
GOVERNMENT RESPONSE TO THE RECOMMENDATIONS OF THE
LAW REFORM COMMITTEE'S
REVIEW OF THE *MEMBERS OF PARLIAMENT (REGISTER OF INTERESTS) ACT 1978*

Pursuant to section 36 of the *Parliamentary Committees Act 2003*, this paper provides a response to the recommendations and other matters contained in the Law Reform Committee's (LRC) report.

Guide for readers:

In this document:

Column 1 sets out the LRC's recommendations

Column 2 sets out the response to the LRC's recommendation – support, support in principle, support in part, noted, not supported

Column 3 sets out the explanation for the response to the LRC's recommendation

**Government response to the Law Reform Committee's report on the
Review of the *Members of Parliament (Register of Interests) Act 1978***

| LRC Recommendation | | Response | Explanation |
|------------------------|---|----------------------|---|
| Code of Conduct | | | |
| 1. | That the Act be renamed the <i>Members of Parliament (Standards) Act</i> . | Support | The Government has introduced the Members of Parliament (Standards) Bill ('the Bill'), to replace the <i>Members of Parliament (Register of Interests) Act 1978</i> . |
| 2. | That the Parliament of Victoria publish a copy of the code in the Act on the Parliament of Victoria's intranet and public website and incorporate information about the code in community education initiatives. | Support in principle | This recommendation will be referred to Parliament for consideration as recommended. |
| 3. | That the Act include a statement of values for members of parliament. Subject to further consultation through the exposure draft recommended in recommendation 35, the statement of values should include the following: <ul style="list-style-type: none"> ▪ serving the public interest; ▪ upholding democracy; ▪ integrity; ▪ accountability; ▪ respect for diversity of views and backgrounds within the Victorian community; ▪ diligence; and ▪ leadership. | Support in part | A statement of values has been incorporated into the new Bill as recommended. The Government does not support further consultation through an exposure draft process, as it considers that sufficient consultation has already taken place through both the LRC's inquiry and a previous inquiry undertaken by the Public Accounts and Estimates Committee (PAEC), <i>Strengthening Government and Parliamentary Accountability in Victoria</i> (published April 2008). |
| 4. | That section 3 of the Act be replaced with a new code. Subject to further consultation through the exposure draft recommended in recommendation 35, the new code should include the following rules of conduct: <ul style="list-style-type: none"> ▪ upholding democracy and respecting others regardless of background; ▪ conflicts of interest; ▪ using position for profit; ▪ outside employment and activities; ▪ accepting gifts, hospitality and other benefits; | Support in part | A broader code of conduct has been incorporated into the new Bill as recommended. However the suggested clause regarding post-retirement activities has not been included. The Government notes that the provision regarding the management of confidential and personal information covers what may constitute 'improper' activity, and the Victorian Government Professional Lobbyist Code of Conduct already imposes employment restrictions on Ministers, Parliamentary Secretaries and Cabinet Secretaries once they leave office. The Government does not support further consultation |

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| <ul style="list-style-type: none"> ▪ use of influence; ▪ use of public resources; ▪ personal conduct; ▪ managing confidential and personal information; and ▪ post-retirement activities. | | through an exposure draft process. See explanation to recommendation 3. |
| <p>5.</p> <ul style="list-style-type: none"> a. that the Legislative Assembly and Legislative Council include monitoring and reviewing the statement of values and the code in the functions of the privileges and standards committees recommended in recommendation 29. The Legislative Assembly and Legislative Council should require their respective committees to confer with each other when carrying out this function b. that the Victorian Government, in conjunction with the Parliament of Victoria, commission ongoing research into parliamentary standards. | Support in principle | This recommendation will be referred to Parliament for consideration as recommended. |
| Register of Interests | | |
| <p>6. That the Act:</p> <ul style="list-style-type: none"> a. define 'income' in the same way as assessable income under Commonwealth income tax legislation, with the exception of members' parliamentary salary and allowances and income from savings or investment accounts and public superannuation funds b. define a 'beneficial interest' to include an interest in a private superannuation fund c. define 'gift' to include a transfer of property or conferral of a financial benefit, including hospitality, made without consideration or without adequate consideration d. replace section 6(2)(d) with a requirement to disclose the name of an organisation where a conflict of interest could arise, or reasonably be seen to arise, from the member's membership or association with that organisation | Support | <p>Registrable interests are clarified as recommended in the new Bill.</p> <p>Members will not be required to declare hospitality provided to the member when the member is acting in an official capacity (ie acting as or on behalf of a member or a Minister).</p> <p>Recommendation 6(d) is included in the Bill. The Bill also includes an option for Members to list additional memberships if they wish.</p> |

