



TASMANIA

**PARLIAMENTARY (DISCLOSURE OF
INTERESTS) ACT 1996**

No. 22 of 1996

CONTENTS

PART 1 - PRELIMINARY

1. Short title
2. Commencement
3. Interpretation

PART 2 - RETURNS

4. Primary returns
5. Ordinary returns

PART 3 - INTERESTS TO BE DISCLOSED

Division 1 - Disclosures

6. Disclosure in primary returns
7. Disclosure in ordinary returns
8. Details of source of income
9. Discretionary disclosure

Division 2 – Exceptions to disclosure

10. Real property
11. Corporation
12. Debt
13. Contribution to travel
14. Gifts

PART 4 – REGISTER OF INTERESTS

15. Register of Interests of Members of Legislative Council
16. Register of Interests of Members of House of Assembly
17. Form of register
18. Inspection of registers
19. Tabling of registers
20. Publication of registers
21. Deletion of certain matter
22. Variation of return

PART 5 – MISCELLANEOUS

23. Nil return
24. Contempt of Parliament
25. Regulations
26. Administration of Act



PARLIAMENTARY (DISCLOSURE OF INTERESTS) ACT 1996

No. 22 of 1996

**An Act to provide for the disclosure of interests of
Members of the House of Assembly and the
Legislative Council**

[Royal Assent 30 August 1996]

Be it enacted by His Excellency the Governor of Tasmania,
by and with the advice and consent of the Legislative
Council and House of Assembly, in Parliament assembled,
as follows:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the *Parliamentary (Disclosure of Interests) Act 1996*.

Commencement

2. This Act commences on the day after the day on which it receives the Royal Assent.

Interpretation

3. In this Act –

"address" means –

- (a) in relation to a person other than a corporation, the last known residential or business address of the person; or
- (b) in relation to a corporation, the address of the registered office of the corporation or the address of the principal office of the corporation in the place in which it is incorporated; or
- (c) in relation to any real property, the postal address of the property;

"approved form" means a form approved by the Premier;

"Clerk" means –

- (a) in relation to a Member of the Legislative Council, the Clerk of the Legislative Council; or
- (b) in relation to a Member of the House of Assembly, the Clerk of the House of Assembly;

"commencement day" means the day on which this Act commences;

"debt" means a debt arising from –

- (a) a loan of money; or
- (b) the supply of goods or services;

"disposition of property" means any of the following:

- (a) any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of real property or money;
- (b) the creation of a trust in respect of real property or money;
- (c) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in respect of real property or money;
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any interest in any real property or money;
- (e) the exercise of a general power of appointment over real property in favour of a person;
- (f) any transaction entered into by a person with the intent to –
 - (i) diminish, directly or indirectly, the value of any real property of that person; and
 - (ii) increase the value of any real property of another person who is not a relative;

"donor" means a person who makes a gift;

"general election" means –

- (a) in relation to a Member of the Legislative Council, a periodic election of Members of the Legislative Council; or

- (b) in relation to a Member of the House of Assembly, a general election of Members of the House of Assembly;

"gift" means any disposition of property other than any financial or other contribution to travel –

- (a) passing without consideration in money or money's worth; or
- (b) passing with consideration that is not fully adequate;

"House of Parliament" means –

- (a) the Legislative Council; or
- (b) the House of Assembly;

"income" means assessable income within the meaning of the *Income Tax Assessment Act 1936* of the Commonwealth, whether or not derived in Tasmania, other than income received as remuneration under the *Parliamentary Salaries and Allowances Act 1973*;

"interest" means –

- (a) in relation to any property, any estate, interest, right or power, at law or in equity, in or over the property, whether or not it is situated in Tasmania; or
- (b) in relation to any corporation, any relevant interest within the meaning of the Corporations Law in any securities issued or made available by the corporation, whether or not it is incorporated in Tasmania;

"Member" means –

- (a) a Member of the Legislative Council; or
- (b) a Member of the House of Assembly;

"occupation" includes trade, profession and vocation;

"ordinary return" means a return referred to in section 5;

"ordinary return period", in relation to an ordinary return lodged by a Member in any year, means –

- (a) if the last return lodged by the Member was an ordinary return, the period of 12 months ending on 30 June in that year; or
- (b) if the last return lodged by the Member was a primary return, the period commencing on the first day after the primary return date in relation to the Member and ending on 30 June in that year;

"political party" means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Parliament of Tasmania of any candidate endorsed by it;

"primary return" means a return referred to in section 4;

"primary return date" means –

- (a) in relation to a person who is a Member on the commencement day, that day; or

- (b) in relation to a person who becomes a Member after that day, other than a re-elected Member, the day on which the Member takes the oath of allegiance under the *Promissory Oaths Act 1869*;

"professional or business association" means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the economic interests of its members in any occupation;

