



These guidelines are intended to inform Cabinet Ministers who are leaving office, or who are making efforts to take up a new position, of the post-term rules.¹ They outline the key elements that must be taken into consideration in this context.

These guidelines were produced for reference only. For any questions on a particular situation, it is recommended that you seek advice from the Ethics Commissioner (hereinafter “Commissioner”). Each situation pertaining to the post-term rules is different and must be assessed on a case-by-case basis, taking into account the responsibilities assumed and the nature of relationships with third parties.

Who are these guidelines for?

- For Cabinet Ministers who are leaving office, even if they are still Members.
- For Cabinet Ministers who are making efforts to take up a new position after their term.

For the purposes of these guidelines, pursuant to section 42 of the *Code of ethics and conduct of the Members of the National Assembly*² (hereinafter “Code”), a Member who is not Cabinet Minister but is authorized to sit in the Cabinet is considered a Cabinet Minister. Consequently, the Chief Government Whip and the Chair of the Government Caucus are also subject to these guidelines.

Which rules must be considered?

When a Cabinet Minister leaves office, the Code sets out a number of post-term rules. Some rules are applicable at all times (1) while others cease to apply after a period of two years (2). Moreover, certain rules are applicable to Cabinet Ministers who are making efforts to take up a new position (3).

¹ The rules also apply to former Cabinet Ministers under the *Lobbying Transparency and Ethics Act* (CQLR, chapter T-11.011). For more information on these rules, we invite you to consult the Commissioner of Lobbying.

² CQLR, chapter C-23.1.

Lastly, Cabinet Ministers in office have a responsibility when they discover that a former Cabinet Minister is not complying with post-term obligations (4).

Former Cabinet Ministers are also urged to take into consideration the values of the National Assembly³ as well as the rules governing conflicts of interest⁴ at all times. Together, these standards help maintain public confidence in democratic institutions.

It is also appropriate for a former Cabinet Minister to notify all new employers of the post-term rules applicable under the circumstances.

The relevant legislation is appended hereto.

1. Rules applicable at all times

Former Cabinet Ministers must comply with the following rules at all times:

a) Conduct themselves so as not to obtain undue benefit from their prior office. (Section 57 of the Code)

To understand what constitutes an undue benefit, it is important to consider how the situation might be different if the individual had not been a former Cabinet Minister. The benefit might be an advantage, a favour, a preference, a privilege, a profit or something useful that may or may not have economic value. For a benefit to be considered undue, it must violate the rules and the established practices.

Here are a few ideas to consider in that context:

- Is my previous office directly linked to the employment offer?
- Could I obtain an unreasonable benefit from previous connections or from my knowledge of issues or situations that were not made public?
- Could my hiring be perceived by a reasonably well-informed individual as a reward for favours received or in return for support?

³ Sections 6, 7, 8 and 9 of the Code.

⁴ Sections 15 and 16 of the Code.

b) Not disclose confidential information or give advice based on information not available to the public. (Section 58 of the Code)

Former Cabinet Ministers may not disclose confidential information or give advice to any person based on information not available to the public, obtained in or in connection with the carrying out of the duties of office. This prohibition is not limited to information to the department overseen, but also applies to all confidential information disclosed during Cabinet meetings.

However, the purpose of section 58 of the Code is not to prevent former Cabinet Ministers from using the expertise and experience acquired from their office, such as how the Government of Québec generally operates, or their knowledge of the decision-making process.

c) Not act for or on behalf of anyone else in the same proceeding, negotiation or other transaction in respect of which they have acted. (Section 59 of the Code)

Former Cabinet Ministers may not act on behalf of another individual in the same matter in respect of which they have acted.

The term “**proceeding**” does not strictly refer to a legal proceeding, but also to all administrative steps that can lead to a government decision.

2. Rules applicable for two years

In addition to the rules applicable at all times, former Cabinet Ministers may not, in the two years after they leave office:

a) Accept a position or an appointment to a board of directors or as a member of any body, agency, enterprise or other entity that is not a State entity and with which they had official, direct and significant dealings in the year preceding the cessation in office. (Section 60(1) of the Code)

The Code stipulates that former Cabinet Ministers may not accept a position in the two years after they leave office in any body, agency, enterprise or other entity that is not a **State entity**⁵ with which they had **official, direct and significant dealings**⁶ in the year preceding the cessation in office.

Consequently, for a period of two years after they leave office, every position or appointment considered must be assessed according to its own specific circumstances. If necessary, former Cabinet Ministers should be able to establish that there have been no official, direct and significant dealings with a body, agency, enterprise or other entity in the year preceding their cessation in office as Cabinet Minister.

