

**Public Service Act**  
**Loi sur la fonction publique**

**ONTARIO REGULATION 435/97**

*Amended to O. Reg. 270/05*

**RULES OF CONDUCT FOR PUBLIC SERVANTS**

**Notice of Currency:**\* This document is up to date.

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***This Regulation is made in English only.***

INTERPRETATION

1. In this Regulation,

“confidential information” means information that is not available to the public and that, if disclosed, could result in loss or harm to the Crown or could give the person to whom it is disclosed an advantage;

“Conflict of Interest Commissioner” means the Conflict of Interest Commissioner appointed under the Act;

“gift” includes a benefit of any kind;

“spouse” means,

(a) a spouse as defined in section 1 of the *Family Law Act*, or

(b) either of two persons who live together in a conjugal relationship outside marriage. O. Reg. 435/97, s. 1; O. Reg. 72/00, s. 1; O. Reg. 480/00, s. 1; O. Reg. 270/05, s. 1.

2. For the purposes of this Regulation, the following person is the designated official for a public servant:

1. For the Secretary of Cabinet, the Premier.

2. For a public servant employed in the Premier’s Office or in a minister’s office, the Conflict of Interest Commissioner.

3. For a deputy minister (other than the Secretary of Cabinet) or for a public servant employed in Cabinet Office, the Secretary of Cabinet.

4. For a public servant employed in Ontario SuperBuild Corporation, the Conflict of Interest Commissioner.

5. For a public servant employed in a ministry (other than one to whom paragraph 3 or 4 applies), the deputy minister of the ministry. O. Reg. 435/97, s. 2; O. Reg. 480/00, s. 2.

3. REVOKED: O. Reg. 480/00, s. 3.

PROHIBITED CONDUCT

4. (1) A public servant shall not use or attempt to use his or her employment in the service of the Crown to directly or indirectly benefit himself or herself or his or her spouse or children. O. Reg. 72/00, s. 2; O. Reg. 270/05, s. 2.

(2) A public servant shall not allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the Crown. O. Reg. 435/97, s. 4 (2).

5. (1) A public servant shall not accept a gift from any of the following persons or entities if a reasonable person might conclude that the gift could influence the public servant when performing his or her duties to the Crown:

1. A person, group or entity that has dealings with the Crown.

2. A person, group or entity to whom the public servant provides services in the course of his or her duties to the Crown.

3. A person, group or entity that seeks to do business with the Crown. O. Reg. 435/97, s. 5 (1).

(2) Subsection (1) shall not operate to prevent a public servant from accepting a gift of nominal value given as an expression of courtesy or hospitality if doing so is reasonable in the circumstances. O. Reg. 435/97, s. 5 (2).

(3) A public servant who receives a gift in the circumstances described in subsection (1) shall notify his or her designated official. O. Reg. 435/97, s. 5 (3).

6. (1) A public servant shall not disclose confidential information obtained during the course of his or her employment in the service of the Crown to a person or entity unless the public servant is authorized to do so by law or by the Crown. O. Reg. 435/97, s. 6 (1).

(2) A public servant shall not use confidential information in a business or undertaking outside his or her work for the Crown. O. Reg. 435/97, s. 6 (2).

(3) A public servant shall not accept a gift directly or indirectly in exchange for disclosing confidential information. O. Reg. 435/97, s. 6 (3).

**7.** (1) When performing his or her duties to the Crown, a public servant shall not give preferential treatment to any person or entity, including a person or entity in which the public servant or a member of his or her family or a friend has an interest. O. Reg. 435/97, s. 7 (1).

(2) When performing his or her duties to the Crown, a public servant shall endeavour to avoid creating the appearance that preferential treatment is being given to a person or entity that could benefit from it. O. Reg. 435/97, s. 7 (2).

(3) A public servant shall not offer assistance to a person or entity in dealing with the Crown other than assistance given in the ordinary course of the public servant's employment. O. Reg. 435/97, s. 7 (3).

**8.** (1) A public servant shall not, on behalf of the Crown, hire his or her spouse, child, parent or sibling. O. Reg. 72/00, s. 3; O. Reg. 270/05, s. 3 (1).

(2) A public servant shall not, on behalf of the Crown, enter into a contract with his or her spouse, child, parent or sibling or with a person or entity in which any of them has a substantial interest. O. Reg. 72/00, s. 3; O. Reg. 270/05, s. 3 (2).

