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cc

bcc

Subject Review of the Members of Parliament (Register of Interests) Act 1978

Submission No. MP/8
Received 15/05/2009
Law Reform Committee

Dear Ms Brent,

The Tasmanian Parliament has had the "Parliamentary (Disclosure of Interests) Act since 1996. The Act can be viewed at

http://www.thelaw.tas.gov.au/tocview/index.w3p;cond=all;doc_id=22%2B%2B1996%2BAT%40EN%2B20090515000000;histon=;prompt=;rec=;term=parliamentary

There is a Code of Ethical Conduct and a Code of Race Ethics contained in the Standing Orders as well as Standing Orders referring to pecuniary interests of Members. They are in the attached document.

Sections 7, 8 and 9 set out the general requirements for the information required to be disclosed:

7. Disclosure in ordinary returns

Subject to Division 2, a Member must disclose in an ordinary return the following:

(a) details of each source of income exceeding \$500 that the Member received during the ordinary return period;

(b) the nature of any interest the Member held in real property during the ordinary return period;

(c) the address of any real property referred to in paragraph (b);

(d) the nature of any interest, or description of any position, whether remunerated or not, the Member held in any corporation during the ordinary return period;

(e) a description of the principal objects of any corporation, other than a public company, referred to in paragraph (d);

(f) the name and address of any corporation referred to in paragraph (d);

(g) a description of any position the Member held in any trade union or professional or business association, whether remunerated or not, during the ordinary return period;

(h) the name of any trade union or association referred to in paragraph (g);

(i) the name and address of any person to whom the Member is liable to pay any debt during the ordinary return period, whether or not the debt is due and payable during that period;

(j) particulars of any disposition of property made by the Member during the ordinary return

period whereby, either wholly or in part, the Member retained the use and benefit of the property or the right to acquire the property at a later date;

(k) particulars of any disposition of property made by a person during the ordinary return period to another person under an arrangement made by the Member whereby, either wholly or in part, the Member obtained the use and benefit of the property;

(l) the name and address of any person who made any financial or other contribution to any travel undertaken by the Member during the ordinary return period;

(m) the dates on which the travel referred to in paragraph (l) was undertaken;

(n) the names of the States, Territories of the Commonwealth and overseas countries in which the travel referred to in paragraph (l) was undertaken;

(o) a description of any gift received by the Member during the ordinary return period;

(p) the name and address of the donor of any gift referred to in paragraph (o).

8. Details of source of income

Details of any source of income required to be disclosed in a return are to include the following:

(a) in relation to income from an occupation –

(i) a description of the occupation; and

(ii) if the Member is employed or the holder of an office, the name and address of the employer or a description of the office; and

(iii) if the Member has entered into a partnership with other persons, any name under which the partnership is conducted;

(b) in relation to income from a trust, the name and address of the settlor and the trustee;

(c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.

9. Discretionary disclosure

A Member may disclose in any return any direct or indirect benefits, advantages or liabilities, whether pecuniary or not, that –

(a) are not required to be disclosed under this Act; or

(b) the Member considers may raise a conflict between the Member's private interests and his or her duties as a Member.

With regard as to where Members seek advice on what should be disclosed, the return forms provide some basic information on those matters and I, as custodian of the Register of Members Interests, will, on occasions, also give advice of a basic level, but beyond that, if the Member remains in doubt, it is up to the Member to seek his/her own legal advice.

The House of Assembly runs an orientation program for new Members and information about the Register of Members Interests is part of that, but ultimately it is the Members responsibility to ensure the return is complete and correct.

There have been no issues arising or breaches alleged in the time the Act has been in existence. If there were, Section 24 sets out how such matters can be dealt with.

If you require any further information, please do not hesitate to contact me.

Regards,

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PART 2

PROCEEDINGS ON THE MEETING OF A NEW PARLIAMENT

Proceedings on the meeting of a new Parliament.

2. On the first day of the meeting of a new Parliament, the House having met at the time and place appointed -

- (a) The Governor's Proclamation shall be read by the Clerk of the House;
- (b) The Writ of Election of each Member, with the Return endorsed thereon, shall be produced by the Clerk of the House, and laid upon the Table;
- (c) Members shall then be sworn or make affirmation as prescribed by law;
- (d) Members will then subscribe to the Code of Ethical Conduct contained in Standing Order No. 2A;
- (e) Members will then subscribe to the Code of Race Ethics contained in Standing Order No. 2B;
- (f) The House shall then proceed to the election of a Speaker;
- (g) Prior to such election the Clerk shall act as Chair to the House.