In this regard, the assessment made for each situation should consider the point of view of a reasonably well-informed individual in the circumstances.

In contrast, if former Cabinet Ministers intend to take up a position within a State entity, they may do so as soon as they leave office, subject to the rules applicable at all times (part 1).

b) Intervene on behalf of anyone else with any department or other State entity with which they had official, direct and significant dealings in the year preceding their cessation in office, unless they are still Members. (Section 60(2) of the Code)

In interpreting this section, the term “**intervene**” must be given its usual meaning of “to try to convince,” “to become involved intentionally in a situation to alter its course.” Interventions subject to this rule must be targeted and apply to a specific issue. The term “**anyone**” applies to any person, including an employer, but excludes former Cabinet Ministers themselves.

If former Cabinet Ministers are still Members, this limitation is not applicable to them subject to the general prohibition set out in section 14 of the Code, which states that a Member must not engage in lobbying.

5 To find out which persons, agencies, bodies or institutions are considered State entities, please consult the glossary in Appendix 1 of these guidelines.

6 For a definition of the expression “official, direct and significant dealings,” please consult the glossary in Appendix 1 of these guidelines.

3. Serious effort to take up a new position

The Code⁷ also provides a framework for when a Cabinet Minister can make or participate in any serious effort with respect to an appointment he or she could accept or to any employment, position or post the Cabinet Minister could take up after cessation of office. The Code states that the Cabinet Minister must inform the Ethics Commissioner in writing of these efforts. If deemed necessary, the Ethics Commissioner may request the Cabinet Minister either to terminate the effort or to comply with conditions the Ethics Commissioner determines.

This rule applies not only to efforts leading to an employer-employee relationship, but also to efforts that could, among other things, result in a partnership or the signing of a service contract. These efforts may be verbal or written and could be deemed serious if, for example, they have gone beyond the preliminary discussion phase to touch on important points such as compensation, benefits or vacation.

4. Responsibilities of Cabinet Ministers in office

The Code sets out certain provisions that Cabinet Members in office must implement upon discovering that a former Cabinet Minister has:

- acted for or on behalf of anyone else in connection with a proceeding, negotiation or other transaction for which he or she had acted as Cabinet Minister;⁸
- intervened, in the two years after he or she leaves office, on behalf of anyone else with any department or other State entity with which the Cabinet Minister had official, direct and significant dealings in the year preceding his or her cessation in office.⁹

In this case, a Cabinet Minister in office must abstain from dealing with that person within the context of the proceeding, negotiation or transaction in question and notify the Ethics Commissioner. The Cabinet Minister must also see to it that the Minister's staff and personnel of the department or any State entity under the Minister's responsibility also abstain from dealing with that person within the context of the proceeding, negotiation or other transaction.

⁷ Section 48 of the Code.

⁸ See section c) in part 1 of this document (page 3).

⁹ See section b) in part 2 of this document (page 4).

Consulting the Office of the Ethics Commissioner

You can consult the Office of the Ethics Commissioner on a confidential basis on questions involving a personal situation or for more information on the application of ethics values and principles, as well as ethics rules.

By email: info@ced-qc.ca

By telephone: 418-643-1277

By mail:

1150, rue de Claire-Fontaine
7th floor, suite 710
Québec (Québec) G1R 5G4

“State entity”¹⁰

The persons, agencies, bodies or institutions that are considered “State entities” within the meaning of the Code are:

- **any public body or government agency within the meaning of the *Auditor General Act* (chapter V-5.01)¹¹ such as:**
 - public bodies (56(1)), including:
 - a department and persons designated by the National Assembly to perform duties that come under the National Assembly;
 - government agencies (56(1)), including:
 - the Autorité des marchés financiers, Hydro-Québec and any subsidiaries, Investissement Québec and any subsidiaries, Transition énergétique Québec;
- **education sector institutions, such as:**
 - the Université du Québec and its constituent universities, research institutes and superior schools (56(2));
 - a university-level institution (56(3));
 - a general and vocational college (56(4));
 - a school service centre (56(5));
 - a school board in Cree, Inuit and Naskapi territories (56(5));
 - an accredited private institution (56(6));
 - any other educational institution (56(7));
- **health sector institutions, such as:**
 - a public or private institution that is a party to an agreement (56(8));
 - an institution for Cree Native persons (56(9));

¹⁰ Section 56 of the Code.

