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BACKGROUND PAPER



Appointment of Officers of Parliament

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Andre Barnes
Élise Hurtubise-Loranger

Legal and Social Affairs Division
Parliamentary Information and Research Service

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(Background Paper)

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APPOINTMENT OF OFFICERS OF PARLIAMENT

1 INTRODUCTION

Officers of Parliament are responsible directly to Parliament rather than to the government or a federal minister. This emphasizes their independence from the government of the day. They carry out duties assigned by statute and report to one or both chambers of Parliament.

There are eight officers of Parliament: 1) the Auditor General; 2) the Chief Electoral Officer; 3) the Commissioner of Official Languages; 4) the Information Commissioner; 5) the Privacy Commissioner; 6) the Conflict of Interest and Ethics Commissioner; 7) the Commissioner of Lobbying; and 8) the Public Sector Integrity Commissioner.

Federally, there is no statutory definition of what constitutes a parliamentary officer; however, the role and function of these officers should not be confused with those of other positions such as the Clerk of either house, the Sergeant-at-Arms, the Law Clerk and Parliamentary Counsel or the Parliamentary Librarian. The latter officials assist Parliament in procedural and administrative matters, whereas officers of Parliament support Parliament in its accountability and scrutiny functions and in carrying out other tasks.

The Privy Council Office makes a distinction by referring to the officers of Parliament described in this document as “agents of Parliament” and the others as “officers of Parliament.” Other bodies, such as the Canadian Human Rights Commission and the Public Service Commission, are occasionally considered in the same category as the agents of Parliament because they have a degree of independence and perform a similar “watchdog” function, and because their members are appointed or ratified by the House of Commons or Parliament. This document looks at the eight parliamentary officer positions listed above.

2 AUDITOR GENERAL OF CANADA

2.1 APPOINTMENT

The Auditor General is appointed by the Governor in Council by commission under the Great Seal, after consultation with the leader of every recognized party in the Senate and the House of Commons and after approval of the appointment by resolution of the Senate and the House of Commons. He or she holds office for a 10-year term¹ (*Auditor General Act*, s. 3). The position was created in 1878.

2.2 ROLE

The Auditor General plays an important role in the process of government accountability to Parliament by conducting independent audits of federal government operations and reporting his or her findings to the House of Commons. The Auditor General verifies the accounting methods and accuracy of the financial statements of the government, and determines whether public funds were used efficiently and for the purposes intended by Parliament. The Auditor General appears regularly before parliamentary committees, particularly the Public Accounts Committee.

2.3 REPORTS

In addition to an annual report to the House of Commons, the Auditor General can produce up to three reports in the year, pursuant to an amendment to the *Auditor General Act* in 1994.²

Current Auditor General: <i>Michael Ferguson</i>
(appointment: 28 November 2011 to 27 November 2021)
Office of the Auditor General website
Recent reports
Enabling statutes: Auditor General Act , Financial Administration Act

3 CHIEF ELECTORAL OFFICER

3.1 APPOINTMENT

The Chief Electoral Officer is appointed by a resolution of the House of Commons, and holds office for a non-renewable 10-year term (*Canada Elections Act*, s. 13).³ The position was created in 1920.

3.2 ROLE

The Chief Electoral Officer administers federal elections and referendums in Canada. His or her Office is also responsible for the registration of political parties, the Register of Electors, and the enforcement of the *Canada Elections Act*. The Chief Electoral Officer appears regularly before parliamentary committees, particularly the House of Commons Standing Committee on Procedure and House Affairs.

3.3 REPORTS

The *Statutory Reports* of the Chief Electoral Officer, presented to the House of Commons, describe the administration of general elections or by-elections and report on the activities of Elections Canada since the previous report. *Official Voting Results* are published as soon as possible after a general election. For by-elections, one report is presented at the end of the year and sets out the results of all by-elections in that year. All registered political parties must submit audited financial statements of revenues and expenses to the Chief Electoral Officer.⁴

<p>Current Chief Electoral Officer: <i>Marc Mayrand</i> (appointment: 21 February 2007 to 12 April 2018)</p>
<p>Elections Canada website</p>
<p>Recent reports: Official Voting Results; Fiscal Period Returns</p>
<p>Enabling statutes: Canada Elections Act, Referendum Act</p>

4 COMMISSIONER OF OFFICIAL LANGUAGES

4.1 APPOINTMENT

The Commissioner of Official Languages is appointed by the Governor in Council by commission under the Great Seal, after consultation with the leader of every recognized party in the Senate and the House of Commons and after approval of the appointment by resolution of the Senate and the House of Commons. He or she holds office for a seven-year term (*Official Languages Act*, s. 49). The position was created in 1970.

