

Integrity, Ethics and Parliamentary Privileges Committee

INTEGRITY, ETHICS AND PARLIAMENTARY PRIVILEGES COMMITTEE

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Our Ref: 2.10

Committee of Privileges and Members' Interests

22-02-2011

16 February 2011

Ms Anna Burke MP
Chair
Standing Committee of Privileges and Members' Interests
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Ms Bourke

I refer to your letter dated 13 December 2010 requesting a submission to the Standing Committee of Privileges and Members' Interests in relation to its inquiry into a draft code of conduct for Members of the Australian Parliament.

The Integrity, Ethics and Parliamentary Privileges Committee (IEPPC) is a statutory committee of the Queensland Parliament established under the Parliament of Queensland Act 2001 (POQA).

The IEPPC's area of responsibility about the ethical conduct of members, pursuant to s 92 of the POQA, includes—

- Publishing and reviewing a code of ethical conduct for members¹ (other than members in their capacity as ministers), including procedures for complaints about a member not complying with the code: s 92(1)(a).

In 2010, our committee conducted a review of the Code in accordance with its statutory responsibilities. Please find enclosed a copy of the IEPPC's Report No. 112 which is currently being considered by Government.

In Report 112 the committee noted that the current version of the Code has evolved over time and with new sections being added such that it has become a comprehensive but nonetheless complex document (65 pages). The committee found that the current format of the document may make it difficult for a new member to quickly come to terms with their responsibilities and obligations under the Code.

Accordingly, the committee prepared a draft simplified version of the code for the purposes of discussion. This draft focused on the fundamental principles of ethical behaviour applying to members and the key obligations arising out of these principles.

The committee took the view that it is not possible to detail all possible ethical situations or dilemmas that a member of parliament may encounter. Instead the draft Code seeks to remind Members of their obligations and to guide Member's decision making in relation to ethical issues.

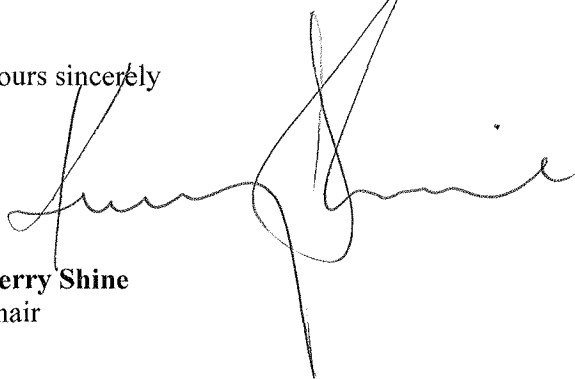
¹ Code of Ethical Standards: Legislative Assembly of Queensland: September 2004: as amended 30 June 2006, 9 February 2009, 11 May 2009, Brisbane, Queensland Legislative Assembly.

The draft differs from the current Code by merging the principles of Primacy of the Public Interest and Transparency and Scrutiny. The draft also inserts a new principle of Respect for Persons to bring it in line with other codes for public sector officers and to cover-off additional provisions found in other jurisdictions such as provisions relating to conduct towards Assembly staff in the ACT Code and a Code of Race Ethics in the Tasmanian Code.

The committee is of the belief that an all party ethics and privileges committee of the House is ideally placed to perform the role of reviewing a code of ethical conduct for members as detailed above.

I trust this brief submission will provide some assistance to your committee in its inquiry.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kerry Shine', written in a cursive style. The signature is positioned to the right of the typed name 'Kerry Shine' and extends upwards and to the left, crossing over the words 'Yours sincerely'.

Kerry Shine
Chair



INTEGRITY, ETHICS AND PARLIAMENTARY PRIVILEGES COMMITTEE

Report No. 112

Review of Code of Ethical Standards

Introduction and background

1. The Integrity, Ethics and Parliamentary Privileges Committee (IEPPC) is a statutory committee of the Queensland Parliament established under the *Parliament of Queensland Act 2001* (POQA).
2. The IEPPC's area of responsibility about the ethical conduct of members, pursuant to s 92 of the POQA, includes—
 - publishing and reviewing a code of ethical conduct for members¹ (other than members in their capacity as ministers), including procedures for complaints about a member not complying with the code: s 92(1)(a).
3. The current Code of Ethical Standards (the Code) was last adopted by the House in 2004 with the last hard copy version published in 2006. Since then there have been some minor amendments to the code which have been reflected in the version published on the internet at <http://www.parliament.qld.gov.au/view/committees/documents/MEPPC/other/ethicalStandards/CodeOfEthicalStandards.pdf>
4. The IEPPC has resolved that given the passage of time it would be prudent to conduct a review of the Code in accordance with its statutory responsibilities.
5. The committee notes that the current version of the Code has evolved over time and with new sections being added such that it has become a comprehensive but nonetheless complex document (65 pages). The committee further notes the current format of the document may make it difficult for a new member to quickly come to terms with their responsibilities and obligations under the Code.
6. Accordingly the committee prepared a draft simplified version of the code for the purposes of discussion. This draft focused on the fundamental principles of ethical behaviour applying to members and the key obligations arising out of these principles. The draft recognised that it is not possible to detail all possible ethical situations or dilemmas that a member may face. Rather the draft Code serves to remind Members of their obligations and to guide Member's decision making in relation to ethical issues.
7. The simplified code includes all substantive matters covered by the current code but rather than including extracts from Standing Orders and other source documents includes them in the appendices.
8. This draft differs from the current Code by merging the principles of Primacy of the Public Interest and Transparency and Scrutiny. The draft also inserts a new principle of Respect for Persons to bring it in line with other codes for public sector officers and to cover-off additional provisions found in other jurisdictions such as provisions relating to conduct towards Assembly staff in the ACT Code and a Code of Race Ethics in the Tasmanian Code.
9. The draft simplified version of the Code was provided to all members, the Clerk of the Parliament and the Integrity Commissioner for review and comment. The draft simplified version includes a reference to members' dealings with whistleblowers in accordance with the Clerk's suggestion.

¹ Code of Ethical Standards: Legislative Assembly of Queensland: September 2004: as amended 30 June 2006, 9 February 2009, 11 May 2009, Brisbane, Queensland Legislative Assembly.

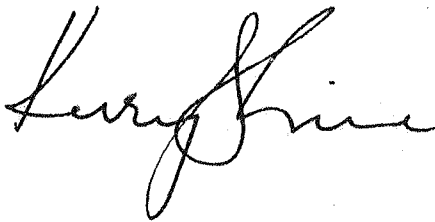
10. The committee finds that the draft simplified version of the Code by focusing on the fundamental principles of ethical behaviour applying to members and the key obligations arising out of these principles is a more useful document.
11. The committee recommends the Premier present, for the Legislative Assembly's approval the updated and simplified version of the Code of Ethical Standards (**Attachment A**).

Conclusion

The committee finds that the draft simplified version of the Code by focusing on the fundamental principles of ethical behaviour applying to members and the key obligations arising out of these principles is a more useful document.

Recommendation 1

That the Premier present, for the Legislative Assembly's approval the updated and simplified version of the Code of Ethical Standards (Attachment A).



Kerry Shine MP
Chair

October 2010

Membership — 53rd Parliament

Mr Kerry Shine MP, Chair
Member for Toowoomba North

Mr Tim Nicholls MP, Deputy Chair
Member for Clayfield

Mr Glen Elmes MP
Member for Noosa

Hon Margaret Keech MP
Member for Albert

Ms Carolyn Male MP
Member for Pine Rivers

Mr Curtis Pitt MP
Member for Mulgrave

Dr Mark Robinson MP
Member for Cleveland

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ATTACHMENT A



53rd PARLIAMENT

CODE OF ETHICAL STANDARDS

LEGISLATIVE ASSEMBLY
OF QUEENSLAND

OCTOBER 2010

NOTICE

This 2010 reprint of the Code of Ethical Standards booklet (53rd Parliament) supersedes the 2004 Code booklet (51st Parliament) published in September 2004. It seeks to simplify the material presented in the Code by focusing on fundamental principles of ethical behaviour applying to Members of Parliament.

This Code booklet has been drafted in the recognition that it is not possible to detail all possible ethical situations or ethical dilemmas that members may face. Rather, the Code serves to remind members of their obligations and guide members' decision making in relation to ethical issues.

Members are encouraged to seek advice from the Clerk of the Parliament or the Integrity Commissioner in relation to ethics issues.

This 2010 Code booklet has been prepared on the basis of legislation, Standing Orders, resolutions of the Legislative Assembly, and practice and procedure as it stands at February 2010. The 2010 booklet reflects new Standing Orders, which came into effect on 28 October 2009.

As an adjunct to the Code booklet, the Integrity, Ethics and Parliamentary Privileges Committee (IEPPC) from time to time publishes notices for the assistance of members. These provide information regarding the practical effect of Standing Orders governing the obligations which members are required to observe. The current committee's information notices are tabled in the Legislative Assembly and are available from the Bills and Papers Office at Parliament House and online.

The IEPPC has compiled this booklet for the assistance of members of the Legislative Assembly. The committee intends to periodically revise the booklet to keep it up to date with further changes.

Integrity, Ethics and Parliamentary Privileges Committee

October 2010

PURPOSE OF THE CODE

The purpose of this Code serves to remind members of obligations they have and to guide members' decision making in relation to ethical issues.

The supremacy of the institution of Parliament in a representative democracy is acknowledged. The underlying basis of this Code is that the mandate of a member of the Legislative Assembly ("member") is granted by the free choice of the people, and members are primarily responsible to the people.

STATEMENT OF FUNDAMENTAL PRINCIPLES¹

The following six fundamental principles draw together the various concepts underpinning the duties of, and obligations on, a member of Parliament, to assist members to better understand their representative role and responsibilities.

1. **Integrity of the Parliament**
2. **Primacy of the Public Interest**
3. **Independence of Action**
4. **Appropriate use of information**
5. **Respect for Persons**
6. **Appropriate use of entitlements**

1. INTEGRITY OF THE PARLIAMENT

The public's confidence in the institution of Parliament is essential. Members are to strive at all times to conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and avoid any action which may diminish its standing, authority or dignity.

Obligations

Uphold the law

Members should demonstrate respect for the laws of the State and the Commonwealth and are obliged to uphold such laws.

Conduct in the House

Members should seek to conduct themselves in the House in accordance with the rules for debate, chapter 35 of the Standing Orders and the rules relating to the Order and Conduct of Members, chapter 36 of the Standing Orders (*Appendix A*).

Members shall correct the record in the House as soon as it is apparent their statements were incorrect or could be misleading.

Members should note the—

- restrictions in relation to the naming of children in questions and tabled documents (SOs 117 and 35); and
- sub judice rule (SO 233) (*Appendix B*).

Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with the—

- (a) free exercise by the Assembly or a committee of its authority or functions; or
- (b) free performance by a member of the member's duties as a member.

Standing Order 266 provides 23 examples of contempt (*Appendix C*).

¹ Adopted by the Legislative Assembly on ?? 2010.

2. PRIMACY OF THE PUBLIC INTEREST

Members are elected to act in the public interest and make decisions solely in terms of the public interest. Members also have a continuing duty to declare any private interests relating to their public duties as they arise, and to take steps to avoid, resolve or disclose any conflicts arising in a way that protects the public interest.

It is vital to parliamentary democracy that the public has confidence in the integrity of the decision-making process of Parliament. To ensure transparency, public scrutiny and public confidence, it is necessary that each member disclose their pecuniary interests on a continuing and ad hoc basis when need arises.

Obligations

Register of Member's Interests

It is the responsibility of each member to conscientiously comply with the requirements of the Registers of Members' and Related Persons' Interests as detailed at Part 2A² of the *Parliament of Queensland Act 2001* and Schedule 2 of the Standing Orders (*Appendix D*). A member who knowingly fails to comply with the requirements contained in the registers commits a contempt of Parliament.

The purpose of the registration requirements in the Register of Members' Interests is to place on the public record any pecuniary or other interests which may give rise to a conflict of interest, or a perception of a conflict of interest. Public registration by members seeks to provide information which might be thought to affect a member's conduct as a member, or influence their speeches or votes in Parliament. In summary, public registration of interests provides some basis upon which the integrity of members may be judged.

Pursuant to s. 69B³ and by order of the House, each member is required to provide a statement of their registrable interests to the Registrar of Members' Interests (the Clerk of the Parliament) within one month of making an oath or affirmation as a member of the Legislative Assembly. A member must also register the interests of their related persons (for example, their spouse and any dependent children). Any changes in those interests must be notified within one month of the member becoming aware of the change. Where in any year there is no change to the details contained in the last statement of interests given by the member, the member is required (by 31 July each year) to submit a "Confirmation of correct particulars" to the Registrar.

Importantly, it is the personal responsibility of each member to ensure compliance with disclosure requirements.

A member who knowingly:

- fails to give a statement of interests to the Registrar;
- fails to notify the Registrar of a change in details, or;
- gives to the Registrar a statement that is false, incomplete or misleading in a material particular;

is guilty of a contempt of Parliament.

