
PART-TIME ADJUDICATORS AND CONFLICT OF INTEREST

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OVERVIEW

- Differences and similarities between full-time and part-time appointments under the federal Conflict of Interest Regime
- What “other work” can part-timers safely pursue?
- Limitations on community activities for part-timers – special considerations
- Discussion

DEFINING TERMS

- Part-time versus Full-time
- Public Office Holder versus Reporting Public Office Holder
- Statutory obligations versus bias considerations

FEDERAL CONFLICT OF INTEREST ACT – RELEVANT PROVISIONS

- Section 2(1) “Definitions”
 - Reporting public office holder is a GIC who exercises duties and function on a full-time basis OR exercises those duties on a part-time basis but receives an annual salary and benefits.
- Section 5 “General duty”
 - Every public office holder shall arrange his or her private affairs in a manner that will prevent the public office holder from being in a conflict of interest.
- Section 16 “Fundraising”
 - No public office holder shall personally solicit funds from any person or organization if it would place the public office holder in a conflict of interest.

BY THE NUMBERS

- 2022-2023 Quarterly Report of the Conflict of Interest and Ethics Commissioner (Jan to March 2023)
 - Reporting public office holders (full-time): 1,451 (557 GICs)
 - Public office holders (part-time): 1,493 (includes part-time ministerial staff)

DIFFERENCES BETWEEN FULL TIME AND PART-TIME ADJUDICATORS UNDER THE ACT

FULL TIME

- Disclosure of assets & liabilities on appointment
- Blind trust for some retained assets
- No income from outside sources
- Prohibitions on contracting/making representations post-employment

PART-TIME

- No financial disclosure required
- No requirement for blind trust
- No restrictions on outside income
- No contracting/making representations restrictions post-appointment

SIMILARITIES BETWEEN FULL TIME AND PART TIME ADJUDICATORS

No gifts of \$200
or more

Same recusal
rules for
individual
hearings

Same rules for
post-employment
confidentiality

BEST PRACTICES

- Clear guidance prior to appointment on ethics/conflict of interest obligations
- Ethics advisor (in-house)
- Ethics scenario discussions at regular tribunal meetings
- Periodic ethics/conflict of interest training for all tribunal members
- Encourage a culture of proactive disclosure to avoid conflicts in the first place

DISCUSSION

Restrictions for part-timers on fundraising/community activity? How realistic are they?

Should the rules for part-timers be different than for full-timers? What is the basis for the differences in conflict of interest obligations?

RESOURCES

- Slaw (Canada's online legal magazine) columns: <https://www.slaw.ca/author/mackenzie/>
- Conflict of Interest Act
- Ethics and Conflict of Interest Commissioner guidance: <https://ciec-ccie.parl.gc.ca/en/rules-reglements/Pages/what-coi-quest-ce-ci.aspx>