"public company" means a company whose shares are listed for quotation on the stock market of a stock exchange in Tasmania;

"re-elected Member" means a person who –

- (a) ceased to be a Member of a House of Parliament by reason of the termination, either by dissolution or expiry, of that House immediately preceding a general election; and
- (b) is re-elected as a Member of that House at that general election;

"register" means –

- (a) in relation to the Legislative Council, the Register of Interests of Members of the Legislative Council referred to in section 15; or
- (b) in relation to the House of Assembly, the Register of Interests of Members of the House of Assembly referred to in section 16;

"relative" means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of a Member or of a Member's spouse; or
- (b) the spouse of a Member or of any other person specified in paragraph (a);

"return" means –

- (a) a primary return; or
- (b) an ordinary return;

"securities" has the meaning ascribed to that expression in the Corporations Law;

"travel" includes accommodation incidental to a journey.

PART 2 - RETURNS

Primary returns

4. (1) A person who is a Member on the commencement day must lodge with the Clerk a primary return within 3 months after that day.

(2) A person who becomes a Member after the commencement day, other than a re-elected Member, must lodge a primary return with the Clerk within 3 months after the day on which the Member takes the oath of allegiance under the *Promissory Oaths Act 1869*.

(3) A primary return –

- (a) is to be in an approved form; and
- (b) must contain the information specified in section 6.

Ordinary returns

5. (1) A Member must lodge with the Clerk an ordinary return on or before 1 October in any year unless the primary return for the Member is after 30 April in that year.

(2) An ordinary return –

- (a) is to be in an approved form; and
- (b) must contain the information specified in section 7.

PART 3 - INTERESTS TO BE DISCLOSED***Division 1 - Disclosures*****Disclosure in primary returns**

6. Subject to Division 2, a Member must disclose in a primary return the following:

- (a) details of each source of income reasonably expected to exceed \$500 that the Member reasonably expects to receive during the period starting on the first day after the primary return date and ending on the next following 30 June;
- (b) the nature of any interest the Member holds in real property on the primary return date;
- (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 holds in any corporation on the primary return date;
- (e) a description of the principal objects of a 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 holds in any trade union or professional or business association, whether remunerated or not, on the primary return date;

- (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 as at the primary return date, whether or not the debt was due and payable on that date.

Disclosure in ordinary returns

7. 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).

Details of source of income

8. 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.

Discretionary disclosure

9. 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.

Division 2 – Exceptions to disclosure**Real property**

10. A Member is not required to disclose any interest in property if the Member holds the interest only –

- (a) in the capacity as the executor or administrator of the estate of a deceased person and the Member is not a beneficiary under the will or intestacy; or
- (b) in the capacity as a trustee and the Member acquired the interest in the ordinary course of any occupation of the Member which is not related to his or her duties as a Member.

Corporation

11. A Member is not required to disclose any interest or position held in a corporation if the corporation –

- (a) is formed –
 - (i) to provide recreation or amusement; or
 - (ii) to promote commerce, industry, art, science, religion or charity; or
 - (iii) for any other community purpose; and
- (b) is required to apply any of its profits or other income in promoting its objects; and
- (c) is prohibited from paying any dividend to its members.

Debt

12. A Member is not required to disclose a liability or information relating to a liability to pay a debt if –

- (a) the amount of the debt did not exceed \$500 unless –
 - (i) the debt was one of 2 or more debts that the Member is liable to pay to one person as at the primary return date or during the ordinary return period; and
 - (ii) the amounts to be paid exceeded, in the aggregate, \$500; or
- (b) the Member is liable to pay the debt to a relative; or
- (c) the debt arises from a loan of money and –
 - (i) the Member is liable to pay the debt to a bank, building society, credit union or other person whose ordinary business includes the lending of money; and
 - (ii) the loan was made in the ordinary course of business of the lender; or
- (d) the debt arises from the supply of goods or services that were supplied –
 - (i) during the period of 12 months immediately preceding the primary return date or during the ordinary return period; and
 - (ii) in the ordinary course of any occupation of the Member that is not related to his or her duties as a Member.

Contribution to travel

13. (1) A Member is not required to disclose a financial or other contribution to any travel if –

- (a) the contribution –
 - (i) was made from public funds; or
 - (ii) arose from travel on free passes issued under any Act; or
 - (iii) arose from travel in government vehicles; or
- (b) the contribution was made by a relative of the Member; or
- (c) the contribution was made in the ordinary course of any occupation of the Member which is not related to his or her duties as a Member; or
- (d) the amount of the contribution did not exceed \$250 unless –
 - (i) the contribution was one of 2 or more contributions made by one person during the ordinary return period; and
 - (ii) the amount of those 2 or more contributions exceeded, in the aggregate, \$250; or
- (e) the contribution was made by a political party of which the Member was a member and the travel was undertaken –
 - (i) for the purpose of political activity of the party in Tasmania; or

- (ii) to enable the Member to represent the party within Australia.