Members are encouraged to seek advice from the Registrar about the Register of Members' Interests and Related Persons' Register.

Ad hoc disclosure

The Westminster system has a long tradition that requires members of Parliament to declare their financial interests in any matter before the House. Members should comply with chapter 37 of the Standing Orders (*Appendix E*):

² Yet to be proclaimed at time of drafting of report.

³ Yet to be proclaimed at time of drafting of report.

- SO 259 No Member pecuniarily interested may vote;⁴
- SO 260 Declaration of pecuniary interest in debate and other proceedings;
- SO 260A Declaration of secondary employment or engagements;
- SO 261 Conflict of interest in committee proceedings;⁵ and
- SO 262 Disclosure in representations or communications of pecuniary interest.

Information Notice No. 1 of 2004 provides a detailed explanation of the practical effects of the Standing Order 262, together with examples of when a declaration may be required (*Appendix F*).

Conflicts of interest—bribery, advocacy and accepting professional fees

The House of Commons has long held various forms of conduct by members which may cause a conflict of interest, or a perception of a conflict of interest, to be contempt. These include.

- corruption in the execution of a member’s duty, such as: accepting a bribe to influence a member’s conduct in the House; accepting remuneration to advocate a cause in the House (“acting as a paid advocate”); or accepting money to disclose the confidential business of the House;
- advocating in the House matters in which they have previously been involved professionally; or
- accepting professional services connected with the business of the House. That is, members may not accept professional fees or undertake service on a matter before the House, whether or not the member is actually promoting the matter in the House.

Section 37 of the *Parliament of Queensland Act 2001* also provides that the Legislative Assembly may punish contempts committed by a member or other person (*Appendix G*). Offering a bribe to, or attempting to bribe, a member is one example of such a contempt.

Members should also be aware that part 2, chapter 8, and part 6 chapter 42A⁶ of the *Criminal Code* (*Appendix H*) provides for a number of offences against executive and legislative power including:

- s. 59 Member of Parliament receiving bribes;
- s. 60 Bribery of member of Parliament;
- chapter 42A Secret Commissions.⁷

The contempt of bribery is wider than a criminal offence of bribery (s 59 of the *Criminal Code*). Therefore, whilst a member who accepts a bribe to do something which does not necessarily affect their conduct in the House (such as to lobby a Minister) is not guilty of an offence under the *Criminal Code*, they may nonetheless be guilty of a contempt of Parliament.

Members are urged to seek the advice of the Clerk or the Integrity Commissioner in relation to resolving potential conflicts of interest.

3. INDEPENDENCE OF ACTION

Parliamentary democracy requires that members make decisions, and be seen to make decisions, in accordance with the public interest and not because they are under any financial obligation or influence. Therefore, members are not to place themselves under any financial obligation to outside individuals or organisations, including executive government, that might influence them in the discharge of their duties and responsibilities, and must act at all times in accordance with rules set down by the Parliament for outside appointments.

⁴ Previous ethics committees have provided clarification on the meaning of direct pecuniary interest (*Appendix F*).

⁵ Note this applies to any conflict of interest, pecuniary or otherwise.

⁶ Yet to be proclaimed at time of drafting of report.

⁷ See IEPPC Report No. 105 *Matter of Privilege Referred by the Speaker on 13 November 2006 Relating to an Alleged Failure to Register an Interest in the Register of Members’ Interests* (tabled 10 June 2010).

Obligations

Financial Dealings with the State

Members should ensure they have no unauthorised financial dealings, either as a contractor, defaulter, consultant or office holder, with the government. Any unauthorised financial dealings with the State may result in the member's seat being vacated. Members should be aware of the need to comply with the provisions in chapter 4, parts 3 and 4 in the *Parliament of Queensland Act 2001 (Appendix I)*.

Section 71 of the *Parliament of Queensland Act 2001* provides that a member must not, directly or indirectly, transact business with or for an entity of the State. A member who contravenes the provision is not entitled to receive any fee or reward. For the purposes of the *Parliament of Queensland Act 2001*, a member does not "transact business" with an entity of the State under certain circumstances, including if it is required or permitted by an act, or if neither the member nor another person is entitled to or receives any reward on account of performing the service or duty. A member is not taken to be entitled to a reward if the member irrevocably waives the entitlement in writing to the Speaker. A reward does not include reasonable expenses for accommodation, meals, domestic air travel, taxi fares or public transport charges and motor vehicle hire.

Section 72 provides that, if a member contravenes s. 71, the member's seat is liable to become vacant on resolution of the Assembly.

Section 73 provides the Assembly may, by resolution, disregard a disqualifying ground under s. 72 if the Assembly considers:

- (a) the ground has stopped having effect;
- (b) was in all the circumstances trivial in nature; and
- (c) happened or arose without the actual knowledge or consent of the member or was accidental or due to inadvertence.

Members should seek the advice of the Clerk of the Parliament or their own legal advice if they are concerned about the application of the provisions of the act to their particular circumstances.

Interactive Gambling

Under the *Interactive Gambling (Player Protection—Disqualified Persons) Regulation 1999* and its authorising act, the *Interactive Gambling (Player Protection) Act 1998*, members of the Legislative Assembly, their families and staff members of Members of the Assembly are prohibited from having a beneficial interest in companies holding an interactive gambling licence, and from holding an interactive gambling licence or a key person licence.

4. APPROPRIATE USE OF INFORMATION

In the course of their duties members often receive information which is either confidential or prized (that is, not available to the general public). Members are not to misuse any confidential or prized information, particularly for personal gain.

Obligations

Unauthorised disclosure of Committee proceedings

It has long been held that the unauthorised premature release of committee proceedings (such as a draft report) is a contempt of Parliament.

Standing Order 209 provides no member shall in the House refer to any proceedings of a committee, until the committee has reported those proceedings to the House or otherwise published the proceedings (*Appendix J*).

In addition to Standing Order 209, s. 66 of the *Crime and Misconduct Act 2001 (Appendix K)* provides that any member of the Parliamentary Crime and Misconduct Committee who discloses information that has come to the attention of the member because of their membership of the committee, which is not otherwise authorised for disclosure by the Act or the commission, commits an offence.

Corporations Law

The Corporations and Securities Legislation and insider trading.

In the course of their duties members may gain information which is not generally available to the public and which has some financial value. In particular, members on “government committees” and members who are also Ministers may become aware of decisions made, or about to be made, by the government which are not in the public domain and which will, therefore, have some commercial value. The use by a member of such information may be an offence under the *Corporations Act 2001 (Cth)*.

Section 1043A of the *Corporations Act (Appendix L)* provides it is an offence for a person with “inside information” to trade in securities that will be affected by that information.

Whistleblowers

Members should exercise care to avoid saying anything inside the House about a public interest disclosure which would lead to identification of persons who have made public interest disclosures (whistleblowers), which may interfere in an investigation of a public interest disclosure, or cause unnecessary damage to the reputation of persons before the investigation of the allegations has been completed.

Schedule 5 of the Standing Orders contains guidelines for members about when and how public interest disclosures should be revealed in a parliamentary proceeding.⁸ (*Appendix M*)

Use of Legislative Assembly crest, emblems and other insignia

On 30 May 2000, the Speaker issued guidelines for the use of the Legislative Assembly crest and other insignia. The crest must not be used for overtly political purposes, including political advertising or for any other purpose which may have the effect of bringing the House into odium, contempt or ridicule, or which may compromise the integrity of the Parliament (*Appendix N*).

5. RESPECT FOR PERSONS

Members should treat members of the public, officers and employees of the Parliamentary Service and other public officials with courtesy, honesty and fairness, and with proper regard for their rights, obligations cultural differences, safety, health and welfare.

Members should not use abusive, obscene or threatening language (either oral or written) or behaviour towards any officer, employee or member of the public.

6. APPROPRIATE USE OF ENTITLEMENTS

Members are provided certain entitlements to assist them to discharge their duties and responsibilities. Members are to ensure they comply with any guidelines for the use of these entitlements.

Members must ensure the administrative rules or requirements which apply, from time to time, to any entitlement or allowance they receive via the Parliamentary Service or by virtue of the Speaker’s discretion are observed.

The *Members’ Entitlements Handbook* and *Members’ Office Support Handbook* outlines the allowances and entitlements of members and provide for the manner in which such allowances and entitlements may be claimed. The Speaker, or the Clerk of the Parliament (as the Accountable Officer for the Legislative

⁸ See also *Whistleblowers Protection Act 1994*.

Assembly) may from time to time issue guidelines and determinations to clarify or assist members in interpreting their allowances and entitlements.

Members are encouraged to seek advice from the Clerk of the Parliament in relation to appropriate use of entitlements.

Obligations

Familiarity with Handbooks

It is the **personal responsibility** of each member to:

- familiarise themselves with the *Members' Entitlements Handbook* and *Members' Office Support Handbook* and the requirements set out in the handbooks; and
- ensure claims are accurate.

Whilst a member may wish to delegate the compiling of claims or acquittals to persons (such as their electorate officer), their **personal responsibility** for ensuring such claims and acquittals are appropriate and accurate cannot be delegated.

A failure to comply with the handbooks or any guidelines may require the member to reimburse any expenditure not falling within the handbooks.

The dishonest use of an allowance or other entitlement, or a dishonest claim or acquittal, is a breach of the criminal law. Section 408C of the *Criminal Code* provides that a person who dishonestly applies to their own use or to the use of any person, property belonging to another is guilty of the crime of fraud. The term "property" includes credit, service and any benefit or advantage. Therefore, it is an offence for a member to dishonestly use or claim an allowance.

Members are encouraged to seek assistance from the Clerk of the Parliament in relation to this obligation.

ELECTORAL OBLIGATIONS

Part 7 of the *Electoral Act 1992 (Appendix O)* provides for electoral funding and financial disclosure. The schedule to the Act adopts the funding disclosure requirements of the *Commonwealth Electoral Act 1918*. The disclosure requirements include the obligation on the agent for each candidate in an election or by-election to provide a return detailing any gifts received, the value of gifts and the numbers of persons who provided that gift during the disclosure period for the election. A return must also be provided detailing who provided gifts over a prescribed limit, and any expenditure on election campaigning. There are penalties for not providing the returns and for providing false or misleading information in the returns.

Section 64 of the *Parliament of Queensland Act 2001* provides that candidates must conform with certain requirements and both candidates and members may be disqualified in certain circumstances. (*Appendix P*)

On 9 September 2003, the Legislative Assembly endorsed a Code of Conduct for Election Candidates (*Appendix Q*), which applies to all candidates for State elections (independents and candidates endorsed by parties). The Code is voluntary, with the exception of paragraph (e)⁹ but candidates who do not follow it will risk disfavour in the electorate.

PROCESS FOR COMPLAINTS

The Standing Rules and Orders of the Legislative Assembly set out the procedure for raising and considering complaints about matters, including allegations of contempt. Chapter 40 of the Standing Orders is at (*Appendix R*).

⁹ That is: avoid conduct which is contrary to State or Commonwealth law including but not limited to: racial and religious vilification offences under the *Anti-Discrimination Act 1991*; official misconduct under the *Crime and Misconduct Act 2001*; *Criminal Code* offences; and *Electoral Act 1992* offences. Legislative Assembly (Queensland), *Votes and Proceedings*, No. 128, 9 September 2003, p 1188.

APPENDIX A

Chapter 35 of the Standing Orders – Rules of Debate; and

Chapter 36 of the Standing Orders – Order and Conduct of Members

PART 9 RULES OF DEBATE, ORDER, BEHAVIOUR AND DECLARATIONS OF INTERESTS

CHAPTER 35 RULES OF DEBATE

229. When a member may speak

Except as otherwise provided in these Standing Orders, a member may speak to:

- (a) any question (including any amendment) before the House which is open to debate;
- (b) ask or answer a question seeking information;
- (c) a question of order arising out of the debate; or
- (d) a matter suddenly arising (SO 267) raised by that member.

230. When member can no longer speak

- (1) When a debate on a question is concluded, the Speaker must put the question.
- (2) A member cannot speak to a question once it has been put by the Speaker and voices given in the affirmative and negative.

231. Anticipating discussion

- (1) A member may not anticipate the discussion of any subject which appears on the Notice Paper.
- (2) The Speaker when determining whether a discussion is out of order on the ground of anticipation, shall have regard to the probability of the matter anticipated being brought before the House within a reasonable time and the degree to which debate of that matter is likely to be anticipated.
- (3) This rule shall not apply to prevent questions or debate which anticipate debate of the annual Appropriation Bills.

232. Question may be required to be read

- (1) Any member may require the question or matter in discussion to be read by the Speaker any time during the debate, but not so as to interrupt a member speaking.
- (2) This Standing Order shall not apply when the terms of the question or matter have been circulated to members in the House.

