

Schedule I

House of Assembly Accountability, Integrity and Administration Act



A BILL
AN ACT RESPECTING THE EFFECTIVE
ADMINISTRATION OF THE HOUSE OF
ASSEMBLY, THE STANDARDS OF CONDUCT OF
ELECTED MEMBERS, AND THEIR ETHICAL AND
ACCOUNTABLE BEHAVIOUR

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*Be it enacted by the Lieutenant-Governor and House of Assembly in
Legislative Session convened, as follows:*

Short title

1. This Act may be cited as the *House of Assembly Accountability, Integrity and Administration Act*.

Definitions

2. (1) In this Act

- (a) “audit” means an examination of the accounts of public money and other records relating to the House of Assembly service, statutory offices and a member that may be conducted by an auditor under this Act or another law of the province;
- (b) “audit committee” means the audit committee established under section 23;
- (c) “auditor general” means the auditor general as defined in the *Auditor General Act*;
- (d) "caucus" means a group of two or more members who belong to the same registered political party;
- (e) "clerk" means the Clerk of the House of Assembly;
- (f) “commission”, unless the context indicates otherwise, means the House of Assembly Management Commission continued under section 18;
- (g) “commissioner” means the Commissioner for Legislative Standards appointed under the *House of Assembly Act*;
- (h) “compliance audit” means an audit contemplated by subsection 43(9);
- (i) “financial audit” means an audit referred to in subsection 34(5);
- (j) “fiscal year” means fiscal year as defined in the *Financial Administration Act*;
- (k) “House of Assembly service” means the House of Assembly Service established under section 25;

- (l) “manual” means a manual referred to in section 50;
- (m) "member" means a member of the House of Assembly as described in the House of Assembly Act;
- (n) "minister" means a minister appointed under the *Executive Council Act*
- (o) “registered political party” means an organization formed for the purpose of contesting an election of members to the House of Assembly and which is registered in the register of political parties under section 278 of the *Elections Act, 1991*
- (p) “rules” means rules enacted by the commission under this Act;
- (q) "speaker" means the Speaker of the House of Assembly;
- (r) “statutory office” means the office and administrative staff directly serving the
 - (i) Chief Electoral Officer,
 - (ii) Commissioner for Members’ Interests,
 - (iii) Child and Youth Advocate,
 - (iv) Information and Privacy Commissioner,
 - (v) Citizen’s Representative, and
 - (vi) other offices of the House of Assembly, with the exception of the office of the Auditor General, that may be created by statute from time to time; and
- (s) “third party” means the second largest party sitting in the House of Assembly in opposition to the government.

Purpose

- 3. (1) The purpose of this Act is to
 - (a) establish an administrative framework for the House of Assembly that is transparent and accountable;

- (b) place responsibility with individual members to conduct their public and private affairs so as to promote public confidence in the integrity of each member, while maintaining the dignity and independence of the House of Assembly;
- (c) promote the equitable treatment of each member of the House of Assembly;
- (d) establish clear rules with respect to salary, allowances and resources for members and to provide for mandatory review at regular intervals;
- (e) provide for clear and timely disclosure in relation to operations of the House of Assembly service and statutory offices, including members' salaries, pensions, allowances, resources and separation payments that is consistent with the public interest;
- (f) create an environment for members in which full-time devotion to one's duties is encouraged; and
- (g) establish standards of conduct for members and for those charged with the responsibility of administration of operations of the House of Assembly service and the statutory offices.

PART I

HOUSE OF ASSEMBLY

Composition of
House of Assembly

4. The House of Assembly consists of those persons elected in accordance with the *Elections Act, 1991* as members to represent the districts set out in section 5 of the *House of Assembly Act*.

Oath or affirmation
of member

5. (1) Before being permitted to take his or her place and vote in the House of Assembly, a member shall take and subscribe before the Lieutenant-Governor or a person who may stand in the place of the Lieutenant-Governor an oath of allegiance in the following form:

I, A.B., do swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law, (in the case where the oath is taken, add "So help me God")

and also an oath of office in the following form:

I, A.B., do swear (or affirm) that

(a) I am fully qualified to hold the office of Member for the District of -----to which I have been elected;

(b) I have not knowingly contravened the Elections Act, 1991 respecting any matter in relation to my election;

(c) I will faithfully, to the best of my ability, perform the duties and responsibilities of my office and will not allow any direct or indirect monetary or other personal or private interest to influence my conduct or affect my duties in public matters;

(d) I hereby affirm, ascribe to and agree to follow the Code of Conduct of Members adopted by the House of Assembly, (in the case where the oath is taken, add "So help me God")

Speaker term of office

6. For the purpose of this Act, the speaker in office following the dissolution of the House of Assembly is considered to be speaker until a new speaker is chosen by the House of Assembly.

House officers

7. (1) Upon nomination by the House of Assembly, the Lieutenant Governor in Council shall, by Commission under the Great Seal, appoint the following officers

(a) the Clerk of the House of Assembly

(b) the Assistant Clerk of the House of Assembly;

(c) the Law Clerk; and

(d) the Sergeant-at-Arms of the House of Assembly.

(2) Before a nomination is made under subsection (1), the speaker shall consult with the commission, the Clerk of the Executive Council and the chairperson of the Public Service Commission to determine an appropriate process for recruitment of suitable candidates for appointment.

Oath of clerk

8. (1) The clerk, shall, when appointed, take

- (a) the oath of allegiance provided by the *Oaths of Office Act*; and
- (b) the oath of office as provided in subsection (2) before the Speaker of the House of Assembly, who is empowered to administer the oaths.

(2) The oath of office of the clerk shall be as follows

"I, _____, swear [affirm] that I will well and truly serve Her Majesty the Queen in, and will diligently, faithfully and impartially discharge the duties of the office of Clerk of the House of Assembly and I will make true entries, memoranda and journals of the things done and passed in the Assembly. And I will faithfully manage and supervise the financial management and administration of the House of Assembly service" (In the case where an oath is taken add "So help me God").

Oath of assistant clerk

9. (1) The clerk assistant of the House of Assembly shall, when appointed, take:

- (a) the oath of allegiance provided by the *Oaths of Office Act*; and
- (b) the oath of office as provided in subsection (2) before the speaker, who is empowered to administer the oaths...

(2) The oath of office of the clerk assistant shall be as follows:

I, _____, swear [affirm] that I will diligently, faithfully and impartially discharge the duties of clerk assistant to the House of Assembly, to the best of my knowledge and ability." (In the case where an oath is taken add "So help me God").

Inability of clerk to act

10. Whenever the clerk is absent or unable to act, or the office of clerk is vacant, the clerk assistant shall perform the duties of the clerk

PART II PAYMENTS TO MEMBERS

Salaries, expenses, severance and pensions

11. (1) A member is entitled, effective July 1, 2007, to be paid an annual salary of \$92,580 payable in 26 equal installments, in arrears.

(2) A member is entitled, subject to those conditions and limitations as may be prescribed by rules of the commission, to be reimbursed or have payment made on his or her behalf for reasonable and legitimate expenses incurred by the member in carrying out his or her duties as a member.

(3) Upon ceasing to be a member, the member is entitled to a

(a) severance allowance, upon the conditions, in amounts and in accordance with the formula that may be determined by a directive of the commission; and

(b) pension determined in accordance with the *Members of the House of Assembly Retiring Allowances Act*.

(4) Where prescribing the types and amounts of expenses to which a member may be entitled under subsection (2) the commission may, by rule

(a) make distinctions between constituencies with respect to the amounts and manner of entitlement of members, taking into account geographic, social and economic differences;

(b) prescribe a maximum daily amount for meals or a basic amount per kilometre to be paid to a member in place of providing for reimbursement of actual expenses for food and vehicle travel.

Other remuneration

12. (1) A member who also holds one of the following positions shall be paid an additional salary, effective July 1 2007,* as follows

* The salary numbers in this section have been adjusted to take account of an anticipated 3% salary increase corresponding to the basic salary adjustment for MHAs scheduled for July 1, 2007. See report Chapter 9 (Compensation) under the heading "Anticipated Changes in Current Salary Base."

- (a) Speaker----- \$52,497
- (b) Deputy Speaker and Chair of Committees- 26,246
- (c) Deputy Chair of Committees----- 13,123
- (d) Leader of the Opposition ----- 52,497
- (e) Opposition House Leader----- 26,246
- (f) Deputy Opposition House Leader ----- 17,919

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| (g) Leader of a recognized Third Party----- | 18,367 |
| (h) Party Whip----- | 13,123 |
| (i) Caucus Chair----- | 13,123 |
| (j) Chair, Public Accounts Committee----- | 13,123 |
| (k) Vice Chair-Public Accounts Committee-- | 10,032 |

(2) The salaries referred to in subsection (1) shall be payable in 26 equal installments, in arrears.

(3) A member who sits on a committee of the House of Assembly, the commission or a committee of the commission may be paid, subject to the conditions and limitations prescribed by the commission, a daily amount of not more than \$200 for attendance at meetings plus reimbursement of reasonable expenses in relation to such attendance when the House is not in session.

(4) With the exception of the reimbursement of expenses, subsection (3) does not apply to a minister or the holder of a position referred to in subsection (1).

Time at duties

13. (1) On a day when the House of Assembly is sitting, a member shall attend that sitting.

