligations under this Code:

(a) engaging in employment or in the practice of a profession;

(b) carrying on a business;

(c) being a director or officer in a corporation, association, trade union or not-for-profit organization; and

(d) being a partner in a partnership.

### **Existing committee jurisdiction**

**6.** Nothing in this Code affects the jurisdiction of the Standing Senate Committee on Internal Economy, Budgets and Administration.

### **Role of the Speaker**

7. Procedural matters referred to in this Code that are expressly provided for in the *Rules of the Senate* are under the jurisdiction and authority of the Speaker rather than the Senate Ethics Officer.

## **RULES OF CONDUCT**

### **Furthering private interests**

8. When performing parliamentary duties and functions, a Senator shall not act or attempt to act in any way to further his or her private interests, or those of a family member, or to improperly further another person's or entity's private interests.

### **Use of influence**

9. A Senator shall not use or attempt to use his or her position as a Senator to influence a decision of another person so as to further the Senator's private interests, or those of a family member, or to improperly further another person's or entity's private interests.

### **Use of information**

10. (1) If as a result of his or her position, a Senator obtains information that is not generally available to the public, the Senator shall not use or attempt to use the information to further the Senator's private interests, or those of a family member, or to improperly further another person's or entity's private interests.

### **Conveying information**

(2) A Senator shall not convey or attempt to convey information referred to in subsection (1) to another person if the Senator knows, or reasonably ought to know, that the information may be used to further the Senator's private interests, or those of a family member, or to improperly further another person's or entity's private interests.

### **Clarification: furthering private interests**

11. (1) In sections 8 to 10, furthering private interests of a person or entity, including the Senator's own private interests, means actions taken by a Senator for the purpose of achieving, directly or indirectly, any of the following:

(a) an increase in, or the preservation of, the value of the person's or entity's assets;

- (b) the elimination, or reduction in the amount, of the person's or entity's liabilities;
- (c) the acquisition of a financial interest by the person or entity;
- (d) an increase in the person's or entity's income from a contract, a business or a profession;
- (e) an increase in the person's income from employment;
- (f) the person becoming a director or officer in a corporation, association, trade union or not-for-profit organization; or
- (g) the person becoming a partner in a partnership.

**Clarification: not furthering private interests**

(2) A Senator is not considered to further his or her own private interests or the private interests of another person or entity if the matter in question

- (a) is of general application;
- (b) affects the Senator or the other person or entity as one of a broad class of the public; or
- (c) concerns the remuneration or benefits of the Senator as provided under an Act of Parliament or a resolution of the Senate or of a Senate committee.

**Declaration of a private interest: Senate or committee**

**12.** (1) If a Senator has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected by a matter that is before the Senate or a committee of which the Senator is a member, the Senator shall, on the first occasion at which the Senator is present during consideration of the matter, make a declaration regarding the general nature of the private interest. The declaration can be made orally on the record or in writing to the Clerk of the Senate or the Clerk of the committee, as the case may be. The Speaker of the Senate shall cause the declaration to be recorded in the *Journals of the Senate* and the Chair of the committee shall, subject to subsection (4), cause the declaration to be recorded in the Minutes of Proceedings of the committee.

**Subsequent declaration**

(2) If a Senator becomes aware at a later date of a private interest that should have been declared under subsection (1), the Senator shall make the required declaration forthwith.

### **Declaration recorded**

(3) The Clerk of the Senate or the Clerk of the committee, as the case may be, shall send the declaration to the Senate Ethics Officer who, subject to subsection (4) and paragraph 31(1)(h), shall file it with the Senator's public disclosure summary.

### **Where declaration *in camera***

(4) In any case in which the declaration was made during an *in camera* meeting, the Chair of the committee and Senate Ethics Officer shall obtain the consent of the subcommittee on agenda and procedure of the committee concerned before causing the declaration to be recorded in the Minutes of Proceedings of the committee or filing it with the Senator's public disclosure summary, as the case may be.

### **Further declaration**

(5) A declaration made *in camera* that, in compliance with subsection (4), has been neither recorded nor filed with the Senator's public disclosure summary is only valid in respect of the proceeding during which the declaration was made or the matter that the declaration concerned was discussed, and the Senator shall make a further declaration at the first possible opportunity.

### **Declaration of a private interest: other circumstances**

(6) In any circumstances other than those in subsection (1) that involve the Senator's parliamentary duties and functions, a Senator who has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected shall make an oral declaration regarding the general nature of the private interest at the first opportunity.