(3) A public servant who hires a person on behalf of the Crown shall ensure that the person does not report to, or supervise the work of, the person's spouse, child, parent or sibling. O. Reg. 72/00, s. 3; O. Reg. 270/05, s. 3 (3).

(4) A public servant who reports to, or supervises the work of, his or her spouse, child, parent or sibling shall notify his or her designated official. O. Reg. 72/00, s. 3; O. Reg. 270/05, s. 3 (4).

**9.** A public servant shall not become employed by or engage in a business or undertaking outside his or her employment in the service of the Crown in any of the following circumstances:

1. If the public servant's private interests in connection with the employment or undertaking could conflict with his or her duties to the Crown.
2. If the employment or undertaking would interfere with the public servant's ability to perform his or her duties to the Crown.
3. If the employment is in a professional capacity and is likely to influence or detrimentally affect the public servant's ability to perform his or her duties to the Crown.
4. If the employment would constitute full-time employment for another person. This paragraph does not apply with respect to a public servant who is employed part-time by the Crown, or is on a leave of absence (as defined in subsection 70 (1) of Regulation 977 of the Revised Regulations of Ontario, 1990) or on secondment.
5. If, in connection with the employment or undertaking, any person would derive an advantage from the public servant's employment as a public servant.
6. If government premises, equipment or supplies are used in the employment or undertaking. O. Reg. 435/97, s. 9.

#### DUTY TO NOTIFY THE DESIGNATED OFFICIAL

**10.** (1) A public servant shall notify his or her designated official if circumstances could arise in which the public servant's private interests could conflict with his or her duties to the Crown. O. Reg. 435/97, s. 10 (1).

(2) Without limiting the generality of subsection (1), the public servant shall notify the designated official of the existence of circumstances in which the public servant could benefit from a decision by the Crown that he or she is able to influence in the course of his or her duties to the Crown. O. Reg. 435/97, s. 10 (2).

(3) The public servant shall disclose the particulars of the potential conflict of interest to the designated official. O. Reg. 435/97, s. 10 (3).

(4) If the circumstances arise in connection with the public servant's membership as a public servant in a body or a group, he or she shall notify the other members of the body or group about the existence of a potential conflict of interest and shall not participate when the body or group makes a decision in the circumstances. O. Reg. 435/97, s. 10 (4).

#### CONDUCT RELATING TO CERTAIN CROWN ACTIVITIES

**11.** In sections 11.1 to 15,

“prescribed matter” means a matter,

- (a) that relates to services currently provided under a program of the Crown or by an agency of the Crown or a corporation controlled by the Crown with respect to which it is possible that a private sector entity will provide all or part of the financing for the services or will provide some or all of the services, and
- (b) that has been referred to a ministry or agency of the Crown by the Executive Council or a member of the Executive Council for review or implementation. O. Reg. 270/05, s. 4.

**11.1** Sections 12 to 14 apply to each public servant who routinely works on one or more prescribed matters and who has access to confidential information about the prescribed matter obtained during the course of his or her employment in the service of the Crown. O. Reg. 270/05, s. 5.

**12.** (1) A public servant described in section 11.1 shall make a declaration to the Conflict of Interest Commissioner about whether the public servant's private interests could conflict with his or her duties to the Crown with respect to a prescribed matter referred to in that section. O. Reg. 270/05, s. 6.

(2) The declaration must be made when the public servant first becomes involved in work on the prescribed matter. O. Reg. 270/05, s. 6.

(3) The public servant shall promptly revise his or her declaration if there is a change in his or her circumstances such that the public servant's private interests could conflict with his or her duties to the Crown. O. Reg. 435/97, s. 12 (3).

(4) Section 10 applies if the declaration indicates that the public servant's private interests could conflict with his or her duties to the Crown. O. Reg. 435/97, s. 12 (4).

**13.** (1) A public servant described in section 11.1 shall make a declaration to the Conflict of Interest Commissioner in which the public servant discloses the following matters respecting his or her financial interests:

1. A legal or beneficial interest of the public servant in securities or derivatives of corporations or governments, other than the Government of Ontario.
2. A legal or beneficial interest of the public servant in a business entity or a commercial operation or in the assets of such an entity or operation.
3. A legal or beneficial interest of the public servant in real property.
4. A legal or beneficial interest of the public servant in a mutual fund that is operated as an investment club where,
  - i. its shares or units are held by not more than 50 persons and its indebtedness has never been offered to the public,
  - ii. it does not pay or give any remuneration for investment advice or in respect of trades in securities, except normal brokerage fees, and
  - iii. all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operations. O. Reg. 435/97, s. 13 (1); O. Reg. 480/00, s. 6 (1); O. Reg. 270/05, s. 7 (1).