4.2 ROLE

The Commissioner's role is to ensure compliance with the *Official Languages Act*, which provides that both English and French are to be used as languages of work and languages of service in federal institutions. He or she investigates complaints, conducts audits and studies to evaluate the performance of federal institutions and makes recommendations. The Office of the Commissioner of Official Languages also shares responsibilities with the Department of Canadian Heritage for the advancement of English and French minority communities across Canada.

4.3 REPORTS

The Commissioner tables an annual report to Parliament and individual reports on various studies. He or she appears before parliamentary committees, particularly the Standing Senate Committee on Official Languages and the House of Commons Standing Committee on Official Languages.⁵

Current Commissioner of Official Languages: <i>Graham Fraser</i> (Re-appointment: 17 October 2013 to 16 October 2016)
Office of the Commissioner of Official Languages website
Recent reports
Enabling statute: Official Languages Act

5 INFORMATION COMMISSIONER

5.1 APPOINTMENT

The Information Commissioner is appointed by the Governor in Council by commission under the Great Seal, after consultation with the leader of every recognized party in the Senate and the House of Commons and after approval of the appointment by resolution of the Senate and the House of Commons. He or she holds office for a seven-year term (*Access to Information Act*, s. 54). The position was created in 1983.

5.2 ROLE

The Information Commissioner investigates complaints from people who believe they have been denied rights under the *Access to Information Act* and makes recommendations to government institutions.

5.3 REPORTS

The Information Commissioner tables an annual report to Parliament, as well as periodic report cards on individual departments.⁶

Current Information Commissioner: <i>Suzanne Legault</i> (appointment: 30 June 2010 to 29 June 2017)
Office of the Information Commissioner website
Recent reports
Enabling statute: Access to Information Act

6 PRIVACY COMMISSIONER

6.1 APPOINTMENT

The Privacy Commissioner is appointed by the Governor in Council by commission under the Great Seal, after consultation with the leader of every recognized party in the Senate and the House of Commons and after approval of the appointment by resolution of the Senate and the House of Commons. He or she holds office for a seven-year term (*Privacy Act*, s. 53). The position was created in 1983.

6.2 ROLE

The Privacy Commissioner monitors compliance with the *Privacy Act* and investigates complaints that the federal government has not responded adequately to an individual's request to see personal information or that a federal agency is collecting information in a manner that does not comply with the *Privacy Act*. The Privacy Commissioner is also responsible for complaints relating to the collection, disclosure, use and protection of personal information in the private sector under the *Personal Information Protection and Electronic Documents Act*. Under this Act, the Commissioner also has a mandate to promote privacy rights.

6.3 REPORTS

The Privacy Commissioner submits an annual report to the Senate and the House of Commons for each statute mentioned above. The Commissioner may also table special reports to Parliament.⁷

<p>Current Privacy Commissioner: <i>Daniel Therrien</i> (appointment: 5 June 2014 to 4 June 2021)</p>
<p>Office of the Privacy Commissioner website</p>
<p>Recent reports</p>
<p>Enabling statutes: Privacy Act, Personal Information Protection and Electronic Documents Act</p>

7 CONFLICT OF INTEREST AND ETHICS COMMISSIONER

7.1 APPOINTMENT

The Conflict of Interest and Ethics Commissioner is appointed by the Governor in Council by commission under the Great Seal, after consultation with the leader of every recognized party in the House of Commons and after approval of the appointment

by resolution of the House. He or she holds office for a seven-year term (*Parliament of Canada Act*, s. 81).

Under the *Parliament of Canada Act*, the Conflict of Interest and Ethics Commissioner must be a former judge of a superior court in Canada or of a provincial court; or a former member of a federal or provincial board, commission or tribunal who has demonstrated expertise in at least one of the following areas: conflict of interest, financial arrangements, professional regulation and discipline or ethics; or a former Senate Ethics Officer or former Ethics Commissioner. The position was created in 2007 and replaced the Office of the Ethics Commissioner.

7.2 ROLE

The Conflict of Interest and Ethics Commissioner provides confidential advice to the prime minister and to public office holders on all matters pertaining to the implementation of the *Conflict of Interest Act*. In addition, he or she may, at the request of a member of Parliament or on his or her own initiative, investigate any breach of the Act by a public office holder. The Commissioner may, in the course of his or her investigations, consider information provided by the public and conveyed by a member of Parliament. Under the *Parliament of Canada Act*, the Commissioner also performs the duties and functions assigned by the House of Commons for governing the conduct of its members when carrying out the duties and functions of their office as members of that House, under the general direction of any committee of the House of Commons designated for that purpose.