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| <p>e. replace section 6(2)(i) with a requirement to disclose 'other interests of the member where a conflict of interest could arise or reasonably be seen to arise'.</p> | | |
| <p>7. That the Act:</p> <p>a. require members of parliament to disclose debts in both their primary and ordinary returns. 'Debt' should be defined to exclude debts owed to family members, authorised deposit-taking institutions or other persons whose ordinary business includes the lending of money, and debts arising from the supply of ordinary household or office-related goods and services</p> <p>b. clarify that members are not required to disclose political donations in the register of interests as these are disclosable under electoral laws.</p> | Support | Registrable interests are extended in the Bill, to include the disclosure of debts. The Bill also clarifies that political donations are not required to be disclosed. |
| <p>8. That the Act:</p> <p>a. set a \$2000 threshold for the registration of income, investments and debts</p> <p>b. set a \$500 threshold for the registration of gifts and contributions to travel outside Victoria</p> <p>c. provide for automatic increases in the thresholds at the end of each financial year in line with the Consumer Price Index</p> <p>d. require members of parliament to disclose interests that fall below the threshold in the register of interests where (i) a member holds or receives two or more interests with or from the same person and (ii) the amount of those interests, valued together, exceeds the threshold.</p> | Support in part | Minimum disclosure thresholds as recommended have been incorporated in the Bill. The thresholds for the registration of income, investments and debts will be indexed to CPI, rounded to the nearest \$500. The threshold for the registration of gifts and travel contributions outside Victoria will be indexed to CPI, rounded to the nearest \$100. Recommendation 8(d) has been included in the Bill. |
| <p>9. That the Act provide that members of parliament are not required to disclose gifts or travel contributions in the register of interests where the gifts or travel contributions are made by:</p> <p>a. family members or</p> <p>b. friends in a purely personal capacity unless a conflict of interest could arise or be seen to arise.</p> | Support in part | Gifts or travel contributions will not be required to be disclosed if provided by family members. Such benefits delivered by friends, however, will need to be disclosed, even if made in a purely personal capacity. |

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| <p>10. That the Act provide that, if a member becomes the executor of an estate:</p> <ul style="list-style-type: none"> a. the member must register the name of that estate in the register of interests in the 'other substantial interests' category b. the member is not required to disclose an interest held by the estate in the register of interests unless the member is also a beneficiary of that interest. | Support | The Bill incorporates this recommendation. |
| <p>11. That the Act:</p> <ul style="list-style-type: none"> a. require members who have a beneficial interest in land used as a primary or secondary place of residence by any person to disclose the suburb or town in which the land is located in the register of interests b. require members who have a beneficial interest in other land to disclose the street address or a description that identifies the land's specific location in the register of interests. | Support | The Bill incorporates this recommendation. |
| <p>12. That the Act require members of parliament to disclose the following information about their interests in the register of interests:</p> <ul style="list-style-type: none"> a. income – a description of the source of the income, including the name and address of the payer, and, where the income arises from services provided by the member, a description of the services provided by the member b. offices – the name and address of the corporation or other organisation, a description of the organisation's objects or activities and a description of the office held by the member c. investments – the name of the corporation, partnership or other body in which the member holds the beneficial interest, a description of the nature of the member's interest and, except in the case of listed corporations, the address of the corporation, partnership or other body | Support in part | <p>The Bill incorporates this recommendation with two variations.</p> <p>Recommendation 12(c) is included, but the Bill places an additional obligation on members to declare the number of shares they hold as a beneficial interest in a corporation.</p> <p>Recommendation 12(f) is included but only where the travel was undertaken outside of Victoria.</p> |