(2) Despite subsection (1), the public servant is not required to disclose his or her legal or beneficial interest in any of the following:

1. A mutual fund within the meaning of subsection 1 (1) of the *Securities Act* other than a mutual fund described in paragraph 4 of subsection (1).
2. Fixed-value securities issued or guaranteed by a government or a government agency.
3. A guaranteed investment certificate or similar financial instrument issued by a financial institution entitled by law to issue such instruments.
4. A registered pension plan, an employee benefit plan, an annuity or life insurance policy or a deferred profit sharing plan.
5. Real property that the public servant, or a member of his or her family, uses primarily as a residence or for recreational purposes. O. Reg. 435/97, s. 13 (2); O. Reg. 480/00, s. 6 (2).

(3) The public servant shall disclose the information required by subsection (1), with necessary modifications, in respect of his or her spouse and dependent children, but only to the extent that the legal or beneficial interests of the spouse or a child could create a conflict of interest. O. Reg. 72/00, s. 4; O. Reg. 270/05, s. 7 (2).

(4) For the purpose of subsection (3), the public servant shall make reasonable efforts to obtain information about the financial interests described in subsection (1) of his or her spouse and dependent children. O. Reg. 72/00, s. 4; O. Reg. 270/05, s. 7 (3).

**14.** (1) A public servant described in section 11.1 shall not purchase, or cause another person to purchase on his or her behalf, a legal or beneficial interest in an entity that is carrying on, or proposes to carry on, an activity relating to a prescribed matter referred to in section 11.1. O. Reg. 270/05, s. 8 (1).

(2) REVOKED: O. Reg. 270/05, s. 8 (1).

(3) Despite subsection (1), a public servant may purchase an interest in a mutual fund (within the meaning of subsection 1 (1) of the *Securities Act*) that includes securities of a person or entity described in subsection (1) but not an interest in a mutual fund described in paragraph 4 of subsection 13 (1) that includes such securities. O. Reg. 435/97, s. 14 (3); O. Reg. 270/05, s. 8 (2).

(4) The prohibition described in subsection (1) ceases to have effect with respect to a prescribed matter,

- (a) six months after the date on which the action in respect of the prescribed matter is completed; or

(b) six months after the date the Crown ceases to work on the prescribed matter. O. Reg. 270/05, s. 8 (3).

#### ADMINISTRATION

**15.** (1) The Civil Service Commission shall maintain a current list of positions in which public servants routinely work on one or more prescribed matters. O. Reg. 270/05, s. 9.

(2) The Commission shall ensure that persons in the positions described in subsection (1) are advised of the duties and restrictions imposed upon them under sections 12 to 14. O. Reg. 435/97, s. 15 (2).

(3) Every designated official shall notify the Commission of changes to be made to the list with respect to those persons for whom he or she is the designated official. O. Reg. 435/97, s. 15 (3).

**16.** (1) A designated official or Conflict of Interest Commissioner may collect, use and disclose information obtained under this Regulation. O. Reg. 435/97, s. 16 (1); O. Reg. 480/00, s. 9 (1).

(2) A designated official or Conflict of Interest Commissioner shall not disclose information obtained under this Regulation unless,

(a) the person to whom the information relates consents to the disclosure; or

(b) the disclosure is required by law in connection with a legal proceeding relating to this Regulation. O. Reg. 435/97, s. 16 (2); O. Reg. 480/00, s. 9 (2).

(3) Despite subsection (2), the designated official or Conflict of Interest Commissioner may disclose information in the following circumstances:

0.1 When he or she is engaging in meetings, consultations, discussions or communicating for the purpose of verifying information provided to him or her by the public servant.

1. When he or she is engaging in meetings, consultations, discussions or communicating for the purpose of determining whether this Regulation has been or may be contravened.

2. When he or she is advising the public servant about whether this Regulation has been or may be contravened.

3. When he or she considers it to be reasonably necessary to disclose information to a person or entity in order to enable the person or entity to perform his, her or its duties in relation to the conduct of public servants under this Regulation. O. Reg. 480/00, s. 9 (3); O. Reg. 270/05, s. 10.