233. Sub judice rule

- (1) In general, members should exercise care to avoid saying inside the House that which would be regarded as contempt of court outside the House and could jeopardise court proceedings.
- (2) Members should not refer to in the House matters awaiting or under adjudication in all courts exercising a criminal jurisdiction (including in motions, debate or questions) from the moment the charge is made against the relevant person. This Standing Order shall cease to have effect when the verdict and sentence have been announced or judgment given, but shall again have effect should a Court of Criminal Appeal order a new trial.
- (3) Members should not refer in the House to civil cases in courts of law where a jury is to be empanelled (including in motions, debate or questions) within the period of four (4) weeks preceding the date fixed for trial. (Not from the time a writ is issued.)
- (4) The sub judice rule does not apply to civil proceedings other than those referred to in (3).

- (5) The sub judice rule does not apply to the proceedings of royal commissions and similar commissions and tribunals.
- (6) The sub judice rule does not apply to in camera committee proceedings. However, committees should ensure that any evidence taken in camera is not published until after the criminal or civil proceedings are finalised, unless the committee believes that there is an overwhelming public interest in the release of the evidence.
- (7) The sub judice rule is always subject to the right of the House to consider and legislate on any matter.

233A – Protection of whistleblowers

- (1) Members should exercise care to avoid saying anything inside the House about a public interest disclosure which would lead to the identification of persons who have made public interest disclosures (“whistleblowers”), which may interfere in an investigation of a public interest disclosure, or cause unnecessary damage to the reputation of persons before the investigation of the allegations has been completed.
- (2) Schedule 5 contains guidelines for members about when and how public interest disclosures should be revealed in a parliamentary proceeding.

234. Personal reflections on members

- (1) Imputations of improper motives and all personal reflections on members shall be considered highly disorderly and a member shall not use unbecoming or offensive words in reference to another member of the House.
- (2) If the offended member objects to the words used the words must be withdrawn by the offending member without qualification or further comment.
- (3) The offended member must take objection to the words at the time they are spoken.
- (4) A member who is called to order must resume their seat but may again rise to withdraw their words and then continue their speech.

235. Apologies and retractions

- (1) A member required under these standing orders, or pursuant to any other order of the House or the Speaker, to make an apology or retraction in the House shall make an unreserved and unqualified apology or retraction.
- (2) An apology or retraction is not unreserved or unqualified if it is phrased in a manner that:
 - (a) in the case of an apology, indicates the member does not regret their statement; or
 - (b) in the case of a retraction, does not accept that the words were offensive, unparliamentary or disorderly.

236. Irrelevance or tedious repetition

- (1) A member shall not refer to matters irrelevant to the subjects of the debate or engage in tedious repetition during debate.
- (2) Having called the attention of the House to the conduct of a member who persists in irrelevance or tedious repetition, the Speaker may direct the member to cease speaking.
- (3) The member directed to cease speaking under (2) may require the Speaker to put the question that they be further heard, such question to be put without amendment or debate.

237. Adjournment of debate

- (1) A debate may be adjourned to a later hour on the same day, or to any other day.
- (2) Except for a member who has spoken to the question, any member may move the adjournment of the debate, which question shall be put forthwith without amendment or debate.
- (3) A member who has only moved the adjournment may speak subsequently to the main question.
- (4) If a question for the adjournment of a debate is resolved in the affirmative, the resumption of debate at the stage which it was adjourned, is deemed to be an order of the day for a later hour or the next sitting day, unless another time for the resumption of the debate is ordered.

238. Members cannot speak twice

- (1) Unless these Standing Orders otherwise provide, a member who has spoken to a question cannot speak again to the same question.
- (2) When a debate has been adjourned, a member who has already completed their speech (or speeches) to the question may not speak again to the same question when the debate is resumed.
- (3) A member who has only moved the adjournment has not, for this Standing Order, spoken to the question.

239. May speak again to new question

A member who has spoken to a question may speak to any other new question which may arise upon the debate being resumed.

240. Member who has spoken may not move motion, but may speak to amendment

A member who has spoken may not move an amendment, or the adjournment of the debate, or any similar motion, but may speak on any amendment when it is moved by another member.

241. Motion for adjournment negatived

- (1) If a member has moved a motion for the adjournment of the debate and it has been negatived, it shall not be proposed again, without the leave of a majority of the House, until some other question has intervened.
- (2) If a member has moved a motion for the adjournment of the debate, and the motion has been negatived, that member is not entitled to speak afterwards to the main question.

242. Member moving adjournment entitled to call

- (1) The member, upon whose motion a debate is adjourned, shall be entitled to speak first on the resumption of the debate.
- (2) If the member in (1) does not speak immediately upon the resumption, the member is not debarred from speaking later in the debate.

CHAPTER 36 ORDER AND CONDUCT OF MEMBERS

243. Order maintained by Speaker

The Speaker shall maintain order in the House.

244. Conduct in the Chamber

- (1) The Speaker shall determine any question with regard to the seats to be occupied by members.
- (2) A member must acknowledge the Speaker on entering and leaving the Chamber.
- (3) Whenever the Speaker rises during proceedings, members shall be silent and be seated so that the Speaker may be heard without interruption.
- (4) A member must not pass between the Chair and a member who is speaking, nor between the Chair and the Table, except during consideration in detail.
- (5) Once members have entered the Chamber they must take their seats and not stand in any of the passages or gangways.
- (6) Members shall acknowledge the Chair in passing to or from their seats when crossing the Chamber.
- (7) A member shall only refer to another member by their parliamentary title or electoral district.

245. Member unable to stand may speak sitting

A member unable conveniently to stand, by reason of sickness or disability, is permitted to speak sitting.

246. Quarrels not permitted

A member shall not at any time quarrel with another member during proceedings of the House.

247. Members to address the Speaker

- (1) Members wishing to speak shall rise and address the Speaker.
- (2) If more than one member rises, the Speaker shall call upon the member who, in the Speaker's opinion, rose first.
- (3) A member may move that any member who has risen "be now heard".
- (4) A member may move that a member speaking "be not heard" or "be not further heard".
- (5) A question in (3) or (4) shall be put without amendment or debate.

248. Point of order and matter concerning powers, rights and immunities

A member may at any time rise to speak to a point of order, or upon a matter concerning the powers, rights and immunities of the House suddenly arising, which shall, until disposed of, suspend the debate of every other question.

249. Point of order, how dealt with

- (1) When a point of order or other matter is raised by a member in accordance with SO 248, the member called to order shall cease speaking and resume their seat. Once the point of order or other matter has been stated, the Speaker may then rule upon the point of order or other matter.
- (2) The Speaker may also hear the opinion of any other members on the point of order or other matter.

250. Dissent from rulings of Speaker

- (1) A member may dissent from a ruling of the Speaker only by motion on notice.
- (2) Notice of motion in (1) must be given within one sitting day from the day on which the ruling was given.

(3) The motion in (1) shall be considered within three sitting days of that on which the notice of motion was given.

251. Member speaking not to be interrupted except in certain circumstances

When a member is speaking, no other member may converse or make any noise or disturbance to interrupt that member unless it is:

- (a) to call attention to a point of order or a matter concerning the powers, rights and immunities of the House suddenly arising;
- (b) to call attention to lack of a quorum;
- (c) to call attention to the presence of strangers in the House; or
- (d) to move a closure motion pursuant to SO 88.

252. Power to order withdrawal of disorderly member from the Chamber for day

- (1) The Speaker may, after warning a member who in the Speaker's opinion continues to be grossly disorderly, order that member to withdraw immediately from the Chamber.
- (2) A member ordered to withdraw immediately from the Chamber under this Standing Order must do so forthwith, and must, during the remainder of the day's sitting, absent themselves from the Chamber.
- (3) Any member who having been ordered to withdraw under this Standing Order fails to comply, may without further warning, be named by the Speaker under SO 254.

253. Power to order withdrawal of disorderly member from the Chamber for day except for divisions

- (1) The Speaker may, after warning a member who in the Speaker's opinion continues to be grossly disorderly, order that member to withdraw immediately from the Chamber.
- (2) A member ordered to withdraw immediately from the Chamber under this Standing Order must do so forthwith, and must, during the remainder of the day's sitting remain absent from the Chamber. However, the member may enter the Chamber during the ringing of the bells for the purpose of voting in a division. Once the Speaker has declared the numbers, the member must withdraw immediately from the Chamber.
- (3) Any member who having been ordered to withdraw under this Standing Order fails to comply, may without further warning, be named by the Speaker under SO 254.

253A. Power to order withdrawal of disorderly member from the Chamber for up to one hour

- (1) The Speaker may, after warning a member who in the Speaker's opinion continues to be grossly disorderly, order that member to withdraw immediately from the Chamber for up to one hour.
- (2) A member ordered to withdraw immediately from the Chamber under this Standing Order must do so forthwith, and must, during the period nominated by the Speaker (up to one hour) remain absent from the Chamber.
- (3) Any member who having been ordered to withdraw under this Standing Order fails to comply, may without further warning, be named by the Speaker under SO 254.

254. Member named by Speaker for obstructing business

- (1) Whenever any member or members persist, after warning by the Speaker, in disregarding the authority of the Chair, or abusing the Rules of the House by persistently and wilfully obstructing the business of the House, or otherwise, the Speaker may name such member or members.
- (2) The Speaker shall not name more than one member at one time, unless two or more members, present together, have acted jointly in the relevant conduct.
- (3) The Speaker shall forthwith put the question on a motion being moved, to be decided without debate, amendment, or adjournment, that such member or members as named be suspended from the House for such time as may be specified in the motion, not exceeding seven sitting days.
- (4) If any member, or members, who have been suspended under this order from the service of the House, shall refuse to obey the direction of the Speaker, (when severally summoned under the Speaker's orders by the Sergeant-at-Arms to obey such direction), the Speaker shall call the attention of the House to the fact that recourse to force is necessary in order to compel obedience to the Speaker's direction. The member or members named as having refused to obey the Speaker's direction shall thereupon, and without further question put, be suspended from the House for a period of 14 sitting days.

255. Consequences of suspension under SO 254

When a member is suspended from the House under SO 254 they shall be excluded from the parliamentary precinct from the time the motion has been passed until the suspension is completed.³⁷

256. Speaker may suspend sitting

In the case of grave disorder arising in the House, the Speaker may without any question being put, suspend any sitting to a time to be determined by the Speaker.

257. Disorderly person may be removed³⁸

- (1) Where in the opinion of the Speaker, a person other than a member behaves in an offensive or disorderly manner or otherwise disrupts the proceedings of the House or any of its committees, the Speaker may require the person to leave the Chamber and the parliamentary precincts or the place of meeting of the committee and may authorise the removal of the person.
- (2) Where in the opinion of a Chairperson of a committee, a person other than a member behaves in an offensive or disorderly manner or otherwise disrupts the proceedings of a committee, the Chairperson may require the person to leave the place of meeting of the committee and may authorise the removal of the person from the place of meeting.

258. Wilful disobedience

- (1) A member who wilfully disobeys any order of the House may be ordered by the House to attend to answer for their conduct.
- (2) If a member fails to attend despite an order to attend in (1), or if their explanation for failing to attend is deemed unsatisfactory by the House, the House may either:
 - (a) if the member is in the parliamentary precinct, direct the Sergeant-at-Arms or another officer of the House to take such member into custody and bring that member before the House; or
 - (b) consider the member's conduct in their absence.

³⁷ Section 4 of the *Parliamentary Service Act 1988* defines the term parliamentary precinct.

³⁸ Section 50(1) of the *Parliamentary Service Act 1988* provides: All persons entering or upon the parliamentary precinct shall comply with the directions of the Speaker as to the behaviour, demeanour and conduct of such persons. Section 51 provides: A prosecution for an offence against s.50 shall be by way of summary proceedings under the *Justices Act 1886* upon the complaint of the Clerk.

APPENDIX B

Sub judice rule (SO 233)

233. Sub judice rule

- (1) In general, members should exercise care to avoid saying inside the House that which would be regarded as contempt of court outside the House and could jeopardise court proceedings.
- (2) Members should not refer to in the House matters awaiting or under adjudication in all courts exercising a criminal jurisdiction (including in motions, debate or questions) from the moment the charge is made against the relevant person. This Standing Order shall cease to have effect when the verdict and sentence have been announced or judgment given, but shall again have effect should a Court of Criminal Appeal order a new trial.
- (3) Members should not refer in the House to civil cases in courts of law where a jury is to be empanelled (including in motions, debate or questions) within the period of four (4) weeks preceding the date fixed for trial. (Not from the time a writ is issued.)
- (4) The sub judice rule does not apply to civil proceedings other than those referred to in (3).
- (5) The sub judice rule does not apply to the proceedings of royal commissions and similar commissions and tribunals.
- (6) The sub judice rule does not apply to in camera committee proceedings. However, committees should ensure that any evidence taken in camera is not published until after the criminal or civil proceedings are finalised, unless the committee believes that there is an overwhelming public interest in the release of the evidence.
- (7) The sub judice rule is always subject to the right of the House to consider and legislate on any matter.