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| <p>and a description of its objects or activities</p> <p>d. trusts – a description of the trust and the nature of its activities</p> <p>e. gifts – a description of the gift and the name and address of the donor</p> <p>f. travel – the name and address of the donor and a description of the travel undertaken outside Victoria, including dates, destinations and the purpose of the travel.</p> | | |
| <p>13. That the Act</p> <p>a. require members of parliament to disclose, by band, the value of any income, investments, land, gifts and travel contributions in the register of interests</p> <p>b. set the bands as follows:</p> <ul style="list-style-type: none"> ▪ for income – \$2000-\$10,000, \$10,000-\$30,000 and over \$30,000 ▪ for investments – \$2000-\$50,000, \$50,000-\$200,000 and over \$200,000 ▪ for land – \$2000-\$100,000, \$100,000-\$600,000 and over \$600,000 ▪ for gifts and travel contributions – \$500-\$1000, \$1000-\$2000 and over \$2000 <p>c. provide for automatic increases in the bands at the end of each financial year in line with the Consumer Price Index, rounded to the nearest \$500.</p> | Not supported | <p>In the interests of privacy, Members should not need to disclose the values of their interests.</p> <p>However, in the case of shareholdings over \$2000, the Bill will require Members to declare the number of shares held as at the date of completion of the return.</p> |
| <p>14. That the Act define 'family' to include de facto and same sex partnerships.</p> | Support | The Bill reflects this recommendation. |
| <p>15. That the Act:</p> <p>a. require members of parliament who have a beneficial interest or hold office in a family company or trust to disclose 'prescribed interests' of the company or trust of which they are aware or reasonably ought to be aware in the register of interests</p> | Support | The Bill reflects this recommendation. |

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| <p>b. define 'prescribed interests' as income, investments, land, gifts, travel contributions and other interests as defined by section 6(2)(i) which are held or received by the family company or trust.</p> | | |
| <p>16. That the Act require members to submit an ordinary return within 28 days of 31 January and 30 June each year.</p> | Support in part | <p>Consistent with current practice, the Bill will require members to submit annual returns within 28 days of 30 June each year.</p> <p>Members will, however, be required to update their latest return if there is a substantial change in their circumstances.</p> |
| <p>17. That the Act:</p> <p>a. require the tabling of primary and ordinary returns submitted by members of parliament under the Act</p> <p>b. require members to list all of the interests and information required under the Act in each return they submit</p> <p>c. require the tabling of the returns submitted by members of parliament within 14 days of the deadline for returns.</p> | Support in part | <p>The Bill incorporates this recommendation, with a variation that returns will be required to be tabled by the Clerk as soon as is practicable after the return is received.</p> |
| <p>18. That:</p> <p>a. the Legislative Assembly and Legislative Council ask the privileges and standards committees recommended in recommendation 29 to consider and report on arrangements for public access to the register of interests. The committees should consider, in particular:</p> <ul style="list-style-type: none"> ▪ whether the Parliament should publish the register of interests online, including any privacy or security risks arising from online publication and measures to manage those risks ▪ whether, if the Parliament decides to publish the register in hard copy form only, it should be available as a parliamentary paper or by inspection at the Parliament ▪ the appropriateness of placing conditions on | Support in principle | <p>This recommendation will be referred to Parliament for consideration as recommended.</p> |