(2) A deduction shall be made from the salary payable to a member under subsection 11(1) in the amount of \$200 for each day on which the member is absent from a sitting of the House of Assembly for reasons other than those enumerated in subsection (3)

(3) Where a member is absent from a sitting of the House of Assembly because of

- (a) the sickness of the member;
- (b) a serious illness related to the member's family;
- (c) bereavement;

- (d) attendance at a meeting of a committee of the House of Assembly, the commission or a committee of the commission;
- (e) attendance to duties as a member of a caucus or attendance to constituency business, where the member remains within the precincts of the House of Assembly as determined under section 19.1 of the *House of Assembly Act*;
- (f) attendance to ministerial duties where that member is a minister;
- (g) other exceptional circumstances as may be approved by the speaker,

a deduction shall not be made under subsection (2).

(4) Subsection (2) does not apply to the premier, the leader of the official opposition and the leader of a third party.

(5) On or before the 31st day of January in a year, a member must file with the clerk a declaration under oath or affirmation of his or her attendance while the House of Assembly was sitting in the previous year together with the dates of absences and an explanation for those absences.

(6) Where a member fails to file the declaration required by subsection (5) or files a declaration disclosing that a deduction is required under subsection (2), the clerk shall report the matter to the Minister of Finance who shall

- (a) in the case of failure to file the declaration, withhold payment to the member of the member's salary; or
- (b) in the case where a deduction is warranted, withhold from the member's salary or adjust payments to or claim a refund from the member with respect to the appropriate amount required to be deducted under subsection (2).

(7) When the House of Assembly is not sitting, a member shall devote his or her time primarily to the discharge of his or her duties and responsibilities as a member, while making allowance for

- (a) reasonable personal and family commitments;

- (b) the need for reasonable rest and vacation time;
- (c) ministerial duties, if the member is appointed as a minister; and
- (d) parliamentary assistant's duties, if the member is appointed as a parliamentary assistant.

(8) Nothing in this Act prevents a member who is not appointed as a minister from

- (a) engaging in employment or the practice of a profession; or
- (b) carrying on a business,

so long as the member, notwithstanding the activity, is able to fulfill, and is fulfilling his or her obligations as a member under subsections (1) and (7).

(9) Where the speaker becomes aware of circumstances that indicate that, by virtue of engaging in activity referred to in subsection (8) or for some other cause, a member may not be discharging his or her primary obligations under subsection (7), the speaker shall refer the matter to the appropriate committee of the House of Assembly for investigation and report.

(10) Order 19 of the *Standing Orders of the House of Assembly* is repealed.

Commencement and termination dates

14. (1) For the purpose of entitlement to the payments provided for in subsections 11(1), (2) and (4), a person is a member from the date of his or her election until his or her seat is vacated or until the date of the next following election, whichever first occurs.

(2) Notwithstanding subsection (1), a member may not claim reimbursement of expenses under subsection 11(2) from and after the date an election is called where those expenses relate to partisan political activities or election activities

Adjustments to salaries, expenses and severance

15. (1) No adjustments to salaries under subsections 11(1) and 12(1) shall be made and no additional non-accountable allowance shall be created or provided for except

- (a) in response to a recommendation of a members' compensation review committee constituted under section 16; and
- (b) by introduction of an amending Bill in the House of Assembly with votes on first, second and third readings being taken on separate days.

(2) Notwithstanding subsection (1), the salary of a member under subsection 11(1) and the salaries for the positions referred to in subsection 12(1) shall be adjusted annually on the first day of July by a percentage equivalent to the annual increase given in the previous year in the executive pay plan of the government until the next members' compensation review committee appointed under section 16 reports, and amendments are made under subsection (1) in response to the recommendations of that committee,

(3) Subsection (2) shall cease to have effect following the submission of the next members' compensation review committee, and the appropriateness and manner of providing for periodic increases in a member's salary during the period between the appointments of subsequent committees shall be dealt with by those committees

(4) The commission may only exercise its powers to prescribe reimbursement or payment of expenses under subsection 11 (2) or compensation or reimbursement or payment of expenses under subsection 12(3) by making rules.

(5) Where the commission proposes to amend or add to the levels of or provisions respecting reimbursement or payment of expenses of members, it shall follow the following procedure

- (a) a draft containing the amendment shall be prepared and tabled at a meeting of the commission;
- (b) notice of the tabling of the draft rule shall be given to and read at the House of Assembly if it is in session, or given to every member if it is not in session, and in any case shall be posted on the website maintained by the House of Assembly; and
- (c) the draft rule shall not be voted on except at a subsequent meeting of the commission.

Inquiry re: salaries

16. (1) The House of Assembly shall, at least once in each General Assembly, by resolution appoint, upon those terms and conditions that are set out in the resolution, an independent committee, to be called a members' compensation review committee, of not more than 3 persons, none of whom shall be a member, to conduct an inquiry and prepare a report respecting the salaries, allowances, severance payments and pensions to be paid to members.

(2) Before the appointments contemplated in subsection (1) are made, the speaker shall first consult with the government house leader, the opposition house leader and the leader of a third party having one or more members in the House and report the results of those consultations to the House.

(3) The persons appointed under subsection (1) shall have and may exercise all the powers, privileges and immunities of persons appointed as commissioners under the *Public Inquiries Act*.

(4) The persons appointed under subsection (1) shall complete their inquiry and deliver their report containing recommendations to the speaker within 120 days of the committee's appointment.

(5) The speaker, upon receipt of the report containing the recommendations of the members' compensation review committee, shall refer the recommendations to the commission as soon as possible following the receipt of them and the commission, after consideration of the recommendations, shall, subject to subsection (6), accept or modify them and

- (a) submit the recommendations, as accepted or modified, relating to salaries and non-taxable allowances and other matters that may be necessary to be implemented by legislation, to the Minister of Finance or Justice, or other appropriate minister, for the preparation of a Bill to amend this Act or another Act accordingly; and
- (b) place the remaining recommendations, as accepted or modified, on the agenda of a subsequent meeting of the commission, for the adoption of appropriate rules implementing those recommendations.

(6) A modification of the recommendations of a members' compensation review committee which may be made by the commission

with respect to salaries, non-taxable allowances or other amounts for which a member may be entitled to claim reimbursement or payment on his or her behalf for reasonable or legitimate expenses, shall not exceed the maximums recommended by the committee in that regard.

(7) A members' compensation review committee shall make itself available for consultation with the commission for 6 months after delivering its report to the speaker.

Payment from CRF

17. All salaries, allowances and expenses payable under this Act shall be paid out of the Consolidated Revenue Fund.

**PART III
HOUSE OF ASSEMBLY MANAGEMENT
COMMISSION**

House of Assembly
Management
Commission

18. (1) The Commission of Internal Economy of the House of Assembly established under the *Internal Economy Commission Act* is continued under the name of the House of Assembly Management Commission.

(2) The speaker, or in his or her absence, the Deputy Speaker, shall preside over the commission.

(3) The commission shall consist of

- (a) the speaker, or in his or her absence the Deputy Speaker, who shall be the chairperson;
- (b) the clerk, who shall be the secretary and shall not vote;
- (c) the government house leader;
- (d) the official opposition house leader;
- (e) 2 members who are members of the government caucus only one of whom may be a member of the Executive Council;
- (f) one member who is a member of the official opposition caucus; and

(g) one member, if any, from a third party that is a registered political party and has at least one member elected to the House of Assembly but not from the government or official opposition caucuses.

(4) Where there is no party, other than the government party or the official opposition party, having a member elected to the House of Assembly, the member chosen for the purpose of paragraph (3)(g) shall be an additional member from the official opposition caucus.

(5) No member of the commission shall also serve concurrently as a member of the Public Accounts Committee of the House of Assembly.

(6) The Deputy Speaker, when not acting in the place of the speaker, may nevertheless attend all meetings of the commission in a non-voting capacity.

(7) Members referred to in paragraphs (3)(e) to (g) and subsection (4) shall be chosen for appointment to the commission by their respective caucuses except that the member of the Executive Council referred to in paragraph (e) shall be appointed by the Lieutenant Governor in Council.

(8) A quorum of the commission shall be 50% of its members provided that at least one member representing the party in opposition to the government, and the Speaker or Deputy Speaker, shall be present.

(9) In the second week of every session of the House of Assembly and as the need arises, the speaker shall inform the House of Assembly of the appointments made to the commission.

(10) In the absence of the clerk, the assistant clerk shall be the secretary to the commission.

Proceedings of the
commission

19. (1) All proceedings of the commission excepting

- (a) personnel issues relating to officers and employees of the House of Assembly service and statutory offices;
- (b) legal matters involving actual or potentially pending litigation;
- (c) matters protected by privacy and data protection laws; and

- (d) budget deliberations involving the preparation of the annual estimates of expenditure of the House of Assembly service and the statutory offices,

shall be open to the public.

(2) Where a matter referred to in subsection (1) is raised, the speaker shall clear the public from the place of the meeting and the commission shall proceed to discuss the matter in private.

(3) The commission shall adopt rules with respect to the circulation and preparation of agendas and briefing material to members of the commission and for the orderly conduct of business of the commission.

(4) The substance of all decisions of the commission, including the ultimate decisions made following debate on matters in private referred to in subsection (1) shall be recorded in public and shall form a part of the public record.