### **Declaration of retraction**

(7) A Senator may, by declaration made under this section, retract a previous declaration, in which case the Senator may participate in debate or other deliberations and vote on the matter in respect of which the previous declaration was made.

### **Debate in the Senate**

**13.** (1) A Senator who has made a declaration under section 12 regarding a matter that is before the Senate may not participate in debate or any other deliberations in the Senate with respect to that matter.

#### **Debate in committee where Senator is member**

(2) A Senator who has made a declaration under section 12 regarding a matter that is before a committee of the Senate of which the Senator is a member may not participate in debate or any other deliberations in the committee on the matter, and must withdraw from the committee for the duration of those proceedings, but the Senator need not resign from the committee.

#### **Debate in committee where Senator is not member**

(3) A Senator who has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected by a matter that is before a committee of the Senate of which the Senator is not a member may not participate in debate or any other deliberations in the committee on the matter, and must withdraw from the committee for the duration of those proceedings.

#### **Debate where Senator has not yet declared**

(4) A Senator who is required by section 12 to make a declaration but has not yet done so may not participate in debate or any other deliberations on the matter and, in the case of committee proceedings, the Senator must withdraw from the committee for the duration of those proceedings.

#### **Prohibition on voting**

**14.** A Senator who has made a declaration under section 12, or a Senator who is required to make such a declaration but has not yet done so, may not vote on the matter but may abstain.

#### **Procedure**

**15.** If a Senator reasonably believes that another Senator has failed to make a declaration of a private interest as required by section 12 or has failed to comply with section 13 or 14, the matter may be raised with the Senate Ethics Officer.

#### **Clarification: having a private interest**

**16.** For the purpose of sections 12 to 14, private interest means those interests that can be furthered in subsection 11(1), but does not include the matters listed in subsection 11(2).

**Prohibition: gifts and other benefits**

**17.** (1) Neither a Senator, nor a family member, shall accept, directly or indirectly, any gift or other benefit, except compensation authorized by law, that could reasonably be considered to relate to the Senator's position.

**Exception**

(2) A Senator, and a family member, may, however, accept gifts or other benefits received as a normal expression of courtesy or protocol, or within the customary standards of hospitality that normally accompany the Senator's position.

**Statement: gift or other benefit**

(3) If a gift or other benefit that is accepted under subsection (2) by a Senator or his or her family members exceeds \$500 in value, or if the total value of all such gifts or benefits received from one source in a 12-month period exceeds \$500, the Senator shall, within 30 days after the gift or benefit is received or after that total value is exceeded, as the case may be, file with the Senate Ethics Officer a statement disclosing the nature and value of the gifts or other benefits, their source and the circumstances under which they were given.

**Statement: sponsored travel**

**18.** (1) Notwithstanding subsection 17(1), a Senator may accept, for the Senator and guests of the Senator, sponsored travel that arises from or relates to the Senator's position. If the travel costs of a Senator or any guest exceed \$500 and are not paid personally by the Senator or the guest, and the travel is not paid through the programs for international and interparliamentary affairs of the Parliament of Canada, by the Senate, the Government of Canada or the Senator's political party, the Senator shall, within 30 days after the end of the trip, file a statement with the Senate Ethics Officer.

**Contents of statement**

(2) The statement shall disclose the name of the person or organization paying for the trip, the destination or destinations, the purpose and length of the trip, whether or not any guest was also sponsored, and the general nature of the benefits received.

## **Duplication**

(3) Any disclosure made in relation to sponsored travel does not need to be disclosed as a gift or other benefit.

## **Consent of Senate**

**19.** Gifts, other benefits and sponsored travel accepted in compliance with the requirements of sections 17 and 18 are deemed to have received the consent of the Senate thereto for all purposes.

## **Government contracts**

**20.** A Senator shall not knowingly be a party, directly or through a subcontract, to a contract or other business arrangement with the Government of Canada or any federal agency or body under which the Senator receives a benefit unless the Senate Ethics Officer provides a written opinion that

(a) due to special circumstances the contract or other business arrangement is in the public interest; or

(b) the contract or other business arrangement is unlikely to affect the Senator's obligations under this Code.

## **Public corporations**

**21.** (1) A Senator may own securities in a public corporation that contracts with the Government of Canada or any federal agency or body unless the holdings are so significant that the Senate Ethics Officer provides a written opinion that they are likely to affect the Senator's obligations under this Code.