7.3 REPORTS

The Conflict of Interest and Ethics Commissioner submits an annual report to the House of Commons on his or her activities under the *Conflict of Interest Act*, as well as a report on his or her activities under the *Parliament of Canada Act*.⁸

Current Conflict of Interest and Ethics Commissioner:

Mary Dawson

(Re-appointment: 9 July 2014 to 8 July 2016)

[Office of the Conflict of Interest and Ethics Commissioner website](#)

[Recent reports](#)

Enabling statutes:

[Parliament of Canada Act](#), [Conflict of Interest Act](#)

8 COMMISSIONER OF LOBBYING

8.1 APPOINTMENT

The *Commissioner* of Lobbying is appointed by the Governor in Council by commission under the Great Seal, after consultation with the leader of every recognized party in

the Senate and the House of Commons and after approval of the appointment by resolution of the Senate and the House of Commons. He or she holds office for a seven-year term (*Lobbying Act*, s. 4.1). This office replaced the Office of the Registrar of Lobbyists.

8.2 ROLE

The Commissioner of Lobbying is responsible for promoting an understanding of, acceptance of and compliance with the *Lobbying Act*. To this end, he or she has a public education mandate, particularly with respect to lobbyists, their clients and public office holders. The Commissioner must also conduct investigations where he or she has reason to believe that this is necessary to ensure compliance with the *Lobbying Act*. The Act also stipulates that the Commissioner must report to Parliament on his or her findings and conclusions after the completion of an investigation.

8.3 REPORTS

In addition to reports presented after the completion of an investigation, the Commissioner of Lobbying must table an annual report to Parliament. He or she may also submit special reports on any matter within his or her mandate.⁹

<p>Current Commissioner of Lobbying: <i>Karen Shepherd</i> (appointment: 30 June 2009 to 29 June 2016) Office of the Commissioner of Lobbying website Recent reports Enabling statute: Lobbying Act</p>

9 PUBLIC SECTOR INTEGRITY COMMISSIONER

9.1 APPOINTMENT

The Public Sector Integrity Commissioner is appointed by the Governor in Council by commission under the Great Seal, after consultation with the leader of every recognized party in the Senate and the House of Commons and after approval of the appointment by resolution of the Senate and the House of Commons. He or she holds office for a seven-year term (*Public Servants Disclosure Protection Act*, s. 39). This office was created in 2007.

9.2 ROLE

The Public Sector Integrity Commissioner receives and investigates disclosures of wrongdoing and makes recommendations based on his or her findings. He or she is

also responsible for hearing the complaints of public servants who have suffered reprisal as a result of reporting a wrongdoing. The Commissioner may conduct investigations and attempt to conciliate a settlement between the parties, but does not have the power to enforce a settlement. If there is no settlement, the Commissioner may decide to refer the matter to a new, independent Public Servants Disclosure Protection Tribunal. The Commissioner must report to Parliament on his or her findings and conclusions when he or she deems that an allegation of wrongdoing or reprisal is well-founded.

9.3 REPORTS

In addition to reports presented after the completion of an investigation, the Public Sector Integrity Commissioner must table an annual report to Parliament. He or she may also submit special reports on any matter within his or her mandate.¹⁰

Current Public Sector Integrity Commissioner: <i>Joe Friday</i>
(appointment: 27 March 2015 to 26 March 2022)
Office of the Public Sector Integrity Commissioner website
Recent reports
Enabling statute: Public Servants Disclosure Protection Act

NOTES

1. Section 17 of the *Act to implement certain provisions of the 2011 budget as updated on June 6, 2011* amended section 3 of the *Auditor General Act* to repeal the provision for mandatory retirement of the Auditor General at the age of 65.
2. See also Richard Domingue and Michelle Salvail, *The Management and Control of Public Finances in Canada*, Publication no. BP-297E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 1998.
3. *An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts*, which received Royal Assent 19 June 2014, replaced the retirement age for the Chief Electoral Officer at 65 with a 10-year term. The current Chief Electoral Officer is eligible to serve until the age of 65; future Chief Electoral Officers will serve a 10-year term.
4. See Elections Canada, [Political Parties' Fiscal Period Returns](#). See also James R. Robertson and Sebastian Spano, [The Canadian Electoral System](#), Publication no. BP-437E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 2008.
5. See also Marie-Ève Hudon, [Official Languages in Canada: Federal Policy](#), Publication no. 2011-70-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 2011.

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6. See also David Johansen, [*Federal, Provincial and Territorial Access to Information Legislation: An Overview*](#), Publication no. BP-383E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 2008.
7. See also Nancy Holmes, [*Canada's Federal Privacy Laws*](#), Publication no. 07-44E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 2008.
8. See also Michel Bédard, Kristen Douglas and Élise Hurtubise-Loranger, [*Conflict of Interest at the Federal Level: Legislative Framework*](#), Publication no. 2010-92-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 2010.
9. See also Nancy Holmes and Dara Lithwick, [*The Federal Lobbying System: The Lobbying Act and the Lobbyists' Code of Conduct*](#), Publication no. 2011-73-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 2011.
10. See also Élise Hurtubise-Loranger and Rebecca Katz, [*Federal Public Sector Whistleblowing*](#), Publication no. 2008-63-E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 2008.