APPENDIX C

Standing Order 266

266. Examples of contempt

Without limiting the power of the House, it may treat as a contempt any of the following:

- (1) breaching or interfering with any of the powers, rights and immunities of the House;
- (2) deliberately misleading the House or a committee (by way of submission, statement, evidence or petition);
- (3) serving legal process or causing legal process to be served within the precincts of Parliament, without the authority of the House or the Speaker;
- (4) removing, without authority, any documents or records belonging to the House;
- (5) falsifying or altering any documents or records belonging to the House;
- (6) as a member, receiving or soliciting a bribe to influence the member's conduct in respect of proceedings in the House or a committee;
- (7) as a member, accepting fees for professional services rendered by the member in connection with proceedings in the House or a committee;
- (8) offering or attempting to bribe a member to influence the member's conduct in respect of proceedings in the House or a committee;
- (9) assaulting, threatening or intimidating a member or an officer of the House acting in the discharge of the member's or the officer's duty;
- (10) obstructing or molesting a member or an officer of the House in the discharge of the member's or the officer's duty;
- (11) misconducting oneself in the presence of the House or a committee;
- (12) divulging the proceedings or the report of a committee or a subcommittee contrary to Standing Orders;
- (13) publishing a false or misleading account of proceedings before the House or a committee;
- (14) failing to attend before the House or a committee after being summoned to do so by the House or the committee;
- (15) intimidating, preventing or hindering a witness from giving evidence or giving evidence in full to the House or a committee;
- (16) refusing to answer a question or provide information required by the House or a committee except as permitted by the House's rules or statute;
- (17) assaulting, threatening or disadvantaging a member on account of the member's conduct in the House or a committee;
- (18) assaulting, threatening or disadvantaging a person on account of evidence given by that person to the House or a committee;
- (19) assaulting, obstructing or insulting a member coming to or going from the House or a Committee proceeding;
- (20) sending to a member a threatening letter on account of the member's conduct in the House or a committee;
- (21) sending a challenge to fight a member;
- (22) wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House or a Committee; and
- (23) except by a substantive motion of censure, commenting or reflecting on the decisions or actions of the Chair, whether relating to actions inside the House or the character of the Chair in general.

APPENDIX D

**Part 2A of the *Parliament of Queensland Act 2001*; and
Schedule 2 of the Standing Orders**

'Part 2A Registers of interests

'69A Definitions for pt 2A

'In this part—

child, in relation to a member, includes an adopted child, ex-nuptial child or stepchild of the member.

register means—

- (a) the register of members' interests; or
- (b) the register of related persons' interests.

related person, in relation to a member, means—

- (a) the member's spouse; or
- (b) a person who is totally or substantially dependent on the member and—
 - (i) the person is the member's child; or

- (ii) the person's affairs are so closely connected with the member's affairs that a benefit derived by the person, or a substantial part of it, could pass to the member.

statement of interests means—

- (a) a statement of interests (member); or
- (b) a statement of interests (related persons).

statement of interests (member) see section 69B(1)(a).

statement of interests (related persons) see section 69B(1)(b).

'69B Statements of interests

- '(1) A member must, within 1 month after taking the member's seat, give to the registrar the following statements—
 - (a) a statement of the interest, as at the date of the election, of the member (a *statement of interests (member)*);
 - (b) a statement of the interest, as at the date of the election, of which the member is aware of each person who is a related person of the member (a *statement of interests (related persons)*).

Notes—

- 1 Under the *Constitution of Queensland 2001*, section 22(3), a member takes the member's seat on taking the oath or making the affirmation mentioned in section 22(1) of that Act.
- 2 A contravention of subsection (1) constitutes contempt of the Assembly—see section 37.

- '(2) A member must, within 1 month after becoming aware of a change in the particulars contained in the last statement of interests given by the member, notify the registrar in writing of the change.

Note—

A contravention of subsection (2) constitutes contempt of the Assembly—see section 37.

[s 75]

‘(3) A statement of interests and any change in the particulars of the interests must be given in accordance with the standing rules and orders.

‘(4) A member must not give to the registrar a statement of interests or information relating to a statement of interests the member knows is false or misleading in a material particular.

Note—

A contravention of subsection (4) constitutes contempt of the Assembly—see section 37.

‘(5) A reference in this section to an interest is a reference to the matter within its ordinary meaning under the general law and the definition in the *Acts Interpretation Act 1954*, section 36 does not apply.

‘69C Registrar

‘(1) There is to be a Registrar of Members’ Interests (*registrar*).

‘(2) The Clerk is to be the registrar.

‘(3) The registrar must keep—

- (a) a register of members’ interests; and
- (b) a register of related persons’ interests.

‘(4) The registrar must, in accordance with the standing rules and orders, enter the following particulars in the relevant register and keep the registers up to date—

- (a) the particulars of the interests given by a member in a statement of interests (member) and any changes to the particulars notified by the member;
- (b) the particulars of the interests given by a member in a statement of interests (related persons) and any changes to the particulars notified by the member.’.

SCHEDULE 2 – REGISTERS OF INTERESTS

Purpose

The purpose of the Register of Members' Interests is to place on the public record any pecuniary or other relevant interests of a member which may give rise to a conflict of interest or a perception of a conflict of interest between a member's private interests and the public interest. The register seeks to provide information which might be thought by others to affect a member's public duties, or to influence their speeches or votes in the Legislative Assembly.

Preamble

1. It is vital that in a representative democracy the public have confidence in the integrity of their elected representatives.
2. It is also vital that elected representatives be continually reminded that they exercise a public trust which should not be subject to any private interest.
3. It is also in the interests of elected representatives that they be able to demonstrate that at all times they have made scrupulous disclosure of their private interests.
4. The Legislative Assembly requires its members to demonstrate a commitment to maintain the highest possible standard of propriety and to avoid, or where required to disclose, register or declare, any potential conflict of interest.
5. The Register of Members' Interests and Register of Related Persons' Interests are mechanisms to encourage and foster transparency, accountability and openness.
6. The Register of Members' Interests is a continually evolving primary record of members' registrable interests as submitted by members under the Standing Orders.
7. The tabled Register of Members' Interests gives public notification of members' registrable interests as at the date of publication.
8. The following provisions are the minimum registration required by members and are not intended to be an exhaustive list of all possible financial arrangements which are required, in the spirit of the Standing Orders, to be registered.

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PART 1 – PRELIMINARY

Definitions

1. In this schedule, unless the contrary intention appears—

“**calendar month**” means a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the end of the next month;

“**child**”, in relation to a member, includes an adopted child, a step-child or an ex-nuptial child of the member;

“**Clerk**” means the Clerk of the Parliament;

“**Committee**” means the Integrity, Ethics and Parliamentary Privileges Committee;

“**company**” means a company, whether a private company or a public company;

“**debenture**” includes debenture stock, bonds, notes and any other document evidencing or acknowledging indebtedness of a company in respect of money that is deposited with or lent to the company;

“**de facto partner**”, in relation to a member, has the same meaning as s.32DA of the *Acts Interpretation Act 1954*;

“**gift**” means—

(a) the transfer of money, property or other benefit—

(i) without recompense; or

(ii) for a consideration substantially less than full consideration; or

(b) a loan of money or property made on a permanent, or an indefinite, basis;

but does not include upgraded travel provided by an airline;

“**joint venture**” means an undertaking carried on by two or more persons in common otherwise than as partners;

“**member**” means a member of the Legislative Assembly;

“**month**” means a calendar month;

“**nominee company**” means a company whose principal business is the business of holding marketable securities as a trustee or nominee;

“**officer**”, in relation to a company, means—

(a) director or secretary of the company; or

(b) any other person who is concerned, or takes part, in the management of the company;

“**partnership**” includes a joint venture;

“**private company**” means a proprietary company, whether incorporated in Queensland or elsewhere;

“**private superannuation fund**” means a superannuation fund which meets the definition of a self-managed superannuation fund (SMSF) under the *Superannuation Industry (Supervision) Act 1993* (Cth);

“**public company**” means a company, other than a private company, whether incorporated in Queensland or elsewhere;

“**Register**” means—

(a) the Register of Members’ Interests; or

(b) the Register of Related Persons’ Interests;

“Registrar” means the Registrar of Members’ Interests;

“related person”, in relation to a member, means—

- (a) the spouse of the member;
- (b) a child of the member who is wholly or substantially dependent on the member; or
- (c) any other person—
 - (i) who is wholly or substantially dependent on the member; and
 - (ii) whose affairs are so closely connected with the affairs of the member that a benefit derived by the person, or a substantial part of it, could pass to the member;

“share” means—

- (a) a share in the share capital of a company;
- (b) stock;
- (c) a convertible note; or
- (d) an option;

“sitting day”, in relation to the Parliament, means a day on which the Parliament meets;

“sponsored travel or accommodation” means any travel undertaken, including accommodation incidental to the travel, or any accommodation benefit received, by the member or a related person in respect of which a contribution (whether in cash or kind) to the cost of the travel (including incidental accommodation) or the accommodation is made by a person other than the member or a related person but does not include:

- (a) travel or accommodation received in an official capacity;
- (b) upgraded travel provided by an airline, or upgraded accommodation;
- (c) meals or sporting or cultural entertainment;
- (d) a benefit received from a family member or family friend where the contribution made by the sponsor is received in a purely personal capacity, and there is no connection or possible conflict of interest between the member’s duties and the interest of the sponsor;

“spouse”, in relation to a member, includes a de facto partner of a member;

“statement of interests” means—

- (a) a statement of interests (member); or
- (b) a statement of interests (related persons);

“statement of interests (member)” means the statement of a member’s interests required to be given by the member to the Registrar under clause 5;

“statement of interests (related persons)” means the statement of the interests of a member’s related persons required to be given by the member to the Registrar under clause 5;

“trade or professional organisation” means a body (whether incorporated or unincorporated) of—

- (a) employers or employees; or
- (b) persons engaged in a profession, trade or other occupation;

being a body the object, or an object, of which is the furtherance of its own professional, industrial or economic interests or those of any of its members;

“year” means a period of 12 months commencing on 1 January.

Interpretation - terms relating to companies

- 2.(1)** A person is taken to have a controlling interest in shares in a company if the person is able—
- (a) to dispose of, or to exercise control over the disposal of, the shares; or
 - (b) where the shares are voting shares – to exercise, or to control the exercise of, any voting powers attached to the shares.
- (2)** The question whether a company is a subsidiary of another company is to be determined in the same manner as the question whether a corporation is a subsidiary of another corporation is determined for the purposes of the Corporations Law of Queensland.
- (3)** A reference in this schedule to the holding company of another company is a reference to a company of which that other company is a subsidiary.

Interpretation – forms

- 3.(1)** In this schedule, a reference to a form by number is a reference to the form so numbered in Part 6.
- (2)** Strict compliance with a form in Part 6 is not necessary and substantial compliance, or such compliance as the circumstances of a particular case allow, is sufficient.

Registrar

- 4.(1)** There is to be a Registrar of Members' Interests.
- (2)** The Clerk is to be the Registrar.

PART 2 – STATEMENTS OF INTERESTS

Giving of statements

- 5.(1)** In accordance with the Standing Rules and Orders of the Legislative Assembly and resolutions adopted by the Legislative Assembly from time to time and in a form determined by the Committee, each member shall within one month of making and subscribing an oath or affirmation as a member, provide to the Registrar a statement of—
- (a) the member's registrable interests as at the date of the election;
 - (b) the registrable interests, as at the date of the election, of which the member is aware of related persons.
- (2)** A member must notify the Registrar in writing of any change in the details contained in the last statement of interests given by the member within one month of becoming aware of the change.
- (3)** Each member shall within one month of the 30th day of June in each subsequent year during the life of that Parliament, provide to the Registrar a confirmation of correct particulars.
- (4)** A member is required to include in a statement of interests details relating to the interest of a related person only if the member is aware of the interest.
- (5)** A member is not required to give, in any year—
- (a) more than one statement of interests (member); or
 - (b) more than one statement of interests (related persons); or
 - (c) more than one confirmation of correct particulars.

Form of statements and notice of change of details

- 6.(1)** A statement of interests (member)—
- (a) must be in accordance with clause 7 (Form 1); and
 - (b) is to relate only to interests held by the member—
 - (i) alone; and
 - (ii) jointly or in common with a related person.
- (2)** A statement of interests (related persons)—
- (a) must be in accordance with clause 7 (Form 2); and
 - (b) is to relate only to interests held by related persons otherwise than jointly or in common with the member.
- (3)** A notice of change of details contained in a statement of interests must be in accordance with clause 5 (Form 3).
- (4)** A confirmation of correct particulars must be in accordance with clause 5 (Form 4).
- (5)** The Committee may, by resolution, alter any forms for use under this schedule, and such forms are to be tabled in the Legislative Assembly by the Chairperson of the Committee within five sitting days.