## **Public interest**

(2) A contract between a public corporation and the Government of Canada or any federal agency or body that, in the Senate Ethics Officer's opinion, is in the public interest due to special circumstances, shall not preclude a Senator from holding securities in that public corporation.

## **Government programs**

(3) For the purpose of subsection (1), a public corporation shall not be considered to contract with the Government of Canada or any federal agency or body merely because the corporation participates in a Government program that meets the criteria described in section 23.

## **Trust**

(4) If the Senate Ethics Officer is of the opinion that the Senator's obligations under this Code are likely to be affected under the circumstances of subsection (1), the Senator may comply with the Code by placing the securities in a trust under such terms as the Senate Ethics Officer considers appropriate.

## **Partnerships and private corporations**

**22.** A Senator shall not have an interest in a partnership or in a private corporation that is a party, directly or through a subcontract, to a contract or other business arrangement with the Government of Canada or any federal agency or body under which the partnership or corporation receives a benefit unless the Senate Ethics Officer provides a written opinion that

(a) due to special circumstances the contract or other business arrangement is in the public interest; or

(b) the contract or other business arrangement is unlikely to affect the Senator's obligations under this Code.

## **Clarification: Government programs**

**23.** For the purposes of sections 20 and 22, it is not prohibited to participate in a program operated or funded, in whole or in part, by the Government of Canada or any federal agency or body under which a Senator, or a partnership or private corporation in which a Senator has an interest, receives a benefit if

(a) the eligibility requirements of the program are met;

(b) the program is of general application or is available to a broad class of the public;

(c) there is no preferential treatment with respect to the application; and

(d) no special benefits are received that are not available to other participants in the program.

## **Trust**

**24.** Section 22 does not apply if the Senator has entrusted his or her interest in a partnership or private corporation to one or more trustees on all of the following terms:

- (a) the provisions of the trust have been approved by the Senate Ethics Officer;
- (b) the trustees are at arm's length from the Senator and have been approved by the Senate Ethics Officer;
- (c) except as provided in paragraph (d), the trustees may not consult with the Senator with respect to managing the trust, but they may consult with the Senate Ethics Officer;
- (d) the trustees may consult with the Senator, with the approval of the Senate Ethics Officer and in his or her presence, if an extraordinary event is likely to materially affect the trust property;
- (e) in the case of an interest in a corporation, the Senator resigns any position of director or officer in the corporation;
- (f) the trustees provide the Senate Ethics Officer annually with a written report setting out the nature of the trust property, the value of that property, the trust's net income for the preceding year and the trustees' fees, if any; and
- (g) the trustees give the Senator sufficient information to permit the Senator to submit returns as required by the *Income Tax Act* and give the same information to the appropriate taxation authorities.

### **Pre-existing contracts**

**25.** The rules in sections 20, 21 and 22 do not apply to a contract or other business arrangement that existed before a Senator's appointment to the Senate, but they do apply to its renewal or extension.

### **Interest acquired by inheritance**

**26.** The rules in sections 20, 21 and 22 do not apply to an interest acquired by inheritance until the first anniversary date of the transfer of legal and beneficial ownership. In special circumstances, the Senate Ethics Officer may extend this time period.

## **DUTY TO DISCLOSE**

### **Confidential disclosure statement: sitting Senators**

**27.** (1) Every Senator shall file annually, on or before the date applicable to the Senator as established by the Senate Ethics Officer under subsection (2), a confidential statement disclosing the information required by section 28.

### **Filing date**

(2) The date or dates on or before which the annual confidential disclosure statements are required to be filed shall be established by the Senate Ethics Officer following approval by the Committee.

### **Confidential disclosure statement: new Senators**

(3) Within 120 days after being summoned to the Senate, a Senator shall file a confidential statement disclosing the information required by section 28.

### **Submission to Committee**

(4) Thirty days after the date established under subsection (2), the Senate Ethics Officer shall submit to the Committee the name of any Senator who has not complied with his or her duty to file a confidential disclosure statement.

### **Errors or omissions**

(5) If, at any time after the date established under subsection (2), the Senate Ethics Officer has reason to believe that a Senator's confidential disclosure statement contains an error or omission, the Senate Ethics Officer shall notify the Senator concerned and request the Senator to provide the relevant information.

### **Response within 60 days**

(6) Upon receipt of a request under subsection (5), the Senator shall provide the information within 60 days.

### **Family members**

(7) A Senator may file with the Senate Ethics Officer a confidential disclosure statement relating to the Senator's family members so that the Senator may discuss their interests in relation to the Senator's obligations under this Code and receive advice in that regard.

