



Submission No. MP/13
Received 29/05/2009
Law Reform Committee

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Hon. Grant Woodhams
Member for Moore

Mr Johan Scheffer, MLC
Chairman
Law Reform Committee
Parliament House
MELBOURNE VIC 3002

Dear Mr Chairman

REVIEW OF THE MEMBERS OF PARLIAMENT (REGISTER OF INTERESTS) ACT 1978

In response to your letter, dated 17 April 2009, I advise that the equivalent Western Australian *Members of Parliament (Financial Interests) Act* (the Act) has been in force since 1992 and, until recent years, there were minimal difficulties with its operation. The Code of Conduct which is not part of the Act, will be dealt with separately.

Members of Parliament Financial Interests

The *Members of Parliament (Financial Interests) Act* commenced in 1992. The latest version of the 'Disclosure of Financial Interests' guide for members is enclosed for your information. Following the Act's operation for approximately 10 years, the Clerk of the House, as Registrar, brought concerns about some aspects of the operation of the Act to the attention of the Procedure and Privileges Committee. In 2005 the Committee adopted terms of reference to investigate the Act. Some of the issues considered were –

- the types of interest to be disclosed;
- a review of the return forms and the method for making additional disclosures;
- publishing the Register in a cumulative electronic format;
- reviewing of current sanctions and alternative methods for enforcement of the Act;
- reviewing findings contained in the Quirk¹ review of the Act; and
- other related matters.

A copy of Report No. 5 of 2006 is enclosed for your information.

However, the review of the Act was overtaken by a referral from the House requiring the committee to investigate whether the actions of a Legislative Assembly member interfering with the Members' Financial Interests Register constituted misconduct under the *Corruption and Crime Commission Act 2003* or a breach of parliamentary privilege. The investigation illustrated a number of difficulties in relation to the Register and how it should be accessed.

¹ Review by Margaret Quirk, MLA, for the then Premier

A copy of Report No. 3 of 2005 is enclosed for your information.

While the first investigation wasn't completed until November 2006 and the latter investigation was completed in December 2005, the Government's response to both reports was not presented to the House until May 2007. The Government supported the majority of the recommended amendments to the Act and undertook to introduce legislation to -

- divide the Register into a series of annual registers;
- require members to inspect, cancel or amend their original returns only in the presence of the Registrar;
- provide certified copies (not the original) of the Register for inspection by any person;
- require members to submit each year a complete record of their financial interests so that each return will stand alone;
- require members, for security reasons, to only disclose the suburb, town or district of their residence/residences;
- require the tabling in the House a copy of the Register;
- require the Registrar to notify the House when members fail to meet the deadline for lodging annual returns;
- require the registrar to notify the House of any unauthorised access or interference with the Register;
- require members, who wilfully provide inaccurate information or exclude required information from a return, to be held in contempt and dealt with accordingly.

The then Government also indicated that it would include an additional amendment that would require members to disclose beneficial interests in family trusts or holdings.

A General Election was called for September 2008 and to date an amending Bill has not been introduced into Parliament.

Code of Conduct

A Code of Conduct was first adopted by the Legislative Assembly in 1992 for education purposes for members and was included as a 'statement of intent' in the Legislative Assembly Standing Orders volume. The Code was further reviewed by the Procedure and Privileges Committee in 2003 and the Code, as contained in Committee's report (copy enclosed), was adopted by the Legislative Assembly with a further amendment (new clause 12). A copy of the Code is enclosed for your information.

Following adoption, the Clerk of the Legislative Assembly provided briefings on the Code at new members' seminars. This was expanded considerably in 2009 when half-day seminars on ethics were held for Legislative Assembly members. Academic and former member presenters with expertise in the fields of ethics and politics conducted the seminar with the objective of allowing members to examine ethics and its application to their duties as members of Parliament.

Please do not hesitate to contact either myself or the Principal Research Officer to the Procedure and Privileges Committee, Julia Lawrinson, on telephone (08) 92227222 if your Committee requires additional information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Grant Woodhams', written in a cursive style.