(5) A copy of the minutes containing the substance of all decisions of the commission made at each meeting shall, following approval by the commission at its next meeting

- (a) be tabled in the House of Assembly by the clerk no later than 5 days after that approval if the House of Assembly is sitting or, if it is not sitting, then not later than 5 days after it next sits;

- (b) be provided by the clerk to each member within 15 days of their approval by the commission; and

- (c) be placed by the clerk on a website maintained for the House of Assembly for inspection by the public.

(6) All public meetings of the commission may be electronically accessed by the media in accordance with the methods and equipment existing in the House of Assembly.

(7) Recordings of the proceedings of the commission shall be made and transcribed by the Hansard office and the broadcast centre of the House of Assembly, in the same manner as are proceedings of the House of Assembly.

20. (1) The commission is responsible for the financial stewardship of all public money, within the meaning of the *Financial Administration Act*, that may be voted from time to time by the House of Assembly for the use and operation of the House of Assembly service and its statutory offices, and for all matters of financial and administrative policy affecting the House of Assembly, its members, offices and staff and in connection with them and without limiting the generality of this subsection, the commission shall

- (a) oversee the finances of the House of Assembly including its budget, revenues, expenses, assets and liabilities;
- (b) review and approve the administrative, financial and human resource and management policies of the House of Assembly service and its statutory offices;
- (c) implement and periodically review and update financial and management policies applicable to the House of Assembly service and its statutory offices;
- (d) give directions with respect to matters that the commission considers necessary for the efficient and effective operation of the House of Assembly service and its statutory offices;
- (e) make and keep current rules respecting the proper administration of allowances for members and reimbursement and payment of their expenditures in implementation of subsection 11(2) of this Act;
- (f) annually report, in writing, to the House of Assembly, through the speaker, with respect to its decisions and activities in accordance with section 51; and
- (g) exercise other powers given to the commission and to perform other duties imposed on the commission under this or another Act.

(2) The commission may at any time report to the House of Assembly on matters referred to in this section or in another Act relating to the legislative branch of government.

(3) Notwithstanding paragraph (1)(c), the financial and management policies of the executive branch of government shall apply to

the House of Assembly service and its statutory offices except to the extent that they may be modified by directive of the commission putting in place alternative and more appropriate financial and management policies.

(4) The commission may, by directive, delegate a power or duty that it considers appropriate to the speaker or the clerk and where that delegation is made

- (a) the commission shall establish outcome measurements and accountability recording of measurements that enable that proper oversight and recording be maintained;
- (b) the exercise of that power or the performance of that duty shall be considered to have been carried out by the commission; and
- (c) the commission shall remain accountable for decisions it has made.

(5) In carrying out its duties under subsection (1), the commission shall

- (a) regularly, and at least quarterly, review the financial performance of the House of Assembly as well as the actual expenditures of members compared with approved allocations;
- (b) ensure that an annual financial audit is completed of the accounts of the House of Assembly service and the statutory offices in accordance with section 43 within 90 days after the end of a fiscal year;
- (c) ensure that a compliance audit is completed of the accounts of the house of Assembly service and the statutory offices in accordance with section 43 at least once every General Assembly, and reported on within 90 days after the end of the fiscal year to which it relates;
- (d) ensure that full and plain disclosure of the accounts and operations of the House of Assembly and its statutory offices is made to the auditor appointed in accordance with section 43;
- (e) consider and address on a timely basis recommendations of the auditor appointed in accordance with section 43; and

- (f) report in writing annually to the House of Assembly, or a committee established by it, the results of any audit and the steps taken or to be taken to address a matters of concern raised by an audit.
- (6) In carrying out its duties, the commission may
- (a) make rules of general application respecting
 - (i) the amounts which members may claim for reimbursement or payment for reasonable and legitimate expenses under subsection 11(4) and the manner in which those allowances shall be calculated, claimed, substantiated and paid,
 - (ii) the engagement by a member and the amount and method of payment and other terms of engagement of constituency assistants and the reimbursement of reasonable expenses incurred by such assistants in carrying out their duties,
 - (iii) subject to the requirements of the *Financial Administration Act*, the form of documentation required to make a claim under this Act,
 - (iv) the financial accountability of members,
 - (v) the duties and responsibilities of the clerk with respect to the financial administration of the House of Assembly service and the statutory offices, and
 - (vi) those other matters as may be necessary to carry out the intent of this Act;
 - (b) issue directives
 - (i) interpreting, clarifying or amplifying the regulatory provisions of the rules,
 - (ii) establishing policies for the guidance of members, the clerk and staff of the House of Assembly service and statutory offices,

(iii) in accordance with provisions of the Act and rules calling for the issuing of directives, and

(iv) altering on appeal rulings of the speaker as to the application of the rules to particular cases where advance rulings have been sought under section 24; and

(c) make decisions

(i) on individual cases or appeals brought to the commission for decision, and

(ii) on all other matters that call for action or decision of the commission in relation to the legislative branch of government.

(7) A change shall not be made to the level of amounts of allowances and resources provided to members except in accordance with a rule and, notwithstanding section 64, that rule shall not be effective unless first laid before the House of Assembly and an affirmative resolution adopting it has been passed.

(8) A directive issued or decision made by the commission

(a) is effective on the date specified in that directive or decision; and

(b) shall not be issued or made if it is inconsistent with the Act or the rules.

Individual duties of
commission
members

21. (1) A member of the commission, in exercising his or her powers and discharging his or her duties shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(2) A member of the commission shall not be considered to be in breach of the duty in subsection (1) if he or she acts prudently and on a reasonably informed basis.

(3) A member of the commission shall act honestly and in good faith on the basis of adequate information in arriving at decisions of the commission, and shall

Orientation and training

- (a) attend meetings of the commission unless unable to do so for good reason;
- (b) spend sufficient time on the affairs of the commission to comply with their duties and responsibilities; and
- (c) consider and advocate policies that promote compliance with this Act and rules.

22. (1) The speaker, assisted by the clerk, shall develop and offer from time to time, appropriate orientation and training programs for

- (a) members;
- (b) members of the commission; and
- (c) officers and staff of the House of Assembly service and its statutory offices,

to assist them in understanding their respective duties and responsibilities and, in particular, in applying and complying with rules and directives of the commission relating to claims for allowances and expenses and policies and procedures respecting financial management.

(2) Within 30 days of a member's election for the first time to the House of Assembly, the speaker shall ensure that an appropriate orientation program is given to the member respecting

- (a) the types of services offered to members by the House of Assembly service and how those services may be accessed,
- (b) the proper procedures to be followed in making claims for reimbursement or payment for proper expenses incurred by the member in carrying out his or her duties;
- (c) recommendations for proper systems to be employed in operating a constituency office and employing a constituency assistant; and
- (d) other matters that the speaker considers appropriate to assist the member in carrying out his or her duties.

(3) Within 30 days of a member's election for the first time to the House of Assembly, the speaker shall ensure the delivery of the following to the member

- (a) this Act;
- (b) rules;
- (c) directives of the commission pertaining to members;
- (d) written policies of the House of Assembly service that may affect the member;
- (e) the code of conduct for members and for officers and staff of the House of Assembly service; and
- (f) the manual.

Audit committee

23. (1) There is hereby established a committee of the commission, known as the audit committee.

(2) The audit committee shall consist of

- (a) 3 members of the commission chosen by the commission, at least one of whom shall not be a member of the government party; and
- (b) persons, chosen by the Chief Justice of the Supreme Court, who are not members but who are resident in the province, have demonstrated knowledge and experience in financial matters and are suitable to represent the public interest.

(3) The commission shall designate the chair of the audit committee from time to time from the members of the committee.

(4) A person appointed under paragraph (1)(b) shall serve for a term of not more than 4 years but may be reappointed for one additional term of not more than 4 years.

(5) The assistant clerk of the House of Assembly shall act as secretary of the audit committee.

(6) The commission shall fix and direct the level of compensation and reimbursement of expenses to be paid to persons appointed under paragraph (1)(b).

(7) The audit committee shall

(a) provide assistance to the commission in fulfilling its oversight responsibility to the House of Assembly and the public with respect to stewardship of public money;

(b) make recommendations to the commission respecting the choice of and terms of engagement and compensation of the auditor appointed under section 43;

(c) review the audit plans of the auditor appointed under section 43, including the general approach, scope and areas subject to risk of material misstatement;

(d) review the financial statements, audit report and recommendations of the auditor and give advice thereon to the commission;

(e) review the compliance report issued and recommendations, if any, provided by the auditor general as a result of a compliance audit conducted under subsection 43(9) and give advice on that report and those recommendations to the commission;

(f) review internal audit reports and make recommendations to the commission as required in respect of matters arising from those reports and generally make recommendations with respect to internal audit procedures of the House of Assembly service and its statutory offices;

(g) review with the clerk the effectiveness of internal control and other financial matters, as well as compliance with legal requirements respecting accountability, record-keeping, tendering and conflict of interest in the House of Assembly;

(h) review the code of conduct applicable to the clerk and staff of the House of Assembly service and statutory offices and make recommendations as it may require for improvements to the commission;

- (i) establish procedures for the receipt and treatment of complaints regarding accounting and internal controls, and the confidential anonymous submission by staff of the House of Assembly service and statutory offices and by members of the public service of concerns regarding questionable accounting or auditing matters;
 - (j) use reasonable efforts to satisfy themselves as to the integrity of the House of Assembly service and statutory office financial information systems and the competence of accounting personnel and senior financial management responsible for accounting and financial reporting;
 - (k) review disclosure practices of the commission to ensure full, plain and timely disclosure of its decisions respecting financial matters;
 - (l) advise the clerk with respect to the exercise of the clerk's responsibilities as accounting officer; and
 - (m) deal with, advise and report on other matters relating to the financial affairs of the House of Assembly service and statutory offices as may be required by the commission.
- (8) The audit committee shall
- (a) meet at least four times a year or more often as required;
 - (b) meet separately and periodically as appropriate with the clerk, the personnel responsible for the internal audit function and the auditor appointed under section 43; and
 - (c) report regularly to the commission with respect to its activities.
- (9) The substance of the reports, advice and recommendations made by the audit committee to the commission shall be tabled at meetings of the commission and recorded in the minutes.
- (10) Where there is disagreement among members of the audit committee as to the report, advice or recommendations to be made to the commission on a matter, and the 2 members of the committee appointed under paragraph (1)(b) are in disagreement with the other members of the committee or disagree with each other on that matter, that fact shall be

Advance rulings on
allowance use

recorded in the report, advice or recommendations and in the minutes of the commission.