### **Confidentiality**

(8) The Senate Ethics Officer and all officers, employees, agents, advisers and consultants that may be employed or engaged by the Senate Ethics Officer shall keep all disclosure statements confidential.

### **Initial meeting with Senate Ethics Officer**

(9) Senators, and in particular newly-summoned Senators, who may have questions regarding their confidential disclosure duties should make every effort to meet with the Senate Ethics Officer before submitting their confidential disclosure statement.

### **Contents of confidential disclosure statement**

**28.** (1) Subject to subsection (2) regarding excluded matters, and any Guidelines published by the Senate Ethics Officer under section 43, the confidential disclosure statement shall list:

(a) any corporations, income trusts and trade unions in which the Senator is a director or officer and any partnerships in which the Senator is a partner, including a description of the activities of each entity;

(b) any associations and not-for-profit organizations in which the Senator is a director, officer or patron, including memberships on advisory boards and any honorary positions;

(c) the nature but not the amount of any source of income over \$2,000 that the Senator has received in the preceding 12 months and is likely to receive during the next 12 months; for this purpose,

(i) a source of income from employment is the employer,

(ii) a source of income from a contract is a party with whom the contract is made,

(iii) a source of income arising from a business or profession is that business or profession, and

(iv) a source of income arising from an investment is that investment;

(d) the source, nature and value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has directly, or through a subcontract;

(e) the source, nature and value of any contracts, subcontracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has by virtue of a partnership or a significant interest in a private corporation that the Senator is able to ascertain by making reasonable inquiries;

(f) the source, nature and value of any contracts or other business arrangements with the Government of Canada or a federal agency or body

that a member of the Senator's family has, directly or through a subcontract, or by virtue of a partnership or a significant interest in a private corporation, that the Senator is able to ascertain by making reasonable inquiries;

(g) information regarding the nature but not the value of any assets and liabilities over \$10,000; and

(h) any additional information that the Senator believes to be relevant to this Code.

### **Excluded matters**

(2) For the purpose of subsection (1), it is not required to disclose properties used by the Senator or family members as residences; mortgages or hypothecs on such residences; household goods; personal effects; deposits with a financial institution; guaranteed investment certificates; financial instruments issued by any Canadian government or agency; and obligations incurred for living expenses that will be discharged in the ordinary course of the Senator's affairs.

### **Additional excluded matters**

(3) The Senate Ethics Officer may, with the approval of the Committee, establish additional matters not required to be disclosed on the basis that they present no potential to interfere with the obligations of a Senator under this Code.

### **Material change**

(4) A Senator shall report in writing any material change to the information relating to the confidential disclosure statement to the Senate Ethics Officer within 60 days after the change.

### **Meeting with Senate Ethics Officer**

**29.** (1) After reviewing a Senator's confidential disclosure statement, the Senate Ethics Officer may request to meet with the Senator to discuss the statement and the Senator's obligations under this Code.

### **Necessary meeting**

(2) If, pursuant to a request made under subsection (1), the Senate Ethics Officer advises the Senator that the meeting is necessary in order for the Senate Ethics Officer to carry out his or her duties and functions under the Code, the Senator shall meet with the Senate Ethics Officer.

## **Public disclosure summary**

**30.** The Senate Ethics Officer shall prepare a public disclosure summary based on each Senator's confidential disclosure statement and submit it to the Senator for review.

## **Contents of public disclosure summary**

**31.** (1) The public disclosure summary shall list

(a) any corporations, income trusts and trade unions in which the Senator is a director or officer and any partnerships in which the Senator is a partner, including a description of the activities of each entity;

(b) any associations and not-for-profit organizations in which the Senator is a director, officer or patron, including memberships on advisory boards and any honorary positions;

(c) the source and nature but not the amount of any income that the Senator has received in the preceding 12 months and is likely to receive in the next 12 months that the Senate Ethics Officer has determined could relate to the parliamentary duties and functions of the Senator or could otherwise be relevant;

(d) the source and nature but not the value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has, directly or through a subcontract, including the Senate Ethics Officer's written opinion authorizing them;

(e) the source and nature but not the value of any contracts, subcontracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has by virtue of a partnership or a significant interest in a private corporation that the Senator is able to ascertain by making reasonable inquiries, including the Senate Ethics Officer's written opinion authorizing them;

(f) the source and nature but not the value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that a member of the Senator's family has, directly or through a subcontract, or by virtue of a partnership or a significant interest in a private corporation, that the Senator is able to ascertain by making reasonable inquiries;

(g) information regarding the nature but not the value of any assets and liabilities that the Senate Ethics Officer has determined could relate to the

parliamentary duties and functions of the Senator or could otherwise be relevant;

(h) any declarations of a private interest under section 12, unless the Senator has since retracted the declaration;

(i) any statements filed under sections 17 and 18 in relation to gifts and sponsored travel; and

(j) any statements of material change that pertain to the contents of this summary.

