

**YUKON TERRITORY
CONFLICT OF INTEREST COMMISSION**

ANNUAL REPORT

July 1999 – June 2000

**The Hon. E.N. (Ted) Hughes, Q.C.
Commissioner
June 22, 2000**

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This is my fourth annual report as Commissioner appointed pursuant to the *Conflict of Interest (Members and Ministers) Act*. It covers the period from July 1999 to June 2000. In many respects it has been an active and busy year. A few paragraphs hence I will detail the activities that prompt me to describe the past twelve months in that way.

From time to time, throughout the year, various members sought my advice. Several calls were of an informal nature requesting an explanation of sections of the *Act*. I had occasion to prepare four formal written confidential opinions, each of which addressed a particular concern of an honourable member of the Legislative Assembly. In November 1999, I was in Whitehorse to meet with some members who had issues to discuss with me that warranted face to face meetings.

Seeking advice "before" rather than "after" has proved a most worthwhile procedure for members of the Legislative Assembly. It is my belief that because members have grown accustomed to acting in that way, I am in a position to advise once again that over this reporting period, no complaints of alleged

violations of the Act were filed, with the result that no investigations on the issue of compliance or non-compliance with the requirements of the Act were necessary.

I remain available for consultation. My telephone numbers are 250-413-3152 (office) and 250-361-3151 (home). My office fax is 250-413-3153. I keep in close contact with Patrick L. Michael, the Clerk of the Yukon Legislative Assembly. He usually knows of my whereabouts and can advise members and others who inquire at his office, how I can be reached. I publicly thank Mr. Michael for the assistance that he gives to me.

The main activity of this office over these twelve months has been involvement in consultations on legislative changes that have occurred and then advising with respect to compliance once the new legislation was enacted and proclaimed. Readers of my Annual Reports will be aware that on previous occasions I have discussed areas that might be improved by legislative change. That was certainly true with respect to my last Annual Report.

In December 1999, the Legislature passed Bill 92 – "An Act to amend *the Conflict of Interest (Members and Ministers) Act*, the *Public Service Act*, and the *Cabinet and Caucus Employees Act*." I was pleased to respond to government personnel who sought assistance from me during the drafting and enacting stages of the Bill. What legislative changes the Assembly decides to make is for the elected

members to decide, but I am pleased to note that in some respects the 1999 amendments reflect suggestions I put forward in my Annual Report of a year ago. I will mention three such areas.

1. The Clerk of the Legislative Assembly is now required to forward to me as soon as is practicable all disclosure statements and amendments to those statements filed by members in compliance with Section 7 of the *Legislative Assembly Act*. Provision has been made for each member to then review with me, as Commissioner, his or her disclosure statement and subsequently filed amendments.
2. Part 13 entitled, "Conflict of Interest", has been added to the *Public Service Act*. The result has been to enshrine in legislation the requirement that deputy heads in the employ of the Yukon Government must avoid conflicts of interest and situations that could give rise to an apparent conflict of interest. At the present time there are seventeen individuals who come within the 'deputy head' definition in the *Act*. Each of them, besides complying with other provisions of Part 13, must meet the requirements of Section 216(2) of the *Public Service Act* (within Part 13) which reads:

A deputy head shall provide to the Government Leader written confirmation that his or her financial interests and the financial interests of his or her spouse or family shall not result in the deputy head being in an actual conflict of interest or in an apparent conflict of interest while exercising his or her official duties.

3. A positive step in the direction of whistle blowing legislation has been taken. Section 224 (within Part 13) reads:

An employee who, at the request of the commission, is assisting the commission with respect to an investigation of a matter under this Part, Part 4 of the *Cabinet and Caucus Employees Act*, or the *Conflict of Interest (Members and Ministers) Act* may not be penalized for giving the assistance requested by the commission.

It should be noted that the protection afforded is to all employees, not just to a category of them. Absent, however, is such protection for an employee who on his or her own initiative brings matters to the attention of the Commission.

It is my understanding that Bill 92 received the unanimous approval of all members of the Legislature. I view this legislation as a very positive development. To appreciate all of its contents I recommend readers study the entire Bill. As is apparent from what is quoted above, Bill 92 also adds Part 4 to the *Cabinet and Caucus Employees Act*, and it, like Part 13 of the *Public Service Act*, addresses "Conflict of Interest" and in many ways parallels the *Public Service Act* amendments but Part 4 provisions have applicability only to employees for an Executive Council member and employees for a party caucus.

In April 2000, I attended in Whitehorse to meet with the deputy heads to review the details of the new legislation applicable to them. After the joint meeting I held

individual meetings with deputy heads who desired to obtain advice with respect to their own situations.

The month of May again saw me in Whitehorse, this time to meet with new members elected to the Legislature for the first time in the general election of April 17, 2000. It also afforded me the opportunity to meet with cabinet ministers and discuss the requirements of the Act with respect to ministerial responsibility.

Section 7(1) of the *Conflict of Interest (Members and Ministers) Act* reads:

A Member is in a conflict of interest if he or she fails to comply with section 7 of the *Legislative Assembly Act*.

Section 7 of the *Legislative Assembly Act* sets out the requirements of the annual disclosure statement that each member of the Legislative Assembly must complete. A standard form on which disclosure is made by members has been in use for several years. I have always thought that there was room for improvements to be made in the form. Once the *Conflict of Interest (Members and Ministers) Act* was amended to bring the Commission into a working relationship with that form, as discussed above, I took the initiative to suggest changes to it. I would like to thank Legislative Assembly Clerk Patrick Michael and Chief Legislative Counsel Steven A. Horn for the assistance given in revising the form. Following the circulating of the new document to all members of the Assembly to obtain their reaction to it, it was finalized and sent to all members three weeks ago, with the request that it be completed and forwarded to the Clerk on or before June 30th, 2000. As required by Section 7 of the *Legislative*

Assembly Act there must be an annual filing of the form on or before April 30th in each year hereafter. As required by the new legislation copies of the seventeen 2000 forms will be sent to me in early July by the Clerk of the Legislative Assembly. The originals are retained in the office of the Clerk of the Legislative Assembly and are open for inspection by the public during normal office hours.

It indeed has been an active and busy year. I thank all of those with whom I have worked for their cooperation and support.

Respectfully submitted this 22nd day of
June, 2000.



The Hon. E.N. (Ted) Hughes, Q.C.
Commissioner of Conflict of Interest