24. (1) Where a member makes or contemplates making or incurring a type of expense and a claim for reimbursement, or payment has been rejected by an officer or staff member of the House of Assembly service, or the member is unsure as to whether that expense will qualify for reimbursement or payment as an allowance payable, he or she may request a ruling or an advance ruling from the speaker.

(2) Upon receipt of a request in writing for a ruling or an advance ruling under this section, the speaker shall, as soon as reasonably possible, review the matter and provide a ruling in writing to the member as to whether the expenditure or the proposed expenditure complies with or will comply with this Act, the rules and directives of the commission.

(3) Before making a ruling the speaker may request further information or clarification from the member as to the nature and purpose of the expenditure in question.

(4) Where the ruling of the speaker is that the expenditure complies with, or the proposed expenditure will comply with, this Act, the rules and directives of the commission, the speaker shall

(a) inform the member of the ruling; and

(b) provide a copy of that ruling to the commission.

(5) Where the ruling of the speaker is that the expenditure or the proposed expenditure complies with or will comply with the Act, the rules and directives of the commission, and the commission does not vary the speaker's ruling in accordance with subsection (7), the ruling is binding and the member may claim reimbursement or payment.

(6) Where the commission takes issue with the speaker's ruling, the member shall be notified by the commission and given the opportunity to make a submission to the commission outlining why the expenditure complies with the Act and the rules and directives of the commission.

(7) The commission may, within 30 days of receipt of the speaker's ruling reverse that ruling and substitute another or approve that ruling and the decision of the commission is final.

(8) Where the ruling of the speaker is that the expenditure or the proposed expenditure does not comply with the rules and directives of the commission, the member may appeal that ruling to the commission and, after giving the member an opportunity to make a submission in writing in support of the appeal, the commission may decide to reverse, uphold or modify the ruling of the speaker and the decision of the commission is final.

PART IV HOUSE OF ASSEMBLY OPERATIONS

House of Assembly
Service

25. (1) The House of Assembly service consists of operations assigned by law to the legislative branch of government for the purpose of supporting the functioning of the House of Assembly, its committees and members, and includes

- (a) the speaker
- (b) the office of the clerk and other officers of the House of Assembly;
- (c) the law clerk;
- (d) the financial and administrative services;
- (e) the legislative library;
- (f) the office of Hansard;
- (g) the broadcast centre; and
- (h) other divisions as may be assigned by law or designated and provided for by the commission.

(2) For the purpose of this Act, the House of Assembly service does not include a statutory office, the office of the auditor general, or staff employed for political purposes to assist a member or a caucus.

(3) The law clerk appointed under section 7 shall provide legal services to the House of Assembly service, including but not limited to

- (a) advice to the clerk and speaker on parliamentary matters; and

(b) general legal advice and services.

Estimates

26. (1) An estimate of the amounts required to be provided by the House of Assembly for the payment of expenses of the House of Assembly service, including salaries, allowances and expenses of members, during each fiscal year shall be prepared annually by the clerk.

(2) Estimates of the amounts required to be provided by the House of Assembly for the operation of each statutory office shall be prepared annually by the head of that statutory office.

(3) The estimates prepared by the clerk and the head of each statutory office shall be submitted to the commission for its approval and may be altered by the commission.

(4) Before the commission makes a decision on the estimate of the statutory offices submitted under subsection (2), the commission shall request the clerk to provide analysis and commentary to the commission on each of those estimate requests.

(5) Before the commission makes a decision on an estimate submitted under this section, it may submit the estimate to the budget division of the Department of Finance for analysis and commentary.

(6) The estimates as approved or altered by the commission shall be submitted to the Minister of Finance and laid before the House of Assembly with the other estimates for the year.

Payment

27. All amounts of money voted by the Legislature with respect to the estimates submitted under section 26 shall, subject to the *Financial Administration Act*, be paid out of the Consolidated Revenue Fund on the order of the commission to defray the expenses of the House of Assembly service, its statutory offices and the office of the auditor general.

Clerk

28. (1) The clerk is the chief permanent officer of the House of Assembly with the status equivalent to a deputy minister in the public service and in that capacity the clerk is

(a) the chief parliamentary advisor to the speaker; and

(b) the chief administrative and financial officer of the House of Assembly responsible to the speaker and through the speaker to the commission for the management of the operations of the

House of Assembly service and the administration of the statutory offices.

(2) In the capacity as chief parliamentary advisor, the clerk is responsible for

- (a) advising the speaker, deputy speaker, committee chairpersons and members on procedural matters concerning the rules, privileges and proceedings of the House of Assembly;
- (b) directing and coordinating the provision of procedural services by the assistant clerk, sergeant-at-arms and other officers of the House of Assembly;
- (c) coordinating all official parliamentary ceremonies and other events involving the House of Assembly
- (d) custody of and safe-keeping of the records of the House of Assembly and all dispatches, bills, petitions and documents presented to or laid on the table of the House, and shall produce them when required by the speaker or by his or her order on motion of a member;
- (e) recording and carrying out all recorded votes of the House of Assembly; and
- (f) ensuring and controlling public access to the proceedings of the House of Assembly through the production and distribution of Hansard and the facilitation of electronic access to proceedings by the media.

(3) In the capacity as chief administrative and financial officer, the clerk is responsible for

- (a) the provision of administrative, financial and other support services to the House of Assembly, its members, and its statutory offices;
- (b) direction and supervision of the clerks, officers and staff employed in the House of Assembly service and for the establishment of general administrative policies of the statutory offices;

- (c) acting as secretary of the commission and has custody of all records and minutes of the commission;
- (d) ensuring that disclosure, as required by law, of the proceedings of the commission and the financial matters pertaining to members and the House of Assembly service is provided for;
- (e) the preparation of the estimates of the House of Assembly service as required by section 26 and analysis and commentary, to the commission, on the budget submissions of the statutory offices and the office of the auditor general;
- (f) administration of all services and payments to members;
- (g) the orderly safekeeping of the records of the House of Assembly service;
- (h) authorizing and recording all financial commitments entered into on behalf of the House of Assembly service and statutory offices;
- (i) reporting regularly to the commission and to the secretary of the Treasury Board regarding the financial and budgetary performance of the House of Assembly service and its statutory offices;
- (j) reporting to the commission and the audit committee on the status of audits of the House of Assembly service and the statutory offices and, specifically, reporting if in his or her opinion the audit is not being conducted on a timely basis;
- (k) maintaining and periodically assessing the effectiveness of internal controls in the House of Assembly service and statutory offices and reporting on that assessment and effectiveness to the commission; and
- (l) certifying to the commission as required that the House of Assembly service and statutory offices have in place appropriate systems of internal control and that those systems are operating effectively.

(4) Paragraph (3)(l) shall not come into force until August 31, 2008.

Financial
administration of
allowances and
expenses

29. (1) The clerk shall ensure that

- (a) all allowances allocated to a member are allocated directly to a separate account for that member, which shall be maintained by the financial officer designated by the clerk;
- (b) all expenses of a member are charged to and paid out of the member's account as a debit from funds allocated under paragraph (a); and
- (c) expenses reimbursed to or paid on behalf of a member do not exceed prescribed maximums and otherwise comply with limitations on their payment.

(2) The clerk shall ensure that quarterly or more frequently, as he or she considers necessary or as may be directed by the commission, statements of the status of a member's account are provided to that member and the commission.

(3) The clerk shall annually certify in the report required under section 51 that

- (a) he or she has reviewed the accounts of members and that they are an accurate reflection of the transactions related to those accounts for the previous fiscal year; and
- (b) the minutes of the proceedings of the commission are an accurate reflection of the decisions made at those proceedings.

General duties of
clerk

30. The general duties of the clerk of the House of Assembly, where no special provision is made, shall be similar to those of the clerks of the Commons House of Parliament of the United Kingdom according to the practice of Parliament, or as may be provided by resolution of the House of Assembly.

Clerk to account to
Public Accounts
Committee

31. (1) The clerk, as an accounting officer, shall be directly accountable before the Public Accounts Committee of the House of Assembly for the authorities and responsibilities assigned by law or delegated to him or her by the commission, including for the

- (a) measures taken to organize the resources of the House of Assembly service to deliver the programs in compliance with established policies and procedures;

- (b) measures taken to implement appropriate financial management policies;
- (c) measures taken to maintain effective systems of internal control
- (d) certifications that are made under section 29; and
- (e) performance of other specific duties assigned to him or her by or under this or another Act in relation to the administration of the House of Assembly service and the statutory offices.