### **Discretion**

(2) The Senate Ethics Officer need not include in the public disclosure summary information that he or she determines should not be disclosed because

(a) the information is not relevant to the purposes of this Code or is inconsequential, or

(b) a departure from the general principle of public disclosure is justified in the circumstances.

### **Disagreement**

**32.** In cases of disagreement between a Senator and the Senate Ethics Officer regarding the contents of the public disclosure summary, the Senate Ethics Officer shall refer the disputed matter to the Committee for decision.

### **Public inspection**

**33.** (1) Each public disclosure summary is to be placed on file at the office of the Senate Ethics Officer and made available for public inspection.

### **Removal of file from registry**

(2) A public disclosure file shall be removed from the public registry at the time that the Senator concerned ceases to be a Senator.

### **Evasion**

**34.** A Senator shall not take any action that has as its purpose the evasion of the Senator's obligations under this Code.

## COMMITTEE

### Designation or establishment

35. (1) At the beginning of each session, a Committee of the Senate shall be designated or established for the purposes of this Code.

### Membership

(2) The Committee shall be composed of five members, three of whom shall constitute a quorum.

### No *ex officio* members

(3) The Committee shall have no *ex officio* members.

### Election of members

(4) Two of the Committee members shall be elected by secret ballot in the caucus of Government Senators at the opening of the session; two of the Committee members shall be elected by secret ballot in the caucus of Opposition Senators at the opening of the session; the fifth member shall be elected by the majority of the other four members after the election of the last of the other four members.

### Presentation and adoption of motion

(5) The Leader of the Government in the Senate, seconded by the Leader of the Opposition in the Senate, shall present a motion on the full membership of the Committee to the Senate, which motion shall be deemed adopted without any debate or vote.

### Chair

(6) The Chair of the Committee shall be elected by four or more members.

### Removal

(7) A member is deemed removed from the Committee as of the time that

(a) the Senate Ethics Officer informs the Committee that a request for an inquiry made by the Senator is warranted; or

(b) the Senator becomes the subject of an inquiry under the Code.

## **Substitutions**

(8) Where a vacancy occurs in the membership of the Committee, the replacement member shall be elected by the same method as the former member being replaced.

## **Meetings *in camera***

**36.** (1) Subject to subsection (2), meetings of the Committee shall be held *in camera*.

## **Meetings in public**

(2) At the request of a Senator who is the subject of an investigation, the Committee may hold meetings at which the investigation is being conducted in public.

## **Attendance**

(3) Subject to subsection (4), the Committee may limit attendance at its meetings.

## **Affected Senator**

(4) The Committee shall give notice to a Senator who is the subject of an investigation of all meetings at which the investigation is being conducted, and shall admit the Senator to those meetings, but the Committee may exclude that Senator from those meetings or portions of meetings at which the Committee is considering a draft agenda or a draft report.

## **Withdrawal**

(5) A member of the Committee who is the subject of a matter being considered by the Committee relating to that specific Senator shall withdraw from the Committee during its deliberations.

## **Jurisdiction**

**37.** (1) Subject to subsection 41(2) and to the general jurisdiction of the Senate, the Committee is responsible for all matters relating to this Code, including all forms involving Senators that are used in its administration.

## **General directives**

(2) The Committee may, after consultation with the Senate Ethics Officer, give general directives to the Senate Ethics Officer concerning the interpretation, application and administration of the Code, but not concerning its interpretation and application as it relates to an individual Senator's particular circumstances.

## **INTERSESSIONAL AUTHORITY**

### **Intersessional Authority created**

**38.** During a period of prorogation or dissolution of Parliament and until the members of a successor Committee are appointed by the Senate, there shall be a committee known as the Senate Intersessional Authority on Conflict of Interest for Senators.

### **Composition**

**39.** The Intersessional Authority on Conflict of Interest for Senators shall be composed of the members of the Committee.