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| <p style="text-align: center;">access to the register, such as requiring people to provide a name and address when seeking access.</p> <p>The Legislative Assembly and Legislative Council should require their respective committees to confer with each other and to report in time for their recommendations to be included in the exposure draft of changes to the Act recommended in recommendation 35.</p> <p>b. the Parliament publish information on its website notifying members of the community about the existence of the register of interests and how they can access the information in the register in hard copy.</p> | | |
| <p>19. That the Act give the Clerk of the Parliaments the power to report a member to the Presiding Officer of the member's house where the member has failed to submit a return in accordance with the deadlines in the Act, or the Clerk has reasonable grounds to believe the member has failed to submit an accurate return.</p> | Support | The Bill reflects this recommendation, and clarifies that the Clerk should only report a member to the Presiding Officer when they are satisfied that the member has had reasonable opportunity to comply with relevant provisions. |
| <p>20. That the Legislative Assembly and Legislative Council ask the privileges and standards committees recommended in recommendation 29 to consider whether, and how, the register of interests could be compiled in electronic form. The Legislative Assembly and Legislative Council should require their respective committees to confer with each other when carrying out this function.</p> | Support in principle | This recommendation will be referred to Parliament for consideration as recommended. |
| <p>21. That the Legislative Assembly and Legislative Council include monitoring and reviewing the register of interests in the Act in the functions of the privileges and standards committees recommended in recommendation 29. The Legislative Assembly and Legislative Council should require their respective committees to confer with each other when carrying out this function.</p> | Support in principle | This recommendation will be referred to Parliament for consideration as recommended. |
| <i>Building and upholding the standards in the Act</i> | | |
| <p>22. That the Parliament of Victoria:</p> <p>a. include comprehensive training about the Act in future</p> | Support in principle | This recommendation will be referred to Parliament for consideration as recommended. |

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| <p>induction programs for members of parliament</p> <p>b. invite external presenters with a background in ethics and politics to present to members of parliament in future induction programs.</p> | | |
| <p>23. That the Parliament of Victoria consider appropriate platforms for delivering ongoing information and training to members of parliament about the Act.</p> | Support in principle | This recommendation will be referred to Parliament for consideration as recommended. |
| <p>24. That:</p> <p>a. the Legislative Assembly and Legislative Council include the preparation of written guidelines for members of parliament about their obligations under the Act in the functions of the privileges and standards committees recommended in recommendation 29. The Legislative Assembly and Legislative Council should require their respective committees to confer with each other when carrying out this function</p> <p>b. the Parliament publish the written guidelines on the Parliament's intranet and public website</p> <p>c. the Parliament amend the <i>Members' guide</i> to include information about the statement of values and code of conduct.</p> | Not supported | <p>The Government considers that the Act will provide sufficient information to members about their obligations under the Act. As legislation is publicly available it will also be a resource to members of the public.</p> <p>The Government notes that the Clerks are able to provide information to members.</p> |
| <p>25. That the Act not include the reference to the 1974 report of the Qualifications Committee in the current section 3(2).</p> | Support | The Bill does not include this reference. |
| <p>26. That the Victorian Government, in consultation with the privileges and standards committee recommended in recommendation 29, amend the <i>Members of Parliament (Register of Interests) Regulations 2003</i> to include example entries in the forms for the register of interests.</p> | Support in principle | The Government will consider, in consultation with the privileges and standards committees, the suitability of amending the <i>Members of Parliament (Register of Interests) Regulations 2003</i> to include example entries in the forms for the register of interests. |
| <p>27. That the Parliament of Victoria appoint an ethics adviser on retainer to provide confidential advice to members of parliament as required. The privileges and standards committees recommended in recommendation 29 should work together to determine the appointment process, terms of appointment and</p> | Noted | Consideration of this issue will be deferred until the release of the Public Sector Standards Commissioner's Review in relation to Victoria's integrity and anti-corruption system (PSSC Review). |