(2) The obligation of the clerk under this section is to appear before the Public Accounts Committee and answer questions put to him or her by members of the committee in respect of the carrying out of the responsibilities and the performance of the duties referred to in subsection (1).

(3) Except where section 24 applies, where the speaker or the commission are unable to agree with the clerk on the interpretation or application of a rule, directive, policy or standard applicable to a member, the House of Assembly service or the statutory offices, the clerk shall seek guidance in writing on the matter from the comptroller general or the Deputy Minister of Justice.

(4) Where guidance is provided under subsection (3) and the matter remains unresolved, but the speaker or commission, in writing, requests action by the clerk in accordance with their direction, the clerk shall comply with the direction but shall immediately notify the auditor general, the comptroller general and the Attorney General of the direction and his or her disagreement with that direction.

(5) A punishment or retaliation shall not be taken against the clerk for actions taken by him or her in good faith under this section.

Subordinate offices

32. (1) The commission may appoint those employees, other than those appointed under section 7, that it considers necessary for the conduct of the business of the House of Assembly service.

- (2) The commission may, in accordance with
 - (a) subsection 10(1) of the *Citizen's Representative Act*;
 - (b) subsection 11(1) of the *Child and Youth Advocate Act*;

(c) subsection 42.7(1) of the *Access to Information and Protection of Privacy Act*;

(d) subsection 34(5) of the *House of Assembly Act*; and

(e) subsection 7(1) of the *Elections Act, 1991*,

approve the proposed appointments of officers, clerks, assistants and employees of the statutory offices.

(3) Policies respecting the public service, including policies with respect to the reimbursement of expenses, apply to persons employed in the House of Assembly service, except where varied by a directive of the commission.

(4) Policies relating to deputy ministers, including policies with respect to the reimbursement of expenses, apply to the clerk and persons appointed to preside over a statutory office, except where varied by a directive of the commission.

(5) The employee benefits applicable to the public service of the province apply or continue to apply, as the case may be, to persons employed in the House of Assembly service, except where varied by a directive of the commission.

(6) The *Public Service Commission Act*, except for section 11 with respect to appointments, applies or continues to apply, as the case may be, to the House of Assembly and the statutory offices, except where varied by a directive of the commission.

(7) An employee of the House of Assembly service who would, if employed by a department of the government of the province, be an employee for the purpose of the *Public Service Pensions Act*, including for the purposes of the retirement age and the advanced or deferred pension privileges of an employee shall be subject to the same provisions respecting leave as a full-time employee of a department of the government of the province.

(8) The commission may, with the approval of the applicable minister or agency head, second employees from a department of government or agency to work on a temporary basis in the House of Assembly service and while working, those persons shall report to and be answerable to the clerk or other person as may be designated by the clerk

and upon return of those persons to work in a government or agency, service while employed in the House of Assembly service shall be counted as service in the public service.

Reporting of proceedings

33. The commission may make arrangements for the reporting and publishing of the proceedings of the House of Assembly.

Suspension of employees

34. (1) The speaker may inquire into the conduct or fitness of a person employed by the House of Assembly upon a complaint made to the speaker of misconduct or unfitness of that person.

(2) Where it appears to the speaker following an inquiry under subsection (1) that an employee has been guilty of misconduct or is unfit to continue his or her employment, the speaker may suspend the employee and shall report the suspension

(a) to the Lieutenant-Governor in Council in the case of a person appointed by the Crown; or

(b) to the commission where the person has not been appointed by the Crown.

PART V ETHICS AND ACCOUNTABILITY

Codes of conduct

35. (1) The speaker shall, immediately after the coming into force of this Act, refer to the standing committee of the House of Assembly on Privileges and Elections the responsibility of developing and proposing to the House of Assembly the adoption, by resolution, of a code of conduct for members to assist members in the discharge of their obligations to the House of Assembly, their constituents and the public at large by

(a) providing guidance on the standards of conduct expected of members in discharging their legislative and public duties; and

(b) providing the openness and accountability necessary to reinforce public confidence in the manner in which members perform those duties.

(2) The code of conduct adopted under subsection (1) shall be

(a) treated as a standard against which the actions of a member may be judged for the purpose of censure by the House of Assembly and by the public; and

(b) in addition to other standards of duty and responsibility imposed on members by this Act and any other law.

(3) The commission shall, within 90 days of the coming into force of this Act, develop and adopt a code of conduct applicable to the officers and other persons employed in the House of Assembly service and in the statutory offices.

Request for opinion

36. (1) A member who has reasonable grounds to believe that another member is in contravention of the code of conduct adopted under subsection 35(1) 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 the code of conduct.

(2) The commissioner, on his or her own initiative, may conduct an inquiry to determine whether a member has failed to fulfil an obligation under the code of conduct where in the opinion of the commissioner it is in the public interest to do so.

(3) The House of Assembly may, by resolution, request that the commissioner give an opinion on a matter respecting the compliance of a member with the code of conduct.

(4) The Premier may request that the commissioner give an opinion on a matter respecting the compliance of a minister with the provisions of the code of conduct.

(5) Where a matter has been referred to the commissioner under subsection (1) or (3), the House of Assembly or a committee of the House of Assembly shall not conduct an inquiry into the matter until the commissioner has completed his or her work.

Inquiry

37. (1) Upon receiving a request under subsection 36(1), (3) or (4), or where the commissioner decides to conduct an inquiry under subsection 36(2), and on giving the member concerned reasonable notice, the commissioner may conduct an inquiry.

(2) Where the commissioner conducts an inquiry under subsection (1), he or she shall give the member to whom the inquiry relates a copy of the request and at all appropriate stages throughout the inquiry the commissioner shall give the member reasonable opportunity to be present and to make representations to the commissioner in writing or in person or by counsel or other representative.

(3) Where the commissioner decides to conduct an inquiry under subsection (1), he or she has all the powers of a commissioner under the *Public Enquiries Act*.

(4) Where the commissioner determines that the subject-matter of an inquiry conducted by him or her is under investigation by police or is the subject-matter of criminal proceedings, the commissioner shall hold the inquiry in abeyance pending final disposition of that investigation or those proceedings where in his or her opinion the continuation of the inquiry would inappropriately interfere with the investigation or proceeding.

(5) Where during the course of an inquiry the commissioner determines that there are reasonable grounds to believe that an offence contrary to an Act of the province or the Parliament of Canada has been committed, the commissioner shall immediately refer the matter to the appropriate authorities and hold the inquiry in abeyance pending final disposition of a resulting investigation and proceedings.

Report

38. (1) Where the request for an opinion is made under subsection 36(1) or (3), or where the commissioner conducts an inquiry under subsection 36(2), he or she shall report his or her opinion to the commission which shall present the report to the House of Assembly within 15 sitting days of receiving it if it is in session or, if not, within 15 sitting days of the beginning of the next session.

(2) In all cases, the commissioner shall report the results of an inquiry to the member concerned.

(3) The commissioner shall report the results of an inquiry as soon as possible, and in any event no later than 90 days after beginning the inquiry.

Penalties

39. (1) Where the commissioner determines that a member has failed to fulfil an obligation under the code of conduct he or she may recommend in the report under section 38

- (a) that the member be reprimanded;
- (b) that the member make restitution or pay compensation;
- (c) that the member be suspended from the House of Assembly, with or without pay, for a period specified in the report; or
- (d) that the member's seat be declared vacant.

Concurrence of House of Assembly

40. (1) A recommendation in a report of the commissioner shall not take effect unless the report is sent to the commission under subsection 38(1) and concurred in by resolution of the House of Assembly.

(2) A report tabled in the House of Assembly under subsection 38(1) shall be taken up and disposed of within 15 sitting days after the day on which it was tabled or within a longer period, not to exceed 6 months, that the House of Assembly may determine.

Suit for compensation allowed

41. (1) Where a report to the House of Assembly under section 38 is adopted and the report recommends the payment of compensation or restitution the House of Assembly may, in an Act passed for the purpose, order the payment of compensation or restitution.

(2) Compensation ordered to be paid under subsection (1) is a debt due to the person identified in the report as having suffered damage and may be recovered from the member to whom the report relates by that person in a court.

Examination of member

42. (1) Where, after considering a matter under section 37, the commissioner concludes that, having regard to all the circumstances, there was no failure without reasonable justification in the member's fulfilment of an obligation under the code of conduct, then he or she, without providing further information, shall certify to the member in writing and shall give a copy of the certificate to the commission where the inquiry was conducted as a result of a request under subsection 36(1) or (3) or by the commissioner under subsection 36(2).

(2) Where the commissioner gives a copy of a certificate to a member under this section, he or she shall, on the request of the member, provide the member with the information and explanations in support of the conclusion referred to in subsection (1) that the commissioner considers appropriate in the circumstances, and the member may publish

or otherwise deal with information and explanations so provided as the member sees fit.

Audit

43. (1) Notwithstanding another Act, the accounts of the House of Assembly service and its statutory offices shall be audited annually by an auditor appointed by the commission under subsection (2).

(2) The commission shall before the end of each fiscal year, upon the recommendation of the audit committee, appoint an auditor.