¹¹ For a comprehensive list of entities, please visit the Auditor General of Québec’s website at the following address:
https://www.vgq.qc.ca/Fichiers/Organisation/fr/divers/fr_Principales_Entites.pdf (French only)

■ **municipal sector bodies, such as:**

- a municipality (56(10));
- a mandatory body of the municipality (56(10));
- a supramunicipal body, including a metropolitan community and a regional county municipality (56(10));
- the James Bay Regional Administration and any delegate organization referred to in section 126.4 of the *Municipal Powers Act* (chapter C-47.1) (56(11));

■ **any non-profit agency referred to in paragraph 4 of section 4 of the *Lobbying Transparency and Ethics Act* (chapter T-11.011), such as:**

- non-profit agencies established for the purpose of managing and providing financial support for activities of a public nature out of funds originating principally from the Government, without itself delivering products or services to the public (56(12)).

“Official, direct and significant dealings”

The dealings referred to in section 60 of the Code have a broad interpretation. They refer to all forms of ties and relationships between persons or groups of persons, including legal persons.

The terms “official,” “direct” and “significant” must be interpreted with their usual meanings.

Dealings must have all those combined characteristics for the prohibition in section 60(1) to apply.

- **Official** dealings are those coming from a recognized or established authority. To determine whether dealings are official, it is necessary to ascertain the character—the capacity—in which the persons concerned acted. In general, these dealings are tied to government activities and can lead to formal, and sometimes legal, actions and decisions with a government authority.
- **Direct** dealings refer to those in which the Cabinet Minister takes part personally or through another person acting on their instructions.
- **Significant** dealings are those that are material, essential, serious or of great interest or that have an importance, role, interest or possible consequences that are considerable. To evaluate the significance of the dealings, it is useful to focus on the scope of the case or how the relevant entity is affected by the purpose of the dealings. Were the dealings part of negotiations or a decision-making process, for example? The significance and the nature of the information obtained are elements that could be considered when evaluating the significance of a dealing.

The frequency of dealings is also an element to be considered when determining whether they were significant. However, a single dealing could be deemed significant, if it involves a major issue, for example.

Code of ethics and conduct of the Members of the National Assembly (CQLR, chapter C-23.1)

VALUES AND ETHICAL PRINCIPLES

6. The following are the values of the National Assembly:

- 1° commitment to improving the social and economic situation of Quebecers;
- 2° high regard for and the protection of the National Assembly and its democratic institutions; and
- 3° respect for other Members, public servants and citizens.

The conduct of Members must be characterized by benevolence, integrity, adaptability, wisdom, honesty, sincerity and justice. Consequently, Members

- 1° show loyalty towards the people of Québec;
- 2° recognize that it is their duty to serve the citizens;
- 3° show rigour and diligence;
- 4° seek the truth and keep their word; and
- 5° preserve the memory of how the National Assembly and its democratic institutions function.

7. Members embrace the values set out in this Title.

8. Members recognize that these values must guide them in carrying out their duties of office and determining the rules of conduct applicable to them, and be taken into account in interpreting those rules. They strive for consistency between their actions and the values set out in this Title, even when their actions do not in themselves contravene the applicable rules of conduct.

9. Members recognize that their adherence to these values is essential to maintain the confidence of the people in them and the National Assembly and enable them to fully achieve their mission of serving the public interest.

INCOMPATIBLE OFFICES OR POSTS

14. A Member must not engage in lobbying within the meaning of the *Lobbying Transparency and Ethics Act* (chapter T-11.011).

CONFLICTS OF INTEREST

15. A Member must not place himself or herself in a situation where his or her private interests may impair independence of judgment in carrying out the duties of office.
16. When carrying out the duties of office, a Member must not
 - 1° act, attempt to act or refrain from acting, so as to further his or her private interests or those of a family member or non-dependent child, or to improperly further another person's private interests; or
 - 2° use the position of Member to influence or attempt to influence another person's decision so as to further the Member's private interests or those of a family member or non-dependent child, or to improperly further another person's private interests.

INTERPRETATION

42. For the purposes of this Title, a Member who is not a Cabinet Minister but is authorized to sit in the Cabinet is considered a Cabinet Minister.

CONFLICTS OF INTEREST

48. A Cabinet Minister must inform the Ethics Commissioner in writing of any serious effort he or she makes or participates in with respect to an appointment the Cabinet Minister could accept or to any employment, position or post the Cabinet Minister could take up after cessation of office.

In such a case, the Ethics Commissioner may request the Cabinet Minister either to terminate the effort or to comply with conditions the Ethics Commissioner determines. In the latter case, the Ethics Commissioner informs the Premier.