(2) The amount of a contribution that is not a financial contribution is taken to be an amount equal to the value of the contribution.

Gifts

14. (1) A Member is not required to disclose any gift received by the Member if –

- (a) the amount of the gift did not exceed \$500 unless –
 - (i) the gift was one of 2 or more gifts made by one person during the ordinary return period; and
 - (ii) the amount of those 2 or more gifts exceeded, in the aggregate, \$500; or
- (b) the donor was a relative of the Member.

(2) The amount of a gift comprising property that is not money is taken to be an amount equal to the value of the property.

PART 4 - REGISTER OF INTERESTS

Register of Interests of Members of Legislative Council

15. The Clerk of the Legislative Council is to keep all returns lodged by Members of the Legislative Council in a register to be known as the Register of Interests of Members of the Legislative Council.

Register of Interests of Members of House of Assembly

16. The Clerk of the House of Assembly is to keep all returns lodged by Members of the House of Assembly in a register to be known as the Register of Interests of Members of the House of Assembly.

Form of register

17. (1) A register –

- (a) is to comprise the returns lodged by Members within the previous 8 years; and
- (b) is to be in a loose-leaf form.

(2) A register is to be divided into 2 parts –

- (a) one of which contains primary returns; and
- (b) one of which contains ordinary returns.

(3) The returns are to be filed in alphabetical order according to the surnames of the Members.

Inspection of registers

18. (1) The Clerk of each House of Parliament is to make the register available for inspection by any person at the office of the Clerk between the hours of 10 a.m. and 4 p.m. on any day except –

- (a) a Saturday or Sunday; or
- (b) a public holiday.

(2) The Clerk of each House of Parliament is to make available the register for inspection by any Member during any time that House is sitting.

Tabling of registers

19. (1) The Clerk of each House of Parliament, within 21 sitting days of that House after the last day –

- (a) for the lodgment of primary returns, is to furnish as appropriate to –
 - (i) the President of the Legislative Council for tabling in the Legislative Council, a copy of the Register of Interests of Members of the Legislative Council; or
 - (ii) the Speaker of the House of Assembly for tabling in that House, a copy of the Register of Interests of Members of the House of Assembly; and
- (b) for the lodgment of any ordinary return, is to furnish as appropriate to –
 - (i) the President of the Legislative Council for tabling in the Legislative Council, a copy of that part of the Register of Interests of Members of the Legislative

Council that has not been previously tabled in the Legislative Council; or

- (ii) the Speaker of the House of Assembly for tabling in that House, a copy of that part of the Register of Interests of Members of the House of Assembly that has not been previously tabled in that House.

(2) Sitting days are to be counted whether or not they occur during the same session.

Publication of registers

20. The Clerk is to cause a copy of a register or part of a register tabled under section 19 to be published as a parliamentary paper.

Deletion of certain matter

21. The Clerk, for the purpose of the tabling or publication of a copy of a register or part of a register, may delete –

- (a) any notes or directions concerning the completion of a return; and
- (b) if no disclosures are made under a particular main heading in a return, any matter under that heading apart from the word "NIL"; and
- (c) any page number; and
- (d) any other matter that is not relevant to any disclosure in a return.

Variation of return

22. (1) A Member may notify the Clerk of any variation in any liability or information contained in a return lodged by that Member if the Member considers it necessary.

(2) After being notified of any variation to a return, the Clerk is to amend the return accordingly.

PART 5 - MISCELLANEOUS

Nil return

23. If a Member does not have any interests to be disclosed in a return, the Member must lodge a nil return.

Contempt of Parliament

24. (1) A Member is guilty of contempt of Parliament if the Member –

- (a) fails to lodge a return when required under this Act; or
- (b) fails to disclose any information required under this Act; or
- (c) provides false or misleading information on a return.

(2) In addition to any punishment given for contempt of Parliament by a Member, the relevant House of Parliament may do any or all of the following:

- (a) admonish the Member;
- (b) impose a fine on the Member of an amount not exceeding \$10 000;
- (c) suspend the Member for any period it determines.

Regulations

25. (1) The Governor may make regulations for the purpose of this Act.

(2) Regulations may be made so as to apply differently according to any matter, condition, limitation, restriction, exception or circumstance specified in the regulations.

(3) The regulations may authorise any matter to be determined, applied or regulated by any person or body.

(4) The regulations may confer a power and impose a duty on a specified person or a specified class of persons.

Administration of Act

26. Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Premier; and
- (b) the Department responsible to the Premier in relation to the administration of this Act is the Department of Premier and Cabinet.

*[Second reading presentation speech made in:–
House of Assembly on 18 June 1996
Legislative Council on 13 August 1996]*