(3) The auditor general may act as the auditor appointed under subsection (1) but in that event the audit to be performed shall be of the House of Assembly service and its statutory offices, as a separate body and not as part of the general audit of the accounts of the province, with appropriate levels of materiality applied to that entity.

(4) The commission and the speaker are responsible for ensuring that an auditor is appointed under this section.

(5) Where an auditor has not been appointed under subsection (2) by the end of the fiscal year, the auditor general shall be the auditor.

(6) The audit provided for in subsection (2) shall consist of

(a) a financial statement audit conducted in accordance with generally accepted auditing standards as determined by the Canadian Institute of Chartered Accountants, expressing an opinion on whether the accounts of the House of Assembly service and statutory offices are fairly presented in accordance with accounting policies noted;

(b) the expression of an opinion on whether the expenses incurred by the House of Assembly service and statutory offices are in accordance with the policies of the commission and, where applicable, the policies of the executive branch of government; and

(c) the expression of an opinion on whether the clerk's assessment of the effectiveness of internal controls of the House of Assembly service and statutory offices is fairly stated and whether the internal controls are operating effectively.

(7) Nothing in this Act precludes the auditor general, after consultation with the audit committee, from conducting at any time and on his or her own motion a separate financial audit of the accounts of the House of Assembly service and the statutory offices within the authorities conferred on the auditor general by the *Auditor General Act*.

(8) Where a financial audit conducted under this section is conducted by an auditor other than the auditor general, that auditor shall

- (a) deliver to the auditor general after completion of the audit a copy of the auditor's report, his or her recommendations to management and a copy of the audited financial statements; and
- (b) provide to the auditor general as soon as reasonably practicable when so requested, a full explanation of the work performed, tests and examinations made and the results obtained, and other information relating to the audit within the knowledge of that auditor.

(9) In addition to the financial audit contemplated by this section, the auditor general shall perform and complete a compliance audit at least once during every general assembly to determine and express an opinion on

- (a) whether collections of public money
 - (i) have been effected as required under law and directives and decisions of the commission,
 - (ii) have been fully accounted for, and
 - (iii) have been properly reflected in the accounts of the province;
- (b) whether disbursements of public money
 - (i) have been made in accordance with the authority of a supply vote, or relevant law,
 - (ii) have complied with regulations, rules, directives and orders applicable to those disbursements,

- (iii) have been properly reflected in the accounts, and
- (iv) have been made for the purposes for which the money was appropriated and authorized;
- (c) whether accounts have been faithfully and properly kept;
- (d) whether assets acquired, administered or otherwise held by or for the House of Assembly service and the statutory offices are adequately safe-guarded and accounted for;
- (e) whether accounting systems and management control systems that relate to revenue, disbursements, safeguarding or use of assets or the determination of liabilities were in existence, were adequate and had been complied with;
- (f) whether accountability information with respect to the operations of the House of Assembly service and the statutory offices is adequate; and
- (g) whether there are factors or circumstances relating to expenditure of public money which in the opinion of the auditor general should be identified and commented on as part of the audit function

(10) Subsection (9) shall not be construed as entitling the auditor general to question the merits of policy objectives of the House of Assembly, the House of Assembly service, the commission or the statutory offices.

Access to books

44. The auditor general, another auditor appointed under section 43 and the comptroller general shall, for the purposes of

- (a) an audit of the accounts of the House of Assembly service and statutory offices under this Act; and
- (b) the duties of the comptroller general under the *Financial Administration Act*,

have access to all books, documents, accounts and other financial records of the House of Assembly and the statutory offices.

Improper retention
of public money

45. (1) Where

- (a) during the course of an audit;
- (b) as a result of a review of an audit report prepared by another auditor employed by the commission; or
- (c) as a result of an internal audit procedure

the auditor general becomes aware of an improper retention or misappropriation of public money by a member or the clerk or assistant clerk, staff of the House of Assembly service or the statutory offices or another activity that may constitute an offence under the *Criminal Code* or another Act of the province or of Canada, the auditor general shall immediately report the improper retention, misappropriation of public money or other activity to

- (d) the speaker;
- (e) the chair of the audit committee;
- (f) the Premier;
- (g) the leader of the political party, if any, with which the person involved may be associated;
- (h) the Attorney General; and
- (i) the Minister of Finance.

(2) In addition to reporting in accordance with subsection (1), the auditor general shall attach to his or her annual report to the House of Assembly a list containing a general description of the incidents referred to in subsection (1) and the dates on which those incidents were reported.

(3) Before making a report under subsection (1), the auditor general shall give to a person involved and who may be ultimately named or identified in the report

- (a) full disclosure of the information of which the auditor general has become aware;

(b) a reasonable opportunity to the person to provide further information and an explanation,

and shall take that information and explanation into account in deciding whether to proceed to make a report.

(4) The auditor general shall not make the existence or the contents of a report referred to in subsection (1) known to another person except

(a) as part of his or her annual report to the House of Assembly;

(b) in accordance with court process;

(c) as part of proceedings before the Public Accounts Committee; and

(d) as a result of a request from the commission.

(5) The auditor general is a compellable witness in any criminal or civil proceeding and in a proceeding before the Public Accounts Committee relating to any matter dealt with in a report made under this section.

(6) Section 19.1 of the *House of Assembly Act* does not apply to a report made under this section.

(7) Section 15 of the *Auditor General Act* does not apply to a member, the clerk, assistant clerk or staff of the House of Assembly service.

Financial
Administration Act

46. The *Financial Administration Act* applies to public money issued to defray expenses of the House of Assembly including money allocated to defray the salaries, allowances and other expenses of members.

Public Accounts
Committee

47. The Public Accounts Committee of the House of Assembly or another committee that may be designated by the House of Assembly shall annually review

(a) the audited accounts and report prepared by the speaker under section 51;

(b) the clerk's role as accounting officer under section 31; and

- (c) another matter that it considers necessary or advisable with respect to the financial management of the House of Assembly service and the statutory offices.

Application of Acts

48. (1) The *Transparency and Accountability Act* shall apply to the House of Assembly service and the statutory offices, with the following exceptions:

- (a) an authority or responsibility given to a minister under that Act shall be exercised by the speaker;
- (b) an authority or responsibility given to the Lieutenant-Governor in Council under that Act shall be exercised by the commission;
- (c) sections 10, 11, 12, 13, subsections 14(2), 19(1), (2), (3) and (4), and section 24 of that Act do not apply;
- (d) subsections 14(2), 19(1), (2) and (4) of that Act apply only to the statutory offices;
- (e) where the *Transparency and Accountability Act* refers to a "governing body" it shall be read as a reference to the commission;
- (f) where the *Transparency and Accountability Act* refers to a "government entity" it shall be read as a reference to an office of the House of Assembly;
- (g) where the *Transparency and Accountability Act* refers to a "public body" it shall be read as a reference to an office of the House of Assembly;
- (h) where in sections 5, 6, and 7 of the *Transparency and Accountability Act* reference is made to the "strategic direction of the government" it shall be read as a reference to the strategic direction of the House of Assembly service; and
- (i) where in section 21 of the *Transparency and Accountability Act* a reference is made to a "deputy minister" it shall be read as a reference, in relation to the House of Assembly service, to the clerk.

(2) The *Public Tender Act* and the *Conflict of Interest Act* shall apply to the House of Assembly service and the statutory offices except to the extent that the application may be modified by a directive of the commission putting in place alternative and more appropriate regimes dealing with tendering processes and conflict of interest of persons employed in the House of Assembly service and its statutory offices.

Further duties of
commission

49. (1) In addition to providing access to information under the *Access to Information and Protection of Privacy Act*, the commission shall

- (a) adopt and maintain a scheme, to be known as a publication scheme, which relates to the publication of information by the commission;
- (b) publish information in accordance with the publication scheme; and
- (c) from time to time review and update the publication scheme.

(2) The publication scheme required to be adopted under subsection (1) shall

- (a) include information about the expenditures made by or on behalf of members under subsection 11(4) and in accordance with the rules;
- (b) include other classes of information relating to the operation of the House of Assembly service which the commission intends to publish, taking into account the appropriateness, with respect to each class, of public access to information concerning that class; and
- (c) specify the manner, including written or electronic publication on a website, in which it is to be published.

Manual

50. (1) The commission shall, not more than 6 months after the coming into force of this Act, develop a manual of appropriate conduct and policies and procedures for members of the House of Assembly.

(2) The manual shall be

(a) tabled in the House of Assembly within 10 days after its completion if the House of Assembly is then sitting and if not, within 10 days of the next ensuing sitting; and

(b) distributed to the speaker, clerk and each member of the House of Assembly.

(3) Where, after a distribution of a manual under subsection (2), a member is newly elected to the House of Assembly, the clerk shall provide a copy of that manual to that member.

(4) The manual shall be updated as the commission considers necessary and each change to the manual shall be distributed as required under subsections (2) and (3).

(5) The manual shall contain

(a) information with respect to allowances available to members;

(b) the duties of members with respect to claims for allowances and the management and expenditure of public money;

(c) copies of applicable legislation;

(d) copies of the rules;

(e) directives of the commission issued from time to time to members, the speaker and the clerk;

(f) information summarizing rulings and determinations made by the speaker and the commission under section 24 and by the speaker and the commissioner of members' interests under section 52;

(g) instructions as to the manner in which duties of the members are to be carried out with respect to making claims for allowances and the forms to be employed and the documentation to be supplied;

(h) codes of conduct and ethics as may be adopted from time to time by the House;

- (i) information as to how to organize and operate a constituency office; and
- (j) another matter that the commission believes may be of assistance to members in the performance of their duties.