Registration of interests

- 7.(1)** Nothing in this schedule shall require a member to specify: the number or monetary value of shares; the monetary value of investments or beneficial interests; the full street address of property; the financial amount of liabilities, donations or other income; the account number of, or financial amounts held in, savings or investment accounts; or the monetary value of assets, sponsored travel or accommodation, or gifts.
- (2)** A statement of interests required to be given by a member must contain the following details—
- (a) in respect of any company in which the member or a related person is a shareholder or has a controlling interest in shares—
 - (i) the name of the company;
 - (ii) where the shareholding or interest constitutes a controlling interest in the company – the shareholdings of the company in any other company;
 - (iii) where the shareholding or interest is held in a private company, the investments or beneficial interests of the company; and
 - (iv) where the shareholding or interest is held in a private company that is the holding company of another company—
 - (A) the investments or beneficial interests of the holding company;
 - (B) the name of any company that is a subsidiary of the holding company;
 - (C) the name of any company that is a subsidiary of any company that is the holding company’s subsidiary; and
 - (D) the investments or beneficial interests of those subsidiary companies;
 - (b) in respect of any company of which the member or a related person is an officer—
 - (i) the name of the company;
 - (ii) the nature of the office held; and
 - (iii) the nature of the activities of the company;

- (c) in respect of any family or business trust or nominee company in which the member or a related person holds a beneficial interest—
 - (i) the name or a description of the trust, or the name of the company, as the case requires;
 - (ii) the nature of the activities of the trust or company;
 - (iii) the nature of the interest; and
 - (iv) the investments or beneficial interests of the trust;
- (d) in respect of any family or business trust in which the member or a related person is a trustee—
 - (i) the name or a description of the trust; and
 - (ii) the nature of the activities of the trust;
- (e) in respect of any private superannuation fund in which the member or a related person is a trustee or director—
 - (i) the name or a description of the fund;
 - (ii) the nature of the activities of the fund;
 - (iii) the investments or beneficial interests of the fund (of which the member is aware);
- (f) in respect of any partnership in which the member or a related person has an interest—
 - (i) the name or a description of the partnership;
 - (ii) the nature of the activities of the partnership; and
 - (iii) the nature of the interest;
- (g) in respect of any real estate in which the member or a related person has an interest—
 - (i) the location of the relevant property, by reference to suburb or locality;
 - (ii) the approximate size of the property;
 - (iii) the purpose for which the property is, and is intended to be, used; and
 - (iv) the nature of the interest;
- (h) in respect of any liability (excluding department store and credit card accounts) of the member or a related person or a trust of which a member or a related person is a beneficiary or a private company of which a member or a related person is a shareholder—
 - (i) the nature of the liability; and
 - (ii) the name of the creditor concerned;unless—
 - (A) the liability arises from the supply of goods or services supplied in the ordinary course of any occupation of the member or business of the trust or private company in which the member or related person has an interest which is not related to the member's duties as a member of the Legislative Assembly; or
 - (B) the liability is for an amount of \$10,000 or less;
- (i) any debenture, managed fund, or similar investments held by the member or a related person;
- (j) in respect of any savings or investment account of the member or a related person held with a bank, building society, credit union or other institution—
 - (i) the nature of the account; and
 - (ii) the name of the institution concerned;

- (k) the source and nature of any gifts valued at more than \$500 from one source, or where two or more gifts are made from one source during the return period exceed, in aggregate, \$500 provided that a gift received by a member, the member's spouse or dependent children from family members or personal friends in a purely personal capacity need not be registered unless the member judges that an appearance of conflict of interest may be seen to exist;
 - (l) in respect of any sponsored travel or accommodation received by the member or a related person—
 - (i) the source of the contribution concerned; and
 - (ii) the nature and purpose of the travel;
 - (m) the source of any other income over \$500 per annum received by—
 - (i) the member or a related person;
 - (ii) a private company, or a trust, in which the member or a related person holds an interest; or of any other income under \$500, where the source of that income raises, appears to raise, or could foreseeably raise, a conflict between the member's private interest and their duty as a member;
 - (n) the nature of any other asset of the member or a related person the value of which exceeds \$5,000, other than—
 - (i) household and personal effects;
 - (ii) motor vehicles used only or mainly for personal use; and
 - (iii) industry, public offer and employer superannuation entitlements;
 - (o) the name of any political party, trade or professional organisation of which the member or related person is a member, or the name of any other organisation of which the member is an officeholder or any organisation of which the member is a financial contributor donating \$500 or more in any single calendar year to that organisation;
 - (p) any other interest (whether or not of a pecuniary nature) of the member or a related person—
 - (i) of which the member is aware; and
 - (ii) that raises, appears to raise, or could foreseeably raise, a conflict between the member's private interest and their duty as a member.
- (3) A Minister or other Office Holder (recognised by s.112 of the *Parliament of Queensland Act 2001*) is not required to include in a statement of interests details of interests that are imposed upon them in their capacity as Minister or Office Holder.

Examples—

1. Shares held by a Minister in a statutory or company government owned corporation on behalf of the State under the *Government Owned Corporations Act 1993* are not required to be registered.
2. The fact that the Premier, Speaker and Leader of the Opposition are trustees in the Parliamentary Contributory Superannuation Fund under the *Parliamentary Contributory Superannuation Act 1970*, is not required to be registered.

Questions concerning statements, and explanatory notes

- 8.(1)** If a question relating to whether a matter should or should not be included in a statement of interests is raised by a member with the Registrar, the Registrar must—
- (a) subject to the terms of any Standing Order or resolution of the Legislative Assembly affecting the matter – attempt to resolve the matter without referring it to the Committee; and
 - (b) if the matter is not so resolved – refer the matter to the Committee.

- (2) A reference of a matter to the Committee—
 - (a) must be made in general terms; and
 - (b) except with the consent of the member, must not disclose the name of the member.
- (3) The Committee must—
 - (a) consider any matter referred to it; and
 - (b) if the name of the member has been disclosed to it – give the member the opportunity to be heard;
after which it must decide whether the matter should or should not be included by the member in the statement of interests concerned.
- (4) The Registrar must immediately notify the member of the decision of the Committee.
- (5) If the member informs the Committee in writing that they do not agree with the decision of the Committee, the Committee must—
 - (a) make a report to the Legislative Assembly; and
 - (b) with the report, recommend the action that should be taken in relation to the matter.
- (6) A report under subclause (5)—
 - (a) must be made in general terms; and
 - (b) must not disclose the name of the Member.
- (7) The Committee, both on its own initiative or upon the request of the Registrar, may produce and publish explanatory notes to further explain the requirements of this schedule and the information to be included in the Registers.

PART 3 – REGISTERS

Keeping of registers

- 9.(1) The Registrar must keep, in such forms as the Registrar considers appropriate—
 - (a) a Register of Members’ Interests; and
 - (b) a Register of Related Persons’ Interests.
- (2) As soon as practicable after receiving a statement of interests from a member, the Registrar must—
 - (a) in the case of a statement of interests (member) – enter in the Register of Members’ Interests the relevant details contained in the statement; and
 - (b) in the case of a statement of interests (related persons) – enter in the Register of Related Persons’ Interests the relevant details contained in the statement.
- (3) As soon as practicable after receiving a notice of change of details under subclause 5(2), the Registrar must make such alteration to the details entered in the relevant Register as is necessary to reflect the change.
- (4) As soon as practicable after a member resigns, dies or is removed from office during the course of a parliament, the Registrar must—
 - (a) in the case of the member – remove from the Register of Members’ Interests details of the member’s interests; and
 - (b) in the case of the member’s related persons – remove from the Register of Related Persons’ Interests details of the related persons’ interests.

- (5) As soon as practicable after the dissolution of a parliament, the Registrar must—
- (a) in the case of members of that parliament – remove from the Register of Members’ Interests details of all members’ interests; and
 - (b) in the case of the members’ related persons – remove from the Register of Related Persons’ Interests details of all related persons’ interests.

Custody of Registers

10. The Registrar is to have the custody of—
- (a) each Register;
 - (b) each statement of interests received by the Registrar under subclause 5(1);
 - (c) any notice of change of details received by the Registrar under subclause 5(2); and
 - (d) each confirmation of correct particulars received by the Registrar under subclause 5(3).

Tabling of Register of Members’ Interests

- 11.(1) As soon as practicable after—
- (a) the first sitting day of each Parliament; and
 - (b) the 30th day of June in each subsequent year during the life of that Parliament; the Speaker must table in the Legislative Assembly a copy of the Register of Members’ Interests (“The Annual Report of the Register of Members’ Interests”).
- (2) The Annual Report of the Register of Members’ Interests is a copy of the Register of Member’s Interest as at a particular date specified in the report.

Publishing of Register of Members’ Interests

- 12.(1) The Registrar is to ensure that a copy of the Annual Report of the Register of Members’ Interests is published on the Parliament’s internet website.
- (2) The Registrar is to ensure that the Register of Members’ Interest, as updated from time to time, is published on the Parliament’s internet website as soon as practical after each update occurs and no later than one week after the latest update.
- (3) The Registrar is to determine the form the publication on the Parliament’s internet website will be in, taking into account factors such as accessibility, transparency and administrative efficiency.
- (4) The publication of the Register of Members’ Interest on the Parliament’s internet website and the Annual Report of the Register of Members’ Interests tabled in accordance with clause 11 above are deemed parliamentary records that the Legislative Assembly has authorised for publication.

Inspection of Registers

- 13.(1) The Registrar must, at the request of a person, permit the person to inspect the Register of Members’ Interests during normal business hours of the office of the Clerk.
- (2) The Registrar must, on request, make the Register of Related Persons’ Interests available to—
- (a) the Speaker;
 - (b) the Premier;
 - (c) any other Leader in the Legislative Assembly of a political party;
 - (d) the Chairperson and members of the Integrity, Ethics and Parliamentary Privileges Committee;

- (e) the Crime and Misconduct Commission;
 - (f) the Auditor-General; and
 - (g) the Integrity Commissioner.
- (3) The Registrar must, on request, make details removed from the registers in accordance with 9.(4) or 9.(5) available to—
- (a) the Speaker;
 - (b) the Premier;
 - (c) any other Leader in the Legislative Assembly of a political party;
 - (d) the Chairperson and members of the Integrity, Ethics and Parliamentary Privileges Committee;
 - (e) the Crime and Misconduct Commission;
 - (f) the Auditor-General; and
 - (g) the Integrity Commissioner.
- (4) The Registrar must advise the relevant member or former member, in writing, that details removed from the registers have been inspected in accordance with 13.(3)(a)-(d), (f) or (g).

PART 4 – COMPLAINTS

Allegations by members

- 14.(1) A member may make an allegation against another member that the other member has failed to comply with the requirements relating to the registration of a matter under this schedule.
- (2) The allegation must be made, in writing, to the Registrar.
- (3) The Registrar must—
- (a) refer the allegation to the Committee; and
 - (b) give the details of the allegation to the member against whom the allegation is made.

Consideration of allegations

- 15.(1) The Committee must consider each allegation referred to it and, for that purpose, may—
- (a) give each member concerned the opportunity to be heard; and
 - (b) obtain information from such other persons, and make such inquiries, as it thinks fit; after which it may—
 - (c) make a report to the Legislative Assembly; and
 - (d) with the report, recommend the action that should be taken in relation to the matter.
- (2) The Committee must not make a report unless—
- (a) it has given the member against whom the allegation has been made the opportunity—
 - (i) to be heard; and
 - (ii) to make written submissions; and
 - (b) it has given the persons that the member nominates the opportunity to be heard.

Complaints by public

- 16.(1)** A person may make a complaint alleging that a member has failed to comply with the requirements relating to the registration of a matter under this schedule.
- (2)** The complaint must be made, in writing, to the Registrar.
- (3)** The Registrar must, before taking any further action in relation to the complaint, inform the complainant in writing that parliamentary privilege does not extend to any communication between the complainant and the Registrar.
- (4)** The Registrar may require the complainant to give to the Registrar—
- (a)** details of the complainant's name and address;
 - (b)** details, or further details, of the complaint; and
 - (c)** copies of any documents or other material available to the complainant supporting the complaint.
- (5)** The Registrar may refuse to take any further action in relation to the complaint if the complainant refuses or fails to comply with a requirement under subclause (4).
- (6)** If the Registrar believes on reasonable grounds that there is evidence to support an allegation the subject of the complaint, the Registrar must—
- (a)** refer the matter to the Committee; and
 - (b)** give the details of the complaint to the member concerned.

Consideration of complaints

- 17.(1)** Where a complaint is referred to it, the Committee—
- (a)** may request the member concerned to provide an explanation of the allegation the subject of the complaint; and
 - (b)** must, if the member disputes the allegation—
 - (i)** give the member the opportunity to be heard;
 - (ii)** give the persons that the member nominates the opportunity to be heard; and
 - (iii)** obtain information from such other persons, and make such inquiries, as it thinks fit.
- (2)** The Committee must make a report to the Legislative Assembly in respect of the complaint—
- (a)** if the member concerned disputes the allegation the subject of the complaint – on completion of its consideration of the complaint;
 - (b)** if the member confirms the allegation – on receiving notice to the effect; and
 - (c)** if the member does not, within a reasonable period, respond to a request given to them under subclause (1)(a) – on the expiration of the period.
- (3)** The Committee must, with the report, recommend the action that should be taken in relation to the matter.
- (4)** The Committee must not, in the report, make a finding that is adverse to the member concerned unless it has given the member—
- (a)** full particulars of the complaint; and
 - (b)** the opportunity to be heard in relation to the complaint.