GRANT WOODHAMS, MLA
SPEAKER OF THE LEGISLATIVE ASSEMBLY

27 May 2009



Disclosure of Financial Interests

A Guide for Members of the Legislative Assembly

Introduction

An important matter for all members is how to deal with any conflict of interest between public duties and private interests, especially where financial interests are concerned.

The *Members of Parliament (Financial Interests) Act 1992* ('the Act') requires disclosure of a number of categories of financial interests. When introducing the Act in 1989, the then Premier stated that 'the disclosure of interests by members of Parliament is a desirable and necessary step to maintain public confidence that members are discharging their public duties without bias, and free of the influence of private interests or personal advantage. It will reinforce the well recognised principle that any conflict between public duty and private interests should preferably be avoided altogether, but, at very least, always declared'¹.

Only the source or nature of the financial interest requires disclosure under the Act and not the actual value or amount. The disclosure requirements also relate to the financial interests of members only and the Act does not cover the interests of family members. While the Clerk and the Deputy Clerk will assist you in any way possible, **a declaration made under the Act represents a personal declaration for which you alone are responsible.**

How do I disclose my financial interests?

You are required to lodge a return on the prescribed form which will be provided to you by the Clerk.

PRIMARY RETURN

A primary return is the first return you lodge upon becoming a member.

Disclosures of the following financial interests are made in your primary return and refer to interests held **on the day** that you were sworn in:

- interests in real property;
- interests in trusts;
- interests and positions in corporations;
- positions in trade unions and professional or business associations; and
- debts for which you are liable.

Sources of income are also disclosed in your primary return; however this relates to income which you **reasonably expect to receive** in the period commencing on the first day after being sworn in, and ending on the next succeeding 30 June.

ANNUAL RETURN

First annual return

Your first annual return covers the period commencing on the day after being sworn in and ending on the next succeeding 30 June.

Ordinary annual return

The only difference between your first annual return and subsequent annual returns is the length of the 'return period'. While your first annual return will likely cover a return period of less than 12 months, your second and subsequent annual returns will cover the full 12 months of the financial year, being from 1 July to 30 June.

The disclosure of financial interests in your annual return refers to interests held **at any time** during the return period.

QUICK REFERENCE

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¹ The Hon. Peter Dowding, Parliamentary Debates (Hansard), Legislative Assembly (31 August 1989), p1585.



***PROCEDURE AND PRIVILEGES
COMMITTEE***

***MEMBERS OF PARLIAMENT
(FINANCIAL INTERESTS)
ACT 1992
REVIEW***

Report No. 5

2006



PROCEDURE AND PRIVILEGES COMMITTEE

**INQUIRY INTO A MATTER
REFERRED TO THE COMMITTEE
BY THE LEGISLATIVE ASSEMBLY
ON 1 DECEMBER 2005**

**Report No. 3
in the 37th Parliament**

2005



**PROCEDURE AND PRIVILEGES
COMMITTEE**

**Report
on a
Code of Conduct
for
Members of the
Legislative Assembly
of
Western Australia**

Tabled by
Mrs Dianne Guise, Deputy Speaker of the Legislative Assembly
on Thursday, 27 February 2003

2003

RESOLUTIONS OF THE HOUSE

**CODE OF CONDUCT FOR
MEMBERS OF THE LEGISLATIVE
ASSEMBLY**

**Adopted by the House on 28 August 2003, V. &
P., p. 776.**

Code of Conduct

Preamble

Members of the Legislative Assembly recognise that they are in a unique position of being responsible to the electorate. The electorate is the final arbiter of the conduct of members of the Legislative Assembly and has the right to dismiss them from office at regular elections.

Members of the Legislative Assembly accordingly acknowledge their responsibility to maintain the public trust placed in them by performing their duties with honesty and integrity, respecting the law and the institution of Parliament, and using their influence to advance the common good of the people of Western Australia.

The Code

(1) Purpose of this Code

The purpose of the Code of Conduct is to assist members of the Legislative Assembly in the discharge of their obligations to the Legislative Assembly, their constituents and the public at large.