Annual report of
speaker

51. (1) In addition to a report that may be required by the *Transparency and Accountability Act*, the speaker shall, on behalf of the commission, annually prepare and table in the House of Assembly a report containing

- (a) the audited financial statements and accounts and auditor's report prepared by the auditor under section 43;
- (b) minutes of the substance of all decisions made at each meeting of the commission prepared in accordance with subsection 19(4);
- (c) a report on the decisions and activities of the commission for the past year prepared in accordance with paragraph 20(1)(f);
- (d) a report on any recommendations made by the auditor appointed under section 43 and the steps taken or to be taken, if any, to address those recommendations, in accordance with paragraph 20(5)(e);
- (e) a statement of the total salary, allowances and expenses permitted for each member and a statement of all payments made to or for each member with respect to their salaries allowances and expenses;
- (f) changes or adjustments to allowances and expenses approved by the commission in the year covered by the report;
- (g) a statement of the clerk certifying that the amounts of salary, allowance and expense reflected in the report as having been paid to or for each member is consistent with the amounts recorded by the comptroller general and reflected in the public accounts; and
- (h) a statement of the substance of rulings made by the speaker, the commission or the commissioner for Legislative Standards under sections 24 and 52.

52. (1) At the request of a member or of the clerk or of his or her own accord, the speaker may conduct, in his or her capacity as chair of the commission, a review that the speaker considers necessary to determine whether a member's use of an allowance, disbursement, payment, good, premises or service provided under this Act complies with

- (a) the purposes for which the allowance, disbursement, payment, good, premises or service was provided ; or
- (b) the purpose of this Act, the rules or the directives of the commission.

(2) The speaker shall inform a member of a review concerning that member as soon as is reasonably possible.

(3) Where, after a review, the speaker determines that a member's use of an allowance, disbursement, payment, goods, premises or service provided under this Act does or does not comply with the purposes for which it was provided or the purposes of this Act or a rule or directive of the commission, the speaker shall

- (a) inform the member of the determination; and
- (b) provide a copy of that determination to the commission.

(4) A member who is the subject of the speaker's determination may, within 10 days of his or her receipt of that determination, inform the speaker that he or she disagrees with the determination and the speaker or that member may request that the commissioner investigate and provide a written opinion.

(5) Where the commissioner receives a request under subsection (4), he or she may conduct an investigation sufficient to provide an opinion and shall provide that written opinion to the

- (a) member who was the subject of the investigation,
- (b) commission; and
- (c) speaker.

(6) If an opinion provided under subsection (5) differs from that provided by the speaker under subsection (3), the commissioner's opinion shall prevail.

(7) If the member does not disagree in writing within 30 days after receiving the speaker's determination or if he or she does disagree but the commissioner, in the commissioner's written opinion, supports the speaker's determination, the speaker may direct, in writing, that the member

- (a) comply with the Act, the rules or the directives of the commission; and
- (b) pay back the amount of the allowance, disbursement, funding or payment paid or the value of the good, service or use of the premises provided.

(8) The speaker may order that an allowance, disbursement, payment, good, premises or service otherwise payable or to be provided to a member under this Act or a rule or directive of the board, be withheld from the member if

- (a) the speaker has given the member a written direction under subsection (7); and
- (b) either
 - (i) the speaker determines that the member continues to use an allowance, disbursement, payment, good, premises or service paid or provided in a manner that does not comply with the purpose for which it was provided or with the purpose of this Act or a directive of the commission, or
 - (ii) the speaker is of the opinion that the withholding is necessary to protect the public interest.

(9) An order made under subsection (8) remains in force until

- (a) the speaker is satisfied that the member's proposed use of the allowance, disbursement, payment, good, premises or service complies with the purpose for which it was provided or with the purposes of this Act or directives of the commission; or

(b) it is revoked by the speaker.

(10) The speaker may impose a term or condition on an order made under subsection (8) that he or she considers appropriate.

Enforcement of
Duties

53. (1) Where a person believes in good faith that a member, the speaker, deputy speaker, clerk, assistant clerk or the commission is failing to observe or comply with a duty imposed under this Act, he or she may commence a proceeding in the Trial Division by way of originating application seeking a mandatory order that the duty be complied with, together with consequential or declaratory relief.

(2) The claimant must make a demand for compliance with the alleged duty on the person or body he or she alleges is required to perform that duty and allow a reasonable time for compliance before commencing a proceeding in subsection (1).

(3) A person who commences an application under subsection (1) shall not be denied standing on the basis that he or she has no greater interest in the subject-matter of the application than any other member of the public or that the Attorney General is not named as a party by way of relator proceedings or otherwise.

(4) A person who commences an application under subsection (1) shall serve a copy of the application on the Attorney General and the Attorney General shall have the right to intervene and be heard in the proceeding.

(5) For the purpose of a proceeding against the commission under this section the commission shall be considered to be a party capable of being sued in its own right.

(6) An order as to costs shall not be made against a person who unsuccessfully commences an application under subsection (1) unless the court determines that the application was not brought in good faith.

PART VI PUBLIC INTEREST DISCLOSURE

Definitions

54. In this Part

(a) “disclosure” means a disclosure made in good faith by a member or an employee in accordance with section 55;

- (b) “employee” means a member of the public service and includes an officer of the House of Assembly and a person employed in the House of Assembly service or a statutory office;
- (c) “investigator” means the citizen’s representative appointed under the *Citizen’s Representative Act*;
- (d) “reprisal” means one or more of the following measures taken against an employee because he or she has, in good faith, sought advice about making a disclosure, made a disclosure or cooperated in an investigation under this Part,
 - (i) a disciplinary measure,
 - (ii) a demotion,
 - (iii) termination of employment,
 - (iv) a measure that adversely affects his or her employment or working conditions, or
 - (v) a threat to take a measure referred to in subparagraphs (i) to (iv); and
- (e) “wrongdoing”, with respect to a member, the speaker, and officer of the House of Assembly and persons employed in the House of Assembly service and the statutory offices means
 - (i) an act or omission constituting an offence under this Act,
 - (ii) gross mismanagement, including of public money under the stewardship of the commission in violation or suspected violation of a code of conduct,
 - (iii) failure to disclose information required to be disclosed under this Act, and
 - (iv) knowingly directing or counseling a person to commit a wrongdoing described in subparagraphs (i) to (iii).

Disclosure of wrongdoing

55. (1) An employee or a member who reasonably believes that he or she has information that could show that a wrongdoing has been committed or is about to be committed may make the disclosure to his or

her supervisor, the clerk, a member of the audit committee under paragraph 23(2)(b), or the investigator.

(2) A disclosure made under this section may be given orally or in writing and shall include, if known

(a) a description of the wrongdoing;

(b) the name of the person alleged to

(i) have committed, or

(ii) be about to commit

the wrongdoing;

(c) the date of the wrongdoing; and

(d) whether the wrongdoing has already been disclosed and a response received.

(3) An employee or a member may make a disclosure even where another Act or regulation prohibits disclosure of that information

(4) Notwithstanding subsection (3), nothing in this Part authorizes the disclosure of information that is protected by solicitor client privilege.

(5) Where a disclosure involves personal or confidential information, the employee must take reasonable precautions to ensure that no more information is disclosed than is necessary to make the disclosure.

Confidentiality of
Identity

56. The identity of a person making a disclosure shall be kept confidential to the extent permissible by law and consistent with the need to conduct a proper investigation.

Referral for
investigation

57. A person to whom a disclosure is made shall refer the matter to the investigator for investigation.

Investigation

58. (1) The investigator shall carry out investigations of matters related to allegations in a disclosure made under this Part.

(2) Upon receipt of a referral the investigator shall, within 5 days, acknowledge to the person making the disclosure that the referral has been received.

(3) An investigation of an allegation made in a disclosure shall be conducted as informally and expeditiously as possible.

(4) An investigator shall ensure that the right to procedural fairness of all persons involved in an investigation is respected, including persons making disclosures, witnesses and persons alleged to be responsible for wrongdoings.

(5) An investigator is not required to investigate a disclosure and may cease an investigation where he or she is of the opinion that

- (a) the disclosure reveals allegations that are frivolous or vexatious or the disclosure has not been made in good faith;
- (b) the disclosure does not provide adequate particulars about the alleged wrongdoing as required under subsection 55(2); and
- (c) there is another valid reason for not investigating the disclosure.

(6) Where, during an investigation, the investigator has reason to believe that another wrongdoing has been committed, he or she may investigate that wrongdoing in accordance with this Part.

(7) Upon completing an investigation, an investigator shall report, in writing, to the clerk and the speaker on his or her findings and recommendations about the disclosure and the wrongdoing.

(8) Where the matter being investigated involves the clerk the investigator shall give a copy of the report to the speaker.

(9) Where the matter being investigated involves the speaker the investigator shall give a copy of the report to the chair of the audit committee.

(10) The speaker, or the chair of the audit committee shall, if the report recommends corrective action,

- (a) refer the report to the auditor general, the Attorney General, the Minister of Finance or other appropriate official to take appropriate action; or
- (b) refer the report to the commission.