PART 5 – ENFORCEMENT

Effect of failure to comply with requirements

18. A member who knowingly—
- (a) fails to give a statement of interests to the Registrar under subclause 5(1);
 - (b) fails to notify the Registrar under subclause 5(2) of a change of details contained in a statement of interests;
 - (c) gives to the Registrar a statement of interests, or gives information to the Registrar or the Committee, that is false, incomplete or misleading in a material particular;
- is guilty of a contempt of the Parliament and may be dealt with accordingly.

PART 6 – FORMS

The following prescribed forms for the purpose of this schedule have been approved by the Legislative Assembly—

- Form 1 Statement of interests of a member
- Form 2 Statement of interests of a member's related person/s
- Form 3 Change of details of member / member's related person/s
- Form 4 Confirmation of correct particulars.

APPENDIX E

Chapter 37 of the Standing Orders – Declarations of Interest

CHAPTER 37 DECLARATIONS OF INTEREST

259. No member pecuniarily interested may vote

- (1) No member shall be entitled to vote in any division upon a question (not being a matter of public policy) in which they have a direct pecuniary interest, not held in common with the rest of the subjects of the Crown.
- (2) The vote of a member may not be challenged except on a substantive motion moved immediately after the division is completed, and the vote of a member determined to be so interested shall be disallowed.

260. Declaration of pecuniary interest in debate and other proceedings

- (1) Notwithstanding compliance with any other order of the House concerning the disclosure of interests, a member shall, in respect of any question in the House or a committee, declare any pecuniary interest (of which the member is aware) (whether or not it is a matter of public policy) that the member or a related person has in the question, if such pecuniary interest is greater than the interest held in common with subjects of the Crown or members of the House generally.
- (2) The declaration in (1) shall be made:
 - (a) at the beginning of their speech if the member participates in debate on the matter in the House or a committee;
 - (b) as soon as practicable after a division is called for on the matter in the Legislative Assembly, or a committee, if the member proposes to vote in that division.
- (3) The member's declaration shall be included and indexed in the Record of Proceedings or the minutes of proceedings of the committee and in any transcript of those proceedings of that division.
- (4) It shall not be necessary for a member to declare an interest when directing a question seeking information.

261. Conflict of interest in committee proceedings

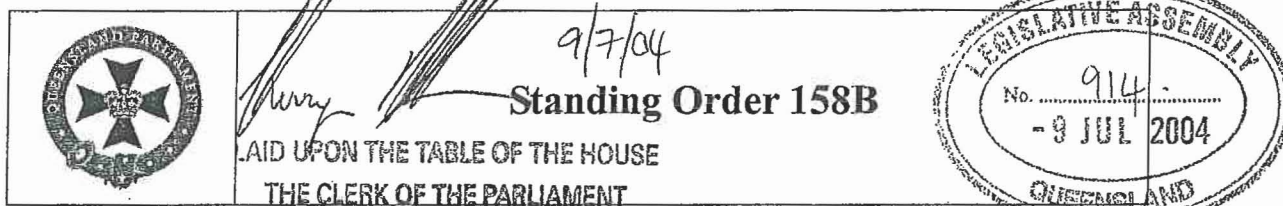
A member of a committee shall disclose to the committee any conflict of interest the member may have in relation to a matter before the committee.

262. Disclosure in representations or communications of pecuniary interest

In any representation or communication which a member may have with other members or with Ministers or servants of the Crown, a member shall disclose any pecuniary interest (of which the member is aware) that the member or a related person, as defined in Schedule 2 (Registers of Interests), has in the subject matter of the representation or communication, if such pecuniary interest is significantly greater than the interest held in common with subjects of the Crown or members of the House.

APPENDIX F

Information Notice No. 1 of 2004



Standing Order 158B, which the Legislative Assembly adopted on 27 November 2003, provides—

158B Disclosure in representations or communications of pecuniary interest

In any representation or communication which a member may have with other members or with Ministers or servants of the Crown, a member shall disclose any pecuniary interest (of which the member is aware) that the member or a related person (as defined by the resolution for Members' Register of Interests) has in the subject matter of the representation or communication, if such pecuniary interest is significantly greater than the interest held in common with subjects of the Crown or members of the House generally.

History

Since 1974, the House of Commons has required members to declare any relevant pecuniary interest or benefit in any transactions or communications which a member may have with other members or with Ministers or servants of the Crown, whether direct or indirect or whether they were previously declared in any register.

In Queensland in September 1999 the Auditor-General presented an audit report arising out of the alleged interests by a members and a former member in a Bill passed by the House which benefited a private company in which they had shareholdings. In that report the Auditor-General suggested that members should be required to formally declare any interest they may have in a matter about which they are making representations by declaring their interests in correspondence on the matter or in the minutes of any formal meetings in respect of the matter.

The Committee in two reports (MEPPC 44 and 45) tabled in September 2000 considered the Auditor-General's report and essentially agreed with the Auditor-General's recommendation. The Committee noted the 1974 resolution by the House of Commons and suggested a Standing Order - the current SO 158B - which is based upon that resolution. The power of the House to impose this rule in Standing Orders is sourced from s.11(2)(h) of the Parliament of Queensland Act 2001 which gives the House power to make Standing Rules and Orders about the declaration and registration of interests of members and of persons related to members.

Rationale

The Standing Order recognises that the role and functions of a member extend beyond the proceedings in the House and its committees and that often members act as advocates for local issues and other projects, initiatives and law reform. It also recognizes that by virtue of their office, members have preferential access to and potential influence with decision-makers. The Standing Order is designed to ensure, where necessary, a member's pecuniary interest in the matters the subject of representation or communications with Ministers and public officers is declared.

When and how the declaration should be made

It is recognised that there may not always be formal minutes or even notes taken during meetings a member has with Ministers and public officials. (For example, much informal representation occurs.)

It is stressed that the Standing Order places an obligation and responsibility on members to declare their interest. There is no onus on Ministers or public officials to take notes of meetings between Ministers and/or public officials and members or record any declaration made by a member. It therefore follows that the member, to safeguard against any future query about their declaration being made, should make some attempt to record the declaration so that it can be evidenced in the future should the need arise.

The necessity for and form of declaration will largely be determined by the circumstances of the communication or representation and is a matter for the member to assess in the circumstances. The more significant the interest and/or the issue, the higher the onus on the member for a formal record of the declaration.

If minutes are taken, the member may request a note of their declaration in the minutes. After a meeting or conversation, the member may write and confirm the conversation or meeting and note that the declaration was made. Alternatively, the member may make their own file note or diary note of the declaration. (The obvious downside with this approach is it is essentially the member evidencing their own actions.)

If the matter at issue is raised by way of correspondence, the declaration should be noted in the earliest correspondence.

Examples:

A Member writes to the responsible Minister requesting a road alteration that will increase vehicle access to a shopping centre. The Member has a pecuniary interest in a business located in the centre. The Member, in the correspondence, should note their interest in the business located in the shopping centre.

A Member writes to the responsible Minister requesting amendments to trading hours for a particular type of business. The Member has a pecuniary interest in a business of this type. The Member, in the correspondence, should note their interest in the business.

A Member meets with the responsible Minister in the House and has a conversation about trading hours for a particular type of business. The Member has a pecuniary interest in this type of business. The Member should in the conversation with the Minister note their interest in the business. The Member should attempt to evidence their declaration by, preferably, writing a follow-up letter to the Minister. Alternatively, the Member could make a diary note or file note of the conversation and declaration.

APPENDIX G

Section 37 of the *Parliament of Queensland Act 2001*

Part 2 Contempts

37 **Meaning of *contempt* of the Assembly**

- (1) *Contempt* of the Assembly means a breach or disobedience of the powers, rights or immunities, or a contempt, of the Assembly or its members or committees.

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- (2) Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with—
- (a) the free exercise by the Assembly or a committee of its authority or functions; or
 - (b) the free performance by a member of the member's duties as a member.

Examples of contempt—

- 1 assaulting, obstructing or insulting a member—
 - (a) in the member's coming to or going from the Assembly or a meeting of a committee; or
 - (b) anywhere else because of the member's performance of his or her parliamentary duties
- 2 attempting to compel a member by force, insult or menace to take a particular position in relation to a proposition or matter pending, or expected to be brought, before the Assembly or a committee
- 3 sending a threat to a member because of the member's performance of his or her parliamentary duties
- 4 sending a challenge to fight a member
- 5 the offering of a bribe to or attempting to bribe a member
- 6 creating or joining in any disturbance in the Assembly or before a committee or in the Assembly's or a committee's vicinity while it is sitting that may interrupt its proceedings
- 7 contravention of section 29(1), 30(1) and (4), 31(3), 32(2) and (6) or 33(2) and (8)
- 8 preventing or attempting to prevent a person from complying with section 29(1), 30(1) and (4), 31(3), 32(2) and (6) or 33(2) and (8)
- 9 improperly influencing, or attempting to improperly influence, a person, in relation to any evidence to be given by the person to the Assembly or a committee
- 10 treating a person adversely and without lawful authority, or attempting to do so, because of evidence given by the person to the Assembly or a committee or because of a belief or suspicion about that evidence

APPENDIX H

Part 2, chapter 8, and part 6 chapter 42A of the Criminal Code

Chapter 8 Offences against the executive and legislative power

54 Interference with Governor or Ministers

- (1) Any person who—
- (a) does any act with intention to interfere with the free exercise by the Governor of the duties or authority of the Governor's office; or
 - (b) does any act with intention to interfere with the free exercise by a member of the Executive Council of the duties or authority of the member's office as a member of the Executive Council or as a Minister of State;
- is guilty of a misdemeanour, and is liable to imprisonment for 3 years.
- (2) The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

54A Demands with menaces upon agencies of government

- (1) Any person who demands that anything be done or omitted to be done or be procured by—
- (a) the Government of Queensland or a person in the employment of the Crown in right of Queensland, in performance of the duties of the person's employment or otherwise in the person's official capacity; or
 - (b) the Governor, in his or her role of Governor; or
 - (c) a Minister of the Crown, in his or her office as Minister or as a member of the Executive Council of Queensland; or
 - (d) a government corporation, in discharge of its functions conferred by law, or a person in the employment of a government corporation, in performance of the duties of

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the person's employment or otherwise in the person's official capacity;

with threats of detriment of any kind to be caused to any person aforesaid or any other person or to the public or any member or members of the public or to property, by the offender or by any other person, if the demand is not complied with is guilty of a crime and is liable to imprisonment for 14 years.

- (2) A person is not criminally responsible for an act referred to in subsection (1) if the detriment is threatened to himself or herself only or to property of which the person is the sole owner.
- (3) It is immaterial to the commission of an offence defined in this section that—
 - (a) the demand or threat is made by means of a medium ordinarily used for disseminating information to the public and not to a particular person; or
 - (b) the threat does not specify the detriment that is to be caused or the person or persons to whom or the property to which it is to be caused.
- (4) If the carrying out of the threat would be likely to cause—
 - (a) loss of life or serious personal injury to any person; or
 - (b) substantial economic loss—
 - (i) to the Crown, or
 - (ii) to a government corporation; or
 - (iii) in any industrial or commercial activity whether conducted by a public authority or as a private enterprise;

the offender is liable to imprisonment for life and if, in addition, the offender or another person on the offender's behalf has carried out the threat and thereby caused a consequence specified in this subsection or has by some overt act begun to prepare for the carrying out of the threat, the

offender is liable to imprisonment for life, which can not be mitigated or varied under this Code or any other law or is liable to an indefinite sentence under part 10 of the *Penalties and Sentences Act 1992*.

- (5) A prosecution for an offence defined in this section shall not be commenced without the consent of the Attorney-General.
- (6) For the purposes of this section—
detriment includes destruction of or damage to—
 - (a) flora or fauna protected by or under an Act; or
 - (b) any place, thing or living creature or plant that by reason of its cultural, educational, environmental, historical, recreational, religious or scientific significance is of substantial public interest or concern;

and, in the absence of proof that any such item destroyed or damaged was or is the property of a particular person, shall be deemed to be detriment to the Crown.

government corporation means any body corporate or corporation sole constituted by or under an Act that represents the Crown or that is declared under a regulation to be a government corporation for the purposes of this section.