POST-TERM ISSUES

56. For the purposes of this chapter, "State entity" means any of the following persons, agencies, bodies or institutions:
 - 1° any public body or government agency within the meaning of the *Auditor General Act* (chapter V-5.01);
 - 2° the Université du Québec and its constituent universities, research institutes and superior schools within the meaning of the *Act respecting the Université du Québec* (chapter U-1);
 - 3° any university-level institution referred to in paragraphs 1 to 11 of section 1 of the *Act respecting educational institutions at the university level* (chapter E-14.1), other than those mentioned in paragraph 2;
 - 4° any general and vocational college established under the *General and Vocational Colleges Act* (chapter C-29);
 - 5° any school service centre governed by the Education Act (chapter I-13.3), any school board governed by the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) or the Comité de gestion de la taxe scolaire de l'île de Montréal;

- 6° any private institution accredited for purposes of subsidies under the *Act respecting private education* (chapter E-9.1);
 - 7° any other educational institution more than half of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;
 - 8° any public or private institution that is a party to an agreement referred to in the *Act respecting health services and social services* (chapter S-4.2);
 - 9° the regional council established under the *Act respecting health services and social services for Cree Native persons* (chapter S-5);
 - 10° any municipality or any body referred to in sections 18 or 19 of the *Act respecting the Pension Plan of Elected Municipal Officers* (chapter R-9.3);
 - 11° the James Bay Regional Administration and any delegate organization referred to in section 126.4 of the *Municipal Powers Act* (chapter C-47.1); and
 - 12° any agency described in paragraph 4 of section 4 of the *Lobbying Transparency and Ethics Act* (chapter T-11.011).
57. Former Cabinet Ministers must conduct themselves so as not to obtain undue benefit from their prior office.
58. Former Cabinet Ministers must not disclose confidential information obtained in or in connection with the carrying out of the duties of office, and must not give advice to any person based on information not available to the public, obtained in or in connection with the carrying out of the duties of office.
59. Cabinet Ministers who acted in connection with a proceeding, negotiation or other transaction may not act for or on behalf of anyone else in the same proceeding, negotiation or other transaction after leaving office.
60. Cabinet Ministers may not, in the two years after they leave office,
- 1° accept any appointment to a board of directors or as a member of any body, agency, enterprise or other entity that is not a State entity and with which they had official, direct and significant dealings in the year preceding the cessation in office, or accept employment, a position or any other post within such an entity; and
 - 2° unless they are still Members and subject to the prohibition set out in section 14, intervene on behalf of anyone else with any department or other State entity with which they had official, direct and significant dealings in the year preceding their cessation in office.
61. A Cabinet Minister in office must, upon discovering that another person who is subject to this chapter is violating a provision of section 59 or paragraph 2 of section 60 in connection with a proceeding, negotiation or other transaction, abstain from dealing with that person within the context of the proceeding, negotiation or other transaction, and inform the Ethics Commissioner in writing. The Cabinet Minister must also see to it that the Minister's staff and the personnel of the department or any State entity under the Minister's responsibility also abstain from dealing with that person within the context of the proceeding, negotiation or other transaction.

Auditor General Act (CQLR, chapter V-5.01)

OBJECT AND INTERPRETATION

3. For the purposes of this Act, a public body includes the Government, the Conseil exécutif, the Conseil du trésor and a government department.

The Lieutenant-Governor, the National Assembly, the Public Protector, any person designated by the National Assembly to perform duties that come under the National Assembly whose personnel is, by law, appointed in accordance with the *Public Service Act* (chapter F-3.1.1), and any body to which the National Assembly or a committee thereof appoints the majority of the members, are classed as public bodies for the purposes of this Act.

4. For the purposes of this Act, a government agency includes any agency, other than a body mentioned in section 3, which is instituted by or in accordance with an Act, or by a decision of the Government, the Conseil du trésor or a minister and which meets one of the following conditions:

- 1° all or part of its appropriations for operating purposes are provided under that heading in the budgetary estimates tabled in the National Assembly;
- 2° its employees are required by law to be appointed in accordance with the *Public Service Act* (chapter F-3.1.1);
- 3° the Government or a minister appoints at least half of its members or directors;
- 4° more than 50% of the voting shares of its capital stock are part of the domain of the State or are owned by a public body or by another government agency.

The Public Curator is considered a government agency for the purposes of this Act.

Lobbying Transparency and Ethics Act (CQLR, chapter T-11.011)

PURPOSE AND APPLICATION

4. The following persons are considered to be public office holders for the purposes of this Act:

[...]

- 4° persons appointed to a non-profit agency established for the purpose of managing and providing financial support for activities of a public nature out of funds originating principally from the Government, without itself delivering products or services to the public, as well as employees of any such agency;

[...]