### **General authority**

**40.** (1) The Senate Ethics Officer shall carry out his or her duties and functions under the general direction of the Intersessional Authority on Conflict of Interest for Senators.

### **Additional functions**

(2) Subject to the rules, direction and control of the Senate and of the Committee, the Intersessional Authority on Conflict of Interest for Senators shall carry out such other of the Committee's duties and functions as the Committee gives to it by resolution.

## **SENATE ETHICS OFFICER**

### **Senate Ethics Officer**

**41.** (1) The Senate Ethics Officer is an independent officer who performs the duties and functions assigned by the Senate under this Code.

### **Independent status**

(2) The Senate Ethics Officer shall carry out his or her duties and functions under the general direction of the Committee, but is independent in

interpreting and applying this Code as it relates to an individual Senator's particular circumstances.

## **OPINIONS AND ADVICE**

### **Request for opinion**

**42.** (1) In response to a request in writing from a Senator on any matter respecting the Senator's obligations under this Code, the Senate Ethics Officer shall provide the Senator with a written opinion containing any recommendations that the Senate Ethics Officer considers appropriate.

### **Opinion binding**

(2) An opinion given by the Senate Ethics Officer to a Senator is binding on the Senate Ethics Officer in relation to any subsequent consideration of the subject matter of the opinion as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.

### **Written advice binding**

(3) Any written advice given by the Senate Ethics Officer to a Senator on any matter relating to this Code is binding on the Senate Ethics Officer in relation to any subsequent consideration of the subject matter of the advice as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.

### **Confidentiality**

(4) A written opinion or advice is confidential and may be made public only by the Senator or with his or her written consent.

### **Proof of compliance**

(5) A written opinion or advice given by the Senate Ethics Officer to a Senator under this section and relied upon by that Senator is conclusive proof that the Senator has fully complied with the Senator's obligations under this Code as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.

### **Publication**

(6) Nothing in this section prevents the Senate Ethics Officer, subject to the approval of the Committee, from publishing opinions and advice for the

guidance of Senators, provided that no details are included that could identify a Senator.

### **Guidelines**

**43.** Subject to the approval of the Committee, the Senate Ethics Officer may publish guidelines for the assistance of Senators on any matter concerning the interpretation of this Code that the Senate Ethics Officer considers advisable.

## **INQUIRIES AND INVESTIGATIONS**

### **Direction by the Committee**

**44.** (1) The Committee may direct the Senate Ethics Officer to conduct an inquiry to determine whether a Senator has complied with his or her obligations under this Code.

### **Request for an inquiry**

(2) A Senator who has reasonable grounds to believe that another Senator has not complied with his or her obligations under this Code may request that the Senate Ethics Officer conduct an inquiry into the matter.

### **Form of request**

(3) The request shall be in writing, shall be signed by the requesting Senator, shall identify the alleged non-compliance with this Code and shall set out the reasonable grounds for the belief that the Code has not been complied with.

### **Request to be sent**

(4) The Senate Ethics Officer shall forward the request for an inquiry to the Senator who is the subject of the request and afford the Senator a reasonable opportunity to respond.

### **Preliminary review**

(5) After a preliminary review to determine whether or not an inquiry is warranted, the Senate Ethics Officer shall notify both the requesting Senator and the Senator who is the subject of the request of his or her decision.

### **If inquiry warranted**

(6) If the Senate Ethics Officer's decision under subsection (5) is that an inquiry is warranted, the Senate Ethics Officer shall so inform the Committee.

### **Receipt of information**

(7) If, after receiving significant evidence, the Senate Ethics Officer believes that an inquiry may be warranted to determine whether a Senator has complied with his or her obligations under this Code, the Senate Ethics Officer shall provide the Senator written notice of his or her concerns and any documentation upon which those concerns are based, and shall afford the Senator a reasonable opportunity to address the issues.

### **Committee to approve**

(8) Following the measures taken in subsection (7), if the Senate Ethics Officer has reasonable grounds to believe that an inquiry is warranted to determine whether the Senator has complied with his or her obligations under this Code, the Senate Ethics Officer shall request the Committee to approve the inquiry, and may proceed when approval has been received.

### **Notice**

(9) Once approval to conduct an inquiry has been received under subsection (8), the Senate Ethics Officer shall provide the Senator concerned with his or her reasons for the opinion that an inquiry is warranted.

### **Respect for the inquiry process**

(10) Once a request for an inquiry has been made, or direction or approval for an inquiry has been given, Senators should respect the process established by this Code.