55 Interference with the Legislature

- (1) Any person who, by force or fraud, intentionally interferes or attempts to interfere with the free exercise by the Legislative Assembly of its authority, or with the free exercise by any member of the Legislative Assembly of the member's duties or authority as such member, or as a member of a committee of the Legislative Assembly is guilty of a misdemeanour, and is liable to imprisonment for 3 years.
- (2) The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

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56A Disturbance in House when Parliament not sitting

- (1) Any person creating or joining in any disturbance in Parliament House or within the precincts thereof at any time other than during an actual sitting of Parliament therein or at the office or residence of the Governor or of any member of the Legislative Assembly or of the Executive Council shall be guilty of an offence and—
 - (a) if the person created or joined in such disturbance in Parliament House or within the precincts thereof—may be apprehended without warrant on the verbal order of the Speaker or, in the Speaker's absence, of the clerk of the Parliament, or of the person for the time being discharging the duties of the office of the clerk of the Parliament, and may be kept in custody by any officer of Parliament or by any police officer; or
 - (b) if the person created or joined in such disturbance at the office or residence of the Governor or of any member of the Legislative Assembly or of the Executive Council—may be apprehended without warrant on the verbal order of the Governor or, as the case may be, member of the Legislative Assembly or of the Executive Council concerned, and may be kept in custody by any police officer.
- (2) Such person may be so kept in custody until the person can be dealt with in the manner following, that is to say—
 - (a) every such person shall, as soon as reasonably may be, be brought before a Magistrate without formal written complaint and there and then charged with such offence and summarily dealt with according to law;
 - (b) any such person on summary conviction shall be liable to a fine of 100 penalty units or imprisonment for a term not exceeding 2 years.

56B Going armed to Parliament House

- (1) Any person who without lawful excuse being armed enters or is found in Parliament House or in any of the grounds thereof or in any building in or upon such grounds is guilty of an offence and is liable on summary conviction to a fine of 100 penalty units with or without imprisonment for a term not exceeding 2 years.
- (1A) The offender may be arrested without warrant.
- (2) On the conviction of a person for an offence against subsection (1), any arms found in the person's possession or under the person's control are forfeited to the State.
- (3) For the purposes of this section—

armed shall mean having in the person's possession or under the person's immediate control whether concealed or not—

 - (a) any firearm whatsoever loaded or unloaded and whether capable of projecting a missile or not; or
 - (b) any bomb or other explosive matter, machine, or device mechanical or otherwise capable of causing injury to any person or damage to any property or any dangerous or offensive weapon or instrument; or
 - (c) any corrosive substance;

and the word *arms* shall have a correlative meaning.

59 Member of Parliament receiving bribes

- (1) Any person who, being a member of the Legislative Assembly, asks for, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person upon any understanding that the person's vote, opinion, judgment, or action, in the Legislative Assembly, or in any committee thereof, shall be influenced thereby, or shall be given in any particular manner or in favour of any particular side of any question or matter, is guilty of a crime, and is liable to imprisonment for 7 years,

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and is disqualified from sitting or voting as a member of the Legislative Assembly for 7 years.

- (2) The offender can not be arrested without warrant.

60 Bribery of member of Parliament

- (1) Any person who—
- (a) in order to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any question or matter arising in the Legislative Assembly or in any committee thereof or in order to induce the member to absent himself or herself from the Assembly or from any such committee, gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, such member, or to, upon, or for, any other person; or
 - (b) attempts, directly or indirectly, by fraud, or by threats or intimidation of any kind, to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any such question or matter, or to induce the member to so absent himself or herself;
- is guilty of a crime, and is liable to imprisonment for 7 years.
- (2) The offender can not be arrested without warrant.
- (3) Where a person has been convicted (whether before or after 1 July 1922) of an offence under this section, all property which has been tendered or produced in evidence at the trial of the offender, as being the property or part of the property which the offender in the course of the commission of such offence gave, conferred or procured, or promised or offered to give, or confer or to procure, or attempt to procure, to, upon, or for a member of the Legislative Assembly, or to, upon, or for any other person, shall become and be deemed to have become forthwith upon such conviction and without any further judgment or order the absolute property of Her Majesty,

whether such property is the property of the offender or of any other person.

Chapter 42A Secret commissions

442A Definitions

(1) In this chapter—

advice given or words to the like effect includes every report, certificate, statement, and suggestion intended to influence the person to whom the same is made or given, and every influence deliberately or expressly exercised by one person over another.

agent includes any corporation, firm, or person acting or having been acting, or desirous or intending to act, for or on behalf of any corporation, firm, or person, whether as agent, partner, co-owner, clerk, servant, employee, banker, broker, auctioneer, architect, clerk of works, charterer, master mariner, purser, or any member of the crew of a vessel, engineer, barrister, solicitor, legal practitioner, conveyancer, surveyor, buyer, salesperson, supervisor, trustee, official assignee, executor, administrator, liquidator, trustee in bankruptcy or of a deed of assignment, receiver, director, manager, or other officer or member of the committee or governing body of any corporation, club, partnership, or association, or in any other capacity, either alone or jointly with any other corporation, firm, or person, and whether in the person's own name or in the name of the person's principal or otherwise, and also includes a Minister of the Crown, and a

person serving under the Crown or a Minister of the Crown, or corporation representing the Crown, and a person serving under any local government, harbour board, water authority, or any other local or public body constituted by or under any Act.

contract includes contract of sale or of employment, or any other contract whatever including an order for any commodity.

court means the Supreme Court or a judge thereof, or Magistrate or justices having jurisdiction with respect to an offence against this chapter.

in relation to his or her principal's affairs or business implies the additional words 'whether within the scope of his or her authority or course of his or her employment as agent or not'.

person having business relations with the principal includes the Crown, a Minister of the Crown, or corporation representing the Crown, or any local government, harbour board, water authority, or any other local or public body constituted by or under any Act; also every corporation, firm, or other person, whether as principal or agent, carrying on or having carried on or desirous or intending to carry on any negotiation or business with any principal, or engaged or interested or having been engaged or interested in the performance of any contract with or in the execution of any work or business for or in the supply of any goods or chattels to any principal; and also includes any agent or employee of the Crown, a Minister of the Crown, or corporation representing the Crown, or of any local government, harbour board, water authority, or any other local or public body constituted by or under any Act, or of any such corporation, firm, or other person.

principal includes a corporation, firm, or other person for or on behalf of whom the agent acts, has acted, or is desirous or intending to act; the term also includes the Crown, a Minister of the Crown, or corporation representing the Crown, or any local government, harbour board, water authority, or any

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other local or public body constituted by or under any Act for or on behalf of whom the agent acts, has acted, or is desirous or intending to act.

solicit any valuable consideration and valuable consideration solicited, and words to the like effect, shall be construed with the following directions, namely, that every agent who diverts, obstructs, gives untruthful reports, or interferes with the proper course of business or manufacture, or impedes or obstructs, or fails to use due diligence in the prosecution of any negotiation or business with the intent to obtain the gift of any valuable consideration from any other person interested in the said negotiation or business, or with intent to injure any such person, shall be deemed to have solicited a valuable consideration from a person having business relations with the principal of such agent.

trustee includes the public trustee, an executor, administrator, liquidator, official assignee, or trustee in bankruptcy, receiver, administrator appointed under the *Guardianship and Administration Act 2000*, person having power to appoint a trustee, or person entitled to obtain probate of the will or letters of administration to the estate of a deceased person, or any other person occupying a fiduciary position.

valuable consideration includes any real or personal property; also money, loan, office, place, employment, agreement to give employment, benefit, or advantage whatsoever, and any commission or rebate, payment in excess of actual value of the goods or service, deduction or percentage, bonus or discount, or any forbearance to demand any moneys or moneys' worth or valuable thing; also some detriment, loss or responsibility given, suffered, or taken, or the refraining from carrying out or doing something which lawfully should be done; and the acceptance of any of the said things shall be deemed the receipt of a valuable consideration.

The offer of any valuable consideration includes any offer of any agreement or promise to give, and every holding out of any expectation of valuable consideration.

The receipt of any valuable consideration includes any acceptance of any agreement, promise, or offer to give, or of any holding out of any expectation of valuable consideration.

Prohibition of indirect acts

- (2) Any act or thing prohibited by this chapter is prohibited whether done directly or indirectly by the person mentioned or by or through any other person.

442B Receipt or solicitation of secret commission by an agent

Any agent who corruptly receives or solicits from any person for himself or herself or for any other person any valuable consideration—

- (a) as an inducement or reward for or otherwise on account of doing or forbearing to do, or having done or forborne to do, any act in relation to his or her principal's affairs or business; or
- (b) the receipt or any expectation of which would in any way tend to influence the agent to show, or to forbear to show, favour or disfavour to any person in relation to his or her principal's affairs or business;

commits a crime.

442BA Gift or offer of secret commission to an agent

Any person who corruptly gives or offers to any agent any valuable consideration—

- (a) as an inducement or reward for or otherwise on account of the agent doing or forbearing to do, or having done or forborne to do, any act in relation to his or her principal's affairs or business; or
- (b) the receipt or any expectation of which would in any way tend to influence the agent to show, or to forbear to show, favour or disfavour to any person in relation to his

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or her principal's affairs or business;
commits a crime.

442C Secret gifts received by parent, spouse, child, partner etc. of agent

- (1) Any valuable consideration received or solicited by any parent, spouse, or child of any agent, or by his or her partner, clerk, or employee, from any person having business relations with the principal of such agent, shall be deemed to have been received or solicited by the agent unless it be proved that the valuable consideration was so received or solicited without the consent, knowledge, or privity of the agent.

Secret gifts to parent, spouse, child, partner etc. of agent

- (2) Any valuable consideration—
- (a) given or offered to any parent, spouse, or child of any agent, or to his or her partner, clerk, or employee, and so given or offered with the consent, knowledge, or privity of the agent; or
 - (b) given or offered, at the agent's request, to any person by any person having business relations with the principal of such agent;

shall be deemed to have been given or offered to the agent.

442D False or misleading receipt or account

Any person who with intent to deceive or defraud the principal gives to any agent, or any agent who receives or uses or gives to the principal any receipt, invoice, account, or document in respect of which or in relation to a dealing transaction or matter in which the principal is interested, and which—

- (a) contains any statement which is false or erroneous or defective in any important particular, or contains an

overcharge or is in any way likely to mislead the principal; or

- (b) omits to state explicitly and fully the fact of any commission, percentage, bonus, discount, rebate, repayment, gratuity, or deduction having been made, given, or allowed, or agreed to be made, given, or allowed;

commits a crime.

442E Secret commission for advice given

Whenever any advice is given by one person to another, and such advice is in any way intended or likely to induce or influence the person advised—

- (a) to enter into a contract with any third person; or
- (b) to appoint or join with another in the appointment, or to vote for or to aid in obtaining the election or appointment, or to authorise or join with another in authorising the appointment of any third person as trustee, director, manager, or official;

and any valuable consideration is, without the assent of the person advised, given by such third person to the person giving the advice, the gift or receipt of the valuable consideration is a crime; but this subsection shall not apply when the person giving the advice was, to the knowledge of the person advised, the agent of such third person, or when the valuable consideration was not given in respect of such advice.

442EA Offer or solicitation of secret commission in return for advice given or to be given

Any offer or solicitation of a valuable consideration in respect of any advice given, or to be given, by one person to another with a view to induce or influence the person advised—

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- (a) to enter into a contract with the person offering or solicited; or
- (b) to appoint or join with another in appointing, or to vote for or to aid in obtaining the election or appointment, or to authorise or join with another in authorising the appointment of the person offering or solicited as trustee, director, manager, or official;

and with the intent that the gift or receipt of such valuable consideration is not to be made known to the person advised, is a crime; but this subsection shall not apply when such first mentioned person is the agent of the person offering or solicited.

442F Secret commission to trustee in return for substituted appointment

Any person who offers or gives any valuable consideration to a trustee, or any trustee who receives or solicits any valuable consideration for himself or herself or for any other person, without the assent of the persons beneficially entitled to the estate or of a judge of the Supreme Court, as an inducement or reward for appointing or having appointed, or for joining or having joined with another in appointing, or for authorising or having authorised, or for joining or having joined with another in authorising, any person to be appointed in the person's stead or instead of the person and any other person as trustee, commits a crime.

442G Liability of director etc. acting without authority

Any director, manager, or officer of a company, or any officer or member of the crew of any vessel, or any person acting for another, who knowingly takes part in or is in any way privy to doing, or attempts to do, any act or thing without authority which, if authorised, would be in contravention of any of the provisions of this chapter, commits a crime.

442I Penalty on conviction

Any person guilty of a crime against any of the provisions of this chapter is—

- (a) liable, if a corporation, to a penalty of 3400 penalty units, and if an individual, to 7 years imprisonment; and
- (b) in addition, liable to be ordered to pay to such person and in such manner as the court directs the amount or value, according to the estimation of the court, of any valuable consideration received or given by the person, or any part thereof, and such order shall be enforceable in the same manner as an order of the court.

442J Court may order withdrawal of trifling or technical cases

If in any prosecution under this chapter it appears to the court that the offence charged is, in the particular case, of a trifling or merely technical nature, or that in the particular circumstances it is inexpedient to proceed to a conviction, the court may in its discretion, and for reason stated on the application of the accused, dismiss the case; but the court may, if it thinks fit, make the order mentioned in section 442I.

