

A BILL

entitled

PREMIER, MINISTERS AND OPPOSITION LEADER
PERSONAL STAFFS ACT 2019

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WHEREAS it is expedient to repeal and re-enact the Premier and Opposition Leader Personal Staffs Act 1983 with amendments to provide, in addition, for personal staffs for Ministers;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Premier, Ministers and Opposition Leader Personal Staffs Act 2019.

Interpretation

2 In this Act "personal staff" means a personal staff appointed in accordance with section 3 or 4.

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Personal staffs for Premier and Opposition Leader

3 Subject to this Act, the Premier and the Opposition Leader may each, if he so wishes, have a personal staff to assist him and may, by instrument in writing, appoint such number of persons as he deems fit to constitute his personal staff.

Personal staffs for Ministers

4 (1) Subject to this Act, and to the written approval of the Premier, each Minister may, by instrument in writing, appoint a personal staff consisting of one or two persons to assist him.

(2) The persons shall be either—

- (a) experts in their professional field; or
- (b) political advisers.

(3) Before appointing a person to his personal staff, the Minister shall ensure there will be no conflict of interest between the matters on which the person will be providing advice and assistance and that person's private or professional concerns.

Terms of appointment

5 An appointment to the personal staff of the Premier, a Minister or the Opposition Leader shall be held by the person appointed on such terms and conditions, which may include terms and conditions relating to discipline and dismissal, as are specified in his instrument of appointment.

Financial provision

6 The total remuneration of whatever kind payable to the personal staff of the Premier, a Minister or the Opposition Leader out of public funds shall not exceed the amount provided for that purpose by the Legislature.

Personal staffs not part of public service

7 (1) The personal staffs shall not form part of the public service of Bermuda, and persons on those staffs shall not be public officers of Bermuda, for any purpose.

(2) Subsection (1) shall not debar a person on a personal staff from access to any document or information to which the Premier, the Minister or the Opposition Leader who appointed him has access.

(3) Notwithstanding subsection (1), a person on a personal staff shall be deemed—

- (a) for the purposes of the Contributory Pensions Act 1970 and the Payroll Tax Act 1995 to be an employee of the Government; and
- (b) for the purposes of the Government Employees (Health Insurance) Act 1986 to be a government employee employed in the Legislature.

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Personal staffs personal to appointors

8 (1) Subject to subsection (2), a personal staff constituted by a particular Premier, Minister or Opposition Leader shall cease to exist as soon as he himself leaves that office.

(2) A person holding an appointment on a personal staff immediately before the date on which the Premier, the Minister or the Opposition Leader who appointed him left that office shall be entitled to receive, for the period of thirty days commencing on that date, the remuneration provided for in his instrument of appointment.

(3) For the purposes of this section, a Minister shall be deemed to have left office if the Governor amends his ministerial portfolio in accordance with section 61 of the Bermuda Constitution Order 1968.

Annual report

9 On or before 31 March, the Premier shall lay in each House of the Legislature a report listing the names of all persons appointed to a personal staff during the previous calendar year, indicating—

- (a) their functions;
- (b) their remuneration; and
- (c) in the case of the personal staff of a Minister, whether each person was appointed as an expert in a specified field or as a political adviser.

Repeal of 1983 Act and transitional provision

10 (1) The Premier and Opposition Leader Personal Staffs Act 1983 is repealed.

(2) The repeal of the 1983 Act shall not affect the appointment of any person who, immediately before the commencement of this Act, is a member of the personal staff of the Premier or the Opposition Leader.

Commencement

11 This Act comes into operation on such day as the Premier may appoint by notice in the Gazette.

PREMIER, MINISTERS AND OPPOSITION LEADER
PERSONAL STAFFS BILL 2019

EXPLANATORY MEMORANDUM

This Bill seeks to repeal and re-enact the Premier and Opposition Leader Personal Staffs Act 1983 with amendments to provide, in addition, for personal staffs for Ministers.

Clause 1 is self-explanatory.

Clause 2 defines “personal staff”.

Clause 3 provides for both the Premier and the Opposition Leader to appoint such number of persons as he deems fit to constitute his personal staff.

Clause 4 subsection (1) provides for each Minister, subject to the written approval of the Premier, to appoint a personal staff consisting of one or two persons. Subsection (2) specifies that these persons shall be either experts in their professional field or political advisers. Subsection (3) requires that before making an appointment, the Minister must ensure there will be no conflict of interest between the matters on which the person will be providing advice and assistance and his private or professional concerns. This section is modelled on section 9.1 of the Ministerial Code of Conduct (advisers and consultants).

Clause 5 provides that the terms of appointment of a member of a personal staff shall be specified in his instrument of appointment.

Clause 6 caps the total remuneration of whatever kind payable to the personal staff of the Premier, a Minister or the Opposition Leader out of public funds to the amount provided for that purpose by the Legislature.

Clause 7 clarifies that the personal staffs do not form part of the public service of Bermuda, and persons on those staffs shall not be public officers of Bermuda, for any purpose. However, subsection (2) provides for their access to confidential information, and subsection (3) deems members of the personal staffs to be Government employees for purposes of contributory pension, payroll tax and health insurance.

Clause 8 provides that a personal staff constituted by a particular Premier, Minister or Opposition Leader shall cease to exist as soon as he himself leaves that office, but persons will be entitled to continue to receive remuneration for a period of thirty days. Subsection (3) deems a Minister whose portfolio is amended to have left office for these purposes.

Clause 9 requires the Premier to make an annual report to the Legislature specifying details of all persons appointed to the personal staffs during the previous calendar year.

Clause 10 subsection (1) repeals the Premier and Opposition Leader Personal Staffs Act 1983. Subsection (2) provides that the repeal does not affect the appointment of any person who, immediately before commencement, is a member of the personal staff of the Premier or the Opposition Leader.

Clause 11 provides for commencement.