### **Inquiry to be confidential**

(11) The Senate Ethics Officer shall conduct a confidential inquiry as promptly as the circumstances permit, provided that at all appropriate stages throughout the inquiry the Senate Ethics Officer shall give the Senator a reasonable opportunity to be present and to make representations to the Senate Ethics Officer in writing or in person, by counsel or by any other representative.

### **Cooperation**

(12) Senators shall cooperate without delay with the Senate Ethics Officer with respect to any inquiry.

## **Powers of Senate Ethics Officer**

(13) In carrying out an inquiry, the Senate Ethics Officer may send for persons, papers, things and records, which measures may be enforced by the Senate acting on the recommendation of the Committee following a request from the Senate Ethics Officer.

## **Report to the Committee**

**45.** (1) Following an inquiry the Senate Ethics Officer shall report confidentially in writing to the Committee.

## **Contents of report**

(2) The Senate Ethics Officer may make findings and recommendations, including

(a) that the complaint appears to be unfounded and should be dismissed;

(b) that the request for an inquiry was frivolous or vexatious or was not made in good faith, or that there were no grounds or insufficient grounds to warrant an inquiry or the continuation of an inquiry;

(c) that the complaint appears to be founded and that remedial action has been agreed to by the Senator involved; or

(d) that the complaint appears to be founded, but that no remedial action was available or agreed to by the Senator involved.

## **Bad faith**

(3) Where the Senate Ethics Officer makes a finding that the complaint or request for an inquiry was frivolous or vexatious or was not made in good faith, he or she may recommend that action be considered against the person who made the complaint or request.

## **Mitigation**

(4) If the Senate Ethics Officer concludes that a Senator has not complied with an obligation under this Code but that the Senator took all reasonable measures to prevent the non-compliance, or that the non-compliance was trivial or occurred through inadvertence or an error in judgement made in good faith, the Senate Ethics Officer shall so state in the report and may recommend that no sanction be imposed.

## **General recommendations**

(5) The Senate Ethics Officer may include in the report any recommendations arising from the matter that concern the general interpretation of this Code.

## **Reasons**

(6) The Senate Ethics Officer shall include in the report reasons and any supporting documentation for any findings and recommendations.

## **Consideration of report**

**46.** (1) The Committee shall take into consideration a report received from the Senate Ethics Officer under section 45 as promptly as circumstances permit.

## **Due process**

(2) The Committee shall provide, without delay, a copy of the report of the Senate Ethics Officer to the Senator who was the subject of the inquiry, and shall afford that Senator the opportunity to be heard by the Committee.

## **Investigation**

(3) In considering a report, the Committee may

(a) conduct an investigation; or

(b) direct that the Senate Ethics Officer's inquiry be continued and refer the report back to the Senate Ethics Officer for such further information as the Committee specifies.

## **Committee report**

(4) Subject to subsection (5), following its consideration under this section of a report of the Senate Ethics Officer, the Committee shall report to the Senate.

## **No report required**

(5) Where the Committee finds that a complaint against a Senator was unfounded, the Committee is not required to report to the Senate unless the Senator concerned requests that it do so.

## **Contents of report**

(6) In its report to the Senate, the Committee shall report the fact of the inquiry and give its findings with respect thereto, its recommendations if any, and its reasons and the supporting documentation for any findings or recommendations.

### **Remedial action**

(7) The Committee may recommend that the Senator be ordered to take specific action or be sanctioned.

### **Anonymity**

(8) Where the Committee finds that a complaint is unfounded and reports to the Senate, its report may, at the Senator's request, keep the Senator's name anonymous in order to protect the Senator's reputation.

### **Suspension of investigation or inquiry: Act of Parliament**

**47.** (1) The Committee or the Senate Ethics Officer may suspend the investigation or inquiry if

(a) there are reasonable grounds to believe that the Senator has committed an offence under an Act of Parliament in relation to the same subject matter, in which case the Committee or Senate Ethics Officer, subject to subsection (4), shall notify the proper authorities;

(b) it is discovered that

(i) the subject matter under investigation or inquiry is also the subject matter of an investigation to determine if an offence under an Act of Parliament has been committed, or

(ii) a charge has been laid with respect to that subject matter.

### **Investigation or inquiry continued**

(2) If the Committee or the Senate Ethics Officer has suspended the investigation or inquiry, it may resume once the other investigation or charge regarding the same subject matter has been finally disposed of.