No reprisal

59. (1) A person shall not take a reprisal against an employee or direct that a reprisal be taken against an employee because the employee has, in good faith

- (a) sought advice about making a disclosure from his or her supervisor, the clerk, the speaker or a member of the audit committee;
- (b) made a disclosure; or
- (c) cooperated in an investigation under this Part.

(2) An employee or former employee who alleges that a reprisal has been taken against him or her may file a written complaint with the board as defined in the *Labour Relations Act* and that Act shall apply to the hearing and determination with respect to that complaint.

Misleading statements and obstruction

60. (1) A person shall not

- (a) in making a disclosure; or
- (b) during an investigation,

orally or in writing, knowingly make a false or misleading statement to a person to whom a disclosure has been made or to the investigator.

(2) A person shall not wilfully obstruct a supervisor, the clerk, the speaker, an investigator or another person acting for or on behalf of them or under their direction in the performance of a duty under this Part.

(3) A person shall not, knowing that a document or thing is likely to be relevant to an investigation under this Part

- (a) destroy, mutilate or alter the document or thing;
- (b) falsify a document or make a false document;

(c) conceal the document or thing; or

(d) direct, counsel or cause a person to do a thing mentioned in paragraphs (a) to (c).

Offence

61. (1) A person who contravenes this Part is guilty of an offence and is liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for up to 6 months.

(2) A prosecution under this section shall not be commenced more than 2 years after the date the alleged offence was committed.

Legal advice

62. Where a supervisor, the speaker, the clerk or the investigator is of the opinion that it is necessary to further the purposes of this Part, he or she may, in accordance with the rules, arrange for legal advice to be provided to employees and members involved in a process or proceeding under this Part.

Limitations on civil remedies

63. A civil action or proceeding shall not be brought against a supervisor, the speaker, the clerk or an investigator or a person acting on behalf of or under the direction of them for a thing done or not done in good faith relating to

(a) performance or intended performance of a duty under this Part; or

(b) exercise or intended exercise of a power under this Part.

PART VII RULES

Rules

64. (1) The commission may make rules

(a) respecting allowances, reimbursements, allowable expenses and other resources available to members;

(b) establishing distinctions between member constituencies with respect to amounts and entitlement;

(c) establishing limits and restrictions on amounts related to living, constituency and other expenses, including distance travelled,

daily rates, meal rates and other rates payable by way of reimbursement or with respect to a claim of a member;

- (d) respecting reimbursement and payment of member expenses and claims;
- (e) respecting the preparation and circulation of manuals, agendas, codes, briefing ad other materials;
- (f) respecting the forms and manner in which reimbursement of claims may be made;
- (g) respecting policies and procedures for proper financial management;
- (h) respecting purposes, presumptions and principles underlying rules enacted by the commission;
- (i) respecting member responsibility for finances, expenses, claims, liability and reimbursements;
- (j) respecting records to be maintained and reports required of members, the commission, speaker, clerk and staff of the House of Assembly service and the statutory offices;
- (k) respecting forms, receipts and other documentation required for monitoring claims, expenses, reimbursements and other payments;
- (l) respecting eligibility for and prohibitions and restrictions related to expenses, claims, reimbursements and other payments;
- (m) respecting allocations of resources for office, employee, administrative and other services for members;
- (n) respecting the manner of engaging, regulating and paying for constituency assistants; and
- (o) respecting another matter that the commission considers necessary or advisable to carry out the intent and purposes of this Act.

(2) Rules made under this Act shall be considered to be subordinate legislation within the meaning of the *Statutes and Subordinate Legislation Act*.

**PART VIII
MISCELLANEOUS and CONSEQUENTIAL
AMENDMENTS**

Construing of Act

65. Unless otherwise expressly provided in this Act, this Act shall not be construed as depriving the House of Assembly, a committee of the House of Assembly or a member of a right, immunity, privilege or power that the House of Assembly, committee or member might, but for this Act, have been entitled to exercise or enjoy.

Offence

66. A person having a duty to document decisions and maintain records of the commission, the speaker, the clerk or staff member of the House of Assembly service and a person who without lawful authority destroys documentation recording decisions of the commission, the speaker or the clerk or the advice and deliberations leading up to those decisions is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or to imprisonment up to 6 months.

SNL 2002 cA-1.1 as amended

67. (1) Paragraph 2(f) of the *Access to Information and Protection of Privacy Act* is amended

(a) by deleting the word “or” immediately after paragraph (iii); and

(b) by adding immediately after subparagraph (iii) the following:

(iii.1) in the case of the House of Assembly service, as defined in the *House of Assembly Accountability, Integrity and Administration Act*, the speaker of the House of Assembly and in the case of statutory offices as defined in that Act, the applicable officer of the House of Assembly.

(2) Paragraph 2(p) of the Act is repealed and the following substituted:

(p) "public body" means

- (i) a department created under the *Executive Council Act*, or a branch of the executive government of the province,
- (ii) a corporation, the ownership of which, or a majority of the shares of which is vested in the Crown,
- (iii) a corporation, commission or body, the majority of the members of which, or the majority of members of the board of directors of which are appointed by an Act, the Lieutenant-Governor in Council or a minister,
- (iv) a local public body, and
- (v) the House of Assembly service and statutory offices, as defined in the *House of Assembly Accountability, Integrity and Administration Act*,

and includes a body designated for this purpose in the regulations made under section 73, but does not include,

- (vi) the constituency office of a member of the House of Assembly wherever located,
- (vii) the Trial Division, the Court of Appeal or the Provincial Court, or
- (viii) a body listed in the Schedule;

(3) Paragraph 5(1)(c) of the Act is repealed and the following is substituted

- (c) a personal or constituency record of a member of the House of Assembly, that is in the possession or control of that member;
- (c.1) records of a registered political party or caucus as defined in the *House of Assembly Accountability, Integrity and Administration Act*;

(4) The Act is amended by adding immediately after section 30 the following:

Disclosure of House
of Assembly service
and statutory office
records

30.1 The Speaker of the House of Assembly or the head of a statutory office shall refuse to disclose to an applicant information

- (a) where its non-disclosure is required for the purpose of avoiding an infringement of the privileges of the House of Assembly or a member;
- (b) that is advice or recommendations given to the speaker or the Clerk of the House of Assembly or the House of Assembly Management Commission that is not required by law to be disclosed or placed in the minutes of the House of Assembly Management Commission; and
- (c) in the case of a statutory office, as defined in the *House of Assembly Accountability, Integrity and Administration Act*, records connected with the investigatory functions of the statutory office.

RSNL 1990 cC-19
as amended

68. The Clerk of the House of Assembly Act is repealed.

RSNL 1990 cH-10
as amended

69. (1) Paragraphs 20(a), (a.1) and (a.2) of the *House of Assembly Act* are repealed and the following are substituted:

- (a) “code of conduct” means a code of conduct adopted by the House of Assembly under subsection 35(1) of the *House of Assembly Accountability and Administration Act*;
- (a.1) “cohabiting partner” means a person with whom a public office holder is living in a conjugal relationship outside marriage;
- (a.2) “commissioner” means the Commissioner for Legislative Standards referred to in section 34;
- (a.3) “excluded private interest” means
 - (i) an asset, liability or financial interest of less than \$10,000 in value,
 - (ii) a source of income of less than \$10,000 a year,
 - (iii) real property that is used primarily for a residence or for recreation,

- (iv) personal property used for transportation, household, educational, recreational, social or aesthetic purposes,
- (v) cash on hand or on deposit with a financial institution that is lawfully entitled to accept deposits,
- (vi) fixed value securities issued by a government or municipality in Canada or an agency of a government or municipality in Canada,
- (vii) a registered retirement savings plan, retirement or pension plan or employee benefit plan, that is not self-administered,
- (viii) an investment in an open-ended mutual fund that has broadly based investments not limited to one industry or one sector of the economy,
- (ix) a guaranteed investment certificate or similar financial instrument,
- (x) an annuity, life insurance policy or pension right,
- (xi) an asset, liability or financial interest that is held
 - (A) as executor, administrator or trustee, or
 - (B) by bequest or inheritance, during the 12 months following the date it devolves, and
- (xii) an interest certified by the commissioner as being an excluded private interest;

(2) Subsection 34(1) of the Act is amended by deleting the words “of Members’ Interests” and substituting the words “for Legislative Standards”.

(3) Subsection 40(1) of the Act is amended by adding immediately after the word “Part” the words “or of a code of conduct”.

(4) Section 42 of the Act is amended by adding immediately after the word “Part” wherever it occurs the words “or a code of conduct”.

(5) Subsection 45(1) of the Act is amended by adding immediately after the word “Part” the words “or a code of conduct”.

(6) Subsection 48(1) of the Act is amended by adding immediately after the word “Part” the words “or a code of conduct”.

RSNL 1990 cI-14

70. The *Internal Economy Commission Act* is repealed.

RSNL 1990 cS-27
as amended

71. (1) The *Statutes and Subordinate Legislation Act* is amended by deleting the following heading

**PART III
LEGISLATIVE COUNSEL AND LAW CLERK**

And substituting the following heading and words

**PART III
LEGISLATIVE COUNSEL**

(2) Section 20 of the Act is repealed.

(3) Subsection 21(2) of the Act is amended by deleting the words “including the duties of law clerk”.

(4) Subsection 22(2) of the Act is repealed.

Commencement

72. This Act shall come into force on _____, 2007.