442K Witness giving answers criminating himself or herself

- (1) A person who is called as a witness in any proceeding under this chapter shall not be excused from answering any question relating to any offence against this chapter on the ground that the answer thereto may criminate or tend to criminate the person.
- (2) An answer to a question in any such proceeding shall not, except in the said proceeding or in the case of any prosecution for perjury in respect of such answer, be in any proceeding, civil or criminal, admissible in evidence against the person so answering.

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442L Certificate to witness

- (1) A witness in any proceeding under this chapter who, in the judgment of the court, answers truly all questions which the witness is required by the court to answer shall be entitled to receive a certificate from the court stating that such witness has so answered.

Stay of proceedings against such witness

- (2) When a person has received a certificate as aforesaid, and any criminal proceeding is at any time instituted against the person in respect of the offence which was in question in the proceeding in which the said person was called as a witness, the court having cognisance of the case shall, on proof of the certificate and of the identity of the offence in question in the 2 cases, stay the proceedings.

442M Custom of itself no defence

- (1) In any prosecution under this chapter it does not amount to a defence to show that the receiving, soliciting, giving, or offering of any valuable consideration therein mentioned or referred to is customary in any trade, business, or calling.

Burden of proof that gift not secret commission

- (2) If in any prosecution under this chapter it is proved that any valuable consideration has been received or solicited by an agent from or given or offered to an agent by any person having business relations with the principal, without the assent of the principal, the burden of proving that such valuable consideration was not received, solicited, given, or offered in contravention of any of the provisions of this chapter shall be on the accused.

Consent to prosecution

- (3) No prosecution under this chapter shall be commenced without the consent of a Crown Law Officer.

APPENDIX I

Chapter 4, parts 3 and 4 in the *Parliament of Queensland Act 2001*

Part 3 **Restrictions on dealings with the State**

70 **Meaning of *transacts business***

- (1) A member *transacts business* with an entity of the State if the member—
- (a) has a direct or indirect interest in a contract with an entity of the State; or
 - (b) performs a duty or service for reward for an entity of the State.
- (2) However, a member does not *transact business* with an entity of the State in the following circumstances—
- (a) for a contract—
 - (i) the contract is required of, or expressly permitted for, the member, under an Act; or
 - (ii) the contract, to the extent of the member's interest, provides for—
 - (A) the provision by an entity of the State of goods or services, that are available to the public, on the same terms the goods or services are available to the public; or
 - (B) the acquisition from an entity of the State of an interest in land, that is available to the public, on the same terms the interest is available to the public; or
 - (C) the acquisition by an entity of the State of an interest in land on terms not less favourable to the entity than if the sale were by a member of the public; or
 - (iii) the contract is for the lawful payment of compensation; or

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- (iv) the contract is made, entered into, or accepted, by a listed or non-aligned corporation;
 - (b) for a duty or service—
 - (i) an Act requires or expressly permits the member to perform the duty or service; or
 - (ii) neither the member nor any other person is entitled to or is entitled to and receives any reward on account of the member performing the service or duty; or
 - (iii) the duty or service is the attendance at a court or other place or the giving of evidence at a court or other place in obedience to any court process.
 - (3) For subsection (2)(b)(ii), a member is not taken to be entitled to a reward if the member irrevocably waives for all legal purposes the entitlement to the reward.
 - (4) For a waiver under subsection (3), the member must, as soon as practicable after becoming aware of the entitlement—
 - (a) waive the entitlement in writing; and
 - (b) give a copy of the waiver to the Speaker.
 - (5) In this section—
 - listed corporation** has the meaning given by the Corporations Act.
 - non-aligned corporation** means a corporation with more than 20 shareholders, 1 of whom is the member if the member does not—
 - (a) own 5% or more of the corporation's shares; or
 - (b) have control of the corporation's board.
 - reward** does not include—
 - (a) an amount decided under chapter 7; or
 - (aa) an amount decided under the deed under the *Superannuation (State Public Sector) Act 1990* in

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relation to a transferring member within the meaning of section 32A of that Act; or

- (b) reasonable expenses actually incurred by or for the member for any 1 or more of the following—
 - (i) accommodation;
 - (ii) meals;
 - (iii) domestic air travel;
 - (iv) taxi fares or public transport charges;
 - (v) motor vehicle hire.

71 Restrictions on member transacting business with an entity of the State

- (1) A member must not transact business, directly or indirectly, with an entity of the State.

Editor's note—

The effect of a contravention of this subsection is dealt with under section 72(1)(h) (Vacating seats of members in particular circumstances).

- (2) If a member contravenes subsection (1) in relation to a contract with an entity of the State—
 - (a) the contract is invalid to the extent of the contravention; and
 - (b) the member is not entitled to, and may not receive, the reward in connection with the contract.
- (3) If a member contravenes subsection (1) in relation to the performance of a duty or service for an entity of the State, the member is not entitled to, and may not receive, the reward for the duty or service.
- (4) A member does not contravene subsection (1) in relation to a contract with an entity of the State if the member—
 - (a) acquires the interest in the contract—

-
- (i) under a testamentary disposition or because of the laws of succession; or
 - (ii) as executor, administrator or trustee of the estate of a deceased person; and
 - (b) disposes of the interest within—
 - (i) 1 year after the day the person whose death gave rise to the interest mentioned in paragraph (a) died; or
 - (ii) a longer period allowed by the Assembly.
 - (5) A new member does not contravene subsection (1) in relation to an interest in a contract with an entity of the State arising before the member's election if he or she disposes of the interest within 6 months after being elected.
 - (6) A new member does not contravene subsection (1) in relation to an obligation to perform a duty or service arising before the member's election if he or she discharges the obligation within 6 months after being elected.
 - (7) It is declared that subsection (1) does not extend—
 - (a) to a contract or agreement with WorkCover Queensland in relation to insurance business carried on by it; or
 - (b) to any contract or agreement securing the repayment of the principal, or the payment of interest on, or both the repayment of principal and the payment of interest on, an amount lent to an entity of the State; or
 - (c) to any contract or agreement for the provision of legal assistance under the *Legal Aid Queensland Act 1997*, or similar assistance under another law, directly or indirectly by a member who is a lawyer or by a legal practice in which a member who is a lawyer has an interest.
 - (8) In this section—

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new member means a member who was not a member of the Assembly immediately before the Assembly last expired or was last dissolved.

Part 4 Automatic vacation of member's seat

72 Vacating seats of members in particular circumstances

(1) A member's seat in the Assembly becomes vacant if any of the following happens—

- (a) the member fails to take his or her seat within 21 sitting days after being elected as a member;

Note—

Under the *Constitution of Queensland 2001*, section 22(3), a member takes the member's seat on making the oath or affirmation mentioned in section 22(1) of that Act.

- (b) the member stops being enrolled on the electoral roll for the member's electoral district or another electoral district;
- (c) the member stops being an Australian citizen;
- (d) the member takes an oath or makes a declaration or acknowledgement of allegiance, obedience or adherence to, or becomes an agent of, a foreign state or power;
- (e) the member becomes a member of the Commonwealth Parliament or of a legislature of another State;
- (f) the member accepts a paid public appointment, other than a paid State appointment;

Note—

The effect of purporting to accept a paid State appointment is dealt with under section 69.

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- (g) the member is elected or appointed as mayor or a councillor of a local government of the State or another State;
 - (h) the Assembly by resolution—
 - (i) decides the member has contravened section 71(1), whether or not after reference of the question to the Court of Disputed Returns under the *Electoral Act 1992*, section 143; and
 - (ii) decides not to make a declaration under section 73;
 - (i) the member is convicted of any of the following offences—
 - (i) an offence against the law of Queensland, another State or the Commonwealth for which the member is sentenced to more than 1 year's imprisonment;
 - (ii) an offence against the Criminal Code, section 59 or 60;
 - (iii) a disqualifying electoral offence;
 - (iv) treason, sedition or sabotage under the law of Queensland, another State or the Commonwealth;
 - (j) the member becomes a bankrupt under the *Bankruptcy Act 1966* (Cwlth), or a corresponding law of another jurisdiction;
 - (k) the member—
 - (i) has executed a deed of arrangement as debtor under the *Bankruptcy Act 1966* (Cwlth), part X, or a corresponding law of another jurisdiction; and
 - (ii) breaches the terms of the deed;
 - (l) the member's creditors accept a composition under the *Bankruptcy Act 1966* (Cwlth), part X, or a corresponding law of another jurisdiction, and the member breaches the terms of the composition;

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- (m) the member is absent without the Assembly's permission from the Assembly for more than 21 consecutive sitting days, whether over 1 or more sessions;
 - (n) anything else happens that causes the member's seat to be vacant under another law.
- (2) For subsection (1)(d), it does not matter that a member may acquire or use a foreign passport or travel document.
- (3) For subsection (1)(i)(i), the following apply—
- (a) if the sentence of imprisonment is suspended, the provision does not apply;
 - (b) however, if the member is ordered at any time to actually serve more than 1 year of the suspended term of imprisonment, the provision applies.
- (4) In this section—
- disqualifying electoral offence* see the *Electoral Act 1992*, section 3.

73 Assembly may disregard disqualifying events

- (1) This section applies if the Assembly considers that anything that happened whether before or after the commencement of this section (the *disqualifying ground*) may have caused—
- (a) a person to be disqualified from being elected as a member; or
 - (b) the seat of a member to become vacant.
- (2) The Assembly may declare by resolution the disqualifying ground to be of no effect.
- (3) The Assembly may make the declaration only if the Assembly considers the ground—
- (a) has stopped having effect; and
 - (b) was in all the circumstances trivial in nature; and

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- (c) happened or arose without the actual knowledge or consent of the person or member or was accidental or due to inadvertence.
 - (4) This section applies despite any other provision of this chapter.
 - (5) This section has no effect on the jurisdiction of the Court of Disputed Returns.

74 Effect of appeals against conviction or sentence

- (1) This section applies if a member whose seat becomes vacant because of a conviction, or conviction and sentence, to which section 72(1)(i) or (n) applies (the *disqualifying ground*) appeals, or applies for leave to appeal, against the conviction or sentence within 1 calendar month after the conviction or sentence.
- (2) If, on appeal, the conviction is quashed or set aside, or the sentence is changed to a sentence to which neither section 72(1)(i) nor (n) applies, the disqualifying ground is taken never to have happened.
- (3) To ensure that subsection (2) has effect, a writ for an election to fill the vacancy in the member's seat caused by the disqualifying ground can not be issued—
 - (a) until at least 1 calendar month has passed after the seat becomes vacant; and
 - (b) if the member appeals, or applies for leave to appeal, within 1 calendar month after the seat becomes vacant—until the appeal has ended without subsection (2) applying.
- (4) Subsection (3) does not prevent a writ for a general election being issued.

APPENDIX J

Standing Order 209

209. Reference to proceedings¹ and disclosure of evidence and documents

- (1) No member shall in the House refer to any proceedings of a committee, until the committee has reported those proceedings to the House or otherwise published the proceedings.
- (2) The evidence taken by a committee or sub-committee and documents presented to it, and proceedings and reports of it, which have not been reported to the House, shall not, unless authorised by the House or the committee,² be disclosed or published to any person other than a member or officer of the committee.
- (3) Despite (2), a committee may resolve to:
- (a) publish press releases, discussion papers or other documents or preliminary findings to any inquiry; or
 - (b) divulge any evidence, documents, proceedings or report on a confidential basis to any person or persons for comment for the purpose of assisting the committee in its inquiry or for any administrative purpose associated with the inquiry.
- (4) For this standing order, proceedings include:
- (a) evidence taken by the committee by way of *in camera* hearings;
 - (b) written or oral submissions presented to the committee;
 - (c) written briefing papers and other documents prepared for the committee by its Research Director or other expert advisors;
 - (d) draft reports by the committee;
 - (e) correspondence between the committee and witnesses, departments and Ministers; and
 - (f) private deliberations of the committee and the records of those proceedings.
- (5) A member who wishes to refer to *in camera* evidence or unpublished committee documents of a committee in a dissenting report shall advise the committee of the evidence or documents concerned, and all reasonable effort shall be made by the committee to reach agreement on the disclosure of the evidence or documents for that purpose.

¹ Section 9(2) of the *Parliament of Queensland Act 2001* provides that without limiting subsection (1), “proceedings in the Assembly” include – (a) giving evidence before the Assembly, a committee or an inquiry; and (b) evidence given before the Assembly, a committee or an inquiry; and (c) presenting or submitting a document to the Assembly, a committee or an inquiry; and (d) a document tabled in, or presented or submitted to, the Assembly, a committee or an inquiry; and (e) preparing a document for the purposes of, or incidental to, transacting business mentioned in paragraph (a) or (c); and (f) preparing, making or publishing a document (including a report) under the authority of the Assembly or a