### **Suspension of investigation or inquiry: other laws**

(3) The Committee or the Senate Ethics Officer may suspend the investigation or inquiry and, subject to subsection (4), notify the proper authorities if there are reasonable grounds to believe that the Senator has

committed an offence under the law of a Canadian province or territory in relation to the same subject matter, and may continue the investigation or inquiry when any actions arising from the notification have been completed.

### **Advice of Committee**

(4) The Senate Ethics Officer shall seek the advice of the Committee before notifying the proper authorities.

### **Notice for motion to adopt**

**48.** (1) A motion that the Senate adopt a report referred to in subsection 46(4) shall be put pursuant to the notice provisions of paragraph 58(1)(g) of the *Rules of the Senate*.

### **Motion**

(2) A motion to adopt a report referred to in subsection 46(4) shall be deemed to have been moved on the fifth sitting day subsequent to the presentation of the report if the motion has not yet been moved.

### **Senator may speak**

(3) After a motion to adopt a report has been moved, or has been deemed to have been moved, no vote may be held for at least five sitting days, or until the Senator who is the subject of the report has spoken to the motion for its adoption, whichever is the sooner.

### **Right to speak last**

(4) The Senator who is the subject of the report may exercise the right of final reply.

### **Senate vote**

(5) If a motion for the adoption of a report has not been put to a vote by the 15th sitting day after the motion was moved or deemed to have been moved, the Speaker shall immediately put all necessary questions to dispose of the matter when the item is called.

### **Referral back**

(6) The Senate may refer any report back to the Committee for further consideration.

## **Suspension: former Senators**

**49.** (1) An investigation or inquiry of a Senator who ceases to be a Senator is permanently suspended unless the Committee directs that the investigation or inquiry be completed.

### **Direction to continue**

(2) In considering whether to issue a direction under subsection (1), the Committee shall consider any request from the former Senator or from the Senator who requested the inquiry, and any representations made by the Senate Ethics Officer.

### **Consideration of committee report**

(3) Notwithstanding subsection 48(5), where a motion to adopt a report about a former Senator is moved or deemed to be moved, the motion shall not be put to a vote until the former Senator has been offered the opportunity to speak to the report as a witness in Committee of the Whole, and has either availed himself or herself of the opportunity or has refused or otherwise failed to take advantage of the offer.

## **PRIVACY AND CONFIDENTIALITY**

### **Privacy to be minimally impaired**

**50.** In interpreting and administering this Code, reasonable expectations of privacy shall be impaired as minimally as possible.

### **Confidentiality**

**51.** (1) All information relating to the private interests of Senators and those of their family members received pursuant to this Code or created under it is to be kept confidential, except in accordance with this Code or as otherwise ordered by the Senate.

### **Inclusions**

(2) For greater certainty, the requirement set out in subsection (1) applies to documents and information received in the course of an inquiry that the Senate Ethics Officer has suspended in accordance with paragraph 47(1)(a) or subsection 47(3) and to documents and information retained by the Senate Ethics Officer pursuant to section 52.

### **Confidentiality**

(3) The Senate Ethics Officer and all officers, employees, agents, advisers and consultants that may be employed or engaged by the Senate Ethics Officer shall keep confidential all matters required to be kept confidential under this Code. Failure to do so shall constitute behaviour sufficient to justify either or both of the following:

(a) a resolution by the Senate under subsection 20.2(1) of the *Parliament of Canada Act* requesting the Governor in Council to remove the Senate Ethics Officer from office;

(b) dismissal of any officers, employees, agents, advisers or consultants involved.

### **Retention of documents**

**52.** (1) The Senate Ethics Officer shall retain all documents relating to a Senator for a period of 12 months after he or she ceases to be a Senator, after which, subject to subsections (2) to (4), the documents shall be destroyed.

### **Ongoing proceedings**

(2) Where, at the time that a Senator ceases to be a Senator, there is an investigation or inquiry in progress concerning the Senator or a charge has been laid against the Senator, the destruction of documents that relate to the matter shall be postponed until 12 months after the day of the final disposition of all related proceedings.

### **Return of confidential documents**

(3) At a Senator's request, confidential documents relating to a Senator may be returned to the Senator instead of being destroyed.

### **Archiving of public documents**

(4) Public documents relating to a Senator shall be forwarded to the Senate archives.

## **PERIODIC REVIEW**

### **Committee review**

**53.** The Committee shall undertake a comprehensive review of this Code and its provisions and operation once every five years, and shall submit a report to

the Senate thereon, including a statement of any changes the Committee recommends.