2A.

CODE OF ETHICAL CONDUCT FOR MEMBERS OF THE HOUSE OF ASSEMBLY

PREAMBLE

As Members of the House of Assembly we recognise that our actions have a profound impact on the lives of all Tasmanian people. Fulfilling our obligations and discharging our duties responsibly requires a commitment to the highest ethical standards.

STATEMENT OF COMMITMENT

To the people of this State, we owe the responsible execution of our official duties, in order to promote human and environmental welfare.

To our constituents, we owe honesty, accessibility, accountability, courtesy and understanding.

To our colleagues in this Assembly, we owe loyalty to shared principles, respect for differences, and fairness in political dealings.

We believe that the fundamental objective of public office is to serve our fellow citizens with integrity in order to improve the economic and social conditions of all Tasmanian people.

We reject political corruption and will refuse to participate in unethical political practices which tend to undermine the democratic traditions of our State and its institutions.

DECLARATION OF PRINCIPLES

Members of this Assembly must carry out their official duties and arrange their private financial affairs in a manner that protects the public interest and enhances public confidence and trust in government and in high standards of ethical conduct in public office.

Members of this Assembly must act not only lawfully but also in a manner that will withstand the closest public scrutiny; Neither the law nor this code is designed to be exhaustive, and there will be occasions on which Members will find it necessary to adopt more stringent norms of conduct in order to protect the public interest and to enhance public confidence and trust.

Every Member is individually responsible for preventing potential and actual conflicts of interest, and must arrange private financial affairs in a manner that prevents such conflicts from arising including declaration of pecuniary interest in any matter being considered as part of their official duties as a Parliamentarian.

Members of the Assembly must carry out their official duties objectively and without consideration of personal or financial interests.

Members of the Assembly must not accept gifts, benefits or favours except for incidental gifts or customary hospitality of nominal value.

Members of the Assembly must not take personal advantage of or private benefit from information that is obtained in the course of or as a result of their official duties or positions and that is not in the public domain.

Members of the Assembly must not engage in personal conduct that exploits for private reasons their positions or authorities or that would tend to bring discredit to their offices.

Members of the Assembly must not use, or allow the use of, public property or services for personal gain.

Members of the Assembly, when leaving public office and when they have left public office, must not take improper advantage of their former office.

2B.

CODE OF RACE ETHICS FOR MEMBERS OF THE HOUSE OF ASSEMBLY

As Members of the Tasmanian Parliament we agree:-

- (1) To act in a manner which upholds the honour of public office and the Parliament.

- (2) To respect the religious and cultural beliefs of all groups living within Australia in accordance with the Universal Declaration of Human rights.
- (3) To uphold principles of justice and tolerance within our multicultural society making efforts to generate understanding of all minority groups.
- (4) To recognise and value diversity as an integral part of Australia's social and economic future.
- (5) To help without discrimination all persons seeking assistance.
- (6) To speak and write in a manner which provides factual commentary on a foundation of truth about all issues being debated in the community and the Parliament.
- (7) To encourage the partnership of government and non-government organisations in leading constructive and informed debate in the community.
- (8) To promote reconciliation with indigenous Australians.

No Members to vote if pecuniarily interested.

203. Members shall not be entitled to vote upon any Question in which they have direct pecuniary interest, such interest being of an immediate and personal, and not merely of a general or remote description; and the vote of any Member so interested shall be disallowed; but any such Member shall not be precluded from proposing any Motion or Amendment relating to such Question.

Direct pecuniary interest, how vote of Member dealt with.

204. The Vote of any Member who is supposed to have a direct pecuniary interest in a matter under the consideration of the House may be taken notice of by a Motion that the vote be disallowed, and after the Member whose vote has been challenged has been heard, the vote may be allowed or disallowed by the House.

Rule to apply to Committees.

205. The Rule of this House relating to the vote upon any Question in the House, of a Member having an interest in the matter upon which the vote is given, shall apply likewise to any vote of a Member so interested, in a Committee.