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| the functions of the adviser. | | |
| 28. That, if a member of parliament raises an issue with the Clerks that concerns the legal interpretation of the Act, the Clerks should seek legal advice on behalf of the Parliament and communicate the substance of the advice to all members. | Noted | See explanation to recommendation 27. |
| 29. That the Parliament of Victoria: <ul style="list-style-type: none"> a. rename the privileges committee in each house as the privileges and standards committee b. expand the functions of the committees to include investigating and reporting to the houses regarding alleged breaches of the Act in addition to the functions recommended in recommendations 5, 18, 20, 21, 24, 26 and 27 c. amend the voting requirements for the privileges and standards committees to require a special majority for any decision relating to an investigation into an allegation against a member of parliament d. give the privileges and standards committees the power to commission a person to inquire into and report on any aspect of the committee's investigation. | Noted | See explanation to recommendation 27. |
| 30. That the Act: <ul style="list-style-type: none"> a. provide that members of parliament should refer allegations about breaches of the Act to the Presiding Officer in the accused member's house b. give the Presiding Officer the power to determine whether to refer the allegation to the house's privileges and standards committee for investigation c. require the Presiding Officer to refer allegations which involve possible criminal conduct to the appropriate law enforcement authority. | Noted | See explanation to recommendation 27. |
| 31. That the Parliament of Victoria: <ul style="list-style-type: none"> a. establish a complaints process under which members of the public can write to the Presiding Officer in the | Noted | See explanation to recommendation 27. |

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| <p>accused member's house if they believe a member of parliament has breached the Act</p> <ul style="list-style-type: none"> b. give the Presiding Officers the power to determine whether to refer the allegation to the house's privileges and standards committee for investigation c. publish information about the complaints process in hard copy and on the Parliament's website d. require the Presiding Officer to refer allegations which involve possible criminal conduct to the appropriate law enforcement authority. | | |
| <p>32. That the Parliament of Victoria:</p> <ul style="list-style-type: none"> a. require all allegations made to the Presiding Officers to be in writing, signed by the complainant and to set out reasonable grounds and evidence for the allegation b. give the Presiding Officers the power not to refer an allegation to the house's privileges and standards committee for investigation if they determine that the allegation is trivial or vexatious or there are no reasonable grounds for, or evidence to support, the allegation c. give the privileges and standards committees the power not to investigate, or continue an investigation, if the committee determines that the allegation is trivial or vexatious or that there are no reasonable grounds for, or evidence to support, the allegation. | Noted | See explanation to recommendation 27. |
| <p>33. That the Parliament of Victoria:</p> <ul style="list-style-type: none"> a. seek expert advice about appropriate safeguards for members of parliament who are the subject of allegations regarding a breach of the Act including procedural fairness, the standard of proof and possible systems of appeal b. incorporate those safeguards in the procedures used by the Presiding Officers and privileges and standards committees for dealing with alleged breaches of the Act. | Noted | See explanation to recommendation 27. |

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| <p>34. That the Act:</p> <p>a. give the houses the discretion to impose any one of the following sanctions on a member who wilfully contravenes the Act:</p> <ul style="list-style-type: none"> ▪ a requirement to apologise to the house ▪ a requirement to rectify the member's returns in the register of interests ▪ a maximum fine of 100 penalty units ▪ suspension from the house for a period determined by the member's house ▪ declare the member's seat vacant. <p>b. provide that the houses may only suspend a member or declare the member's seat vacant by a motion passed by a special majority of three quarters of the whole number of the members of the house.</p> | <p>Noted</p> | <p>See explanation to recommendation 27.</p> <p>The Bill includes sanctions based on those in the current Act. A wilful contravention of the Act will be viewed as a contempt of Parliament and will be dealt with accordingly. The Member's House may also impose a fine of up to 35 penalty units (about \$4000). If the fine is not paid within the time specified by the House, the Member's seat will become vacant.</p> <p>These sanctions do not apply to the Statement of Values.</p> |
| <p>35. That the Victorian Government:</p> <p>a. release an exposure draft of the recommended changes to the Act</p> <p>b. consult further with members of parliament and the community before finalising the amendments to the Act.</p> | <p>Not supported</p> | <p>See explanation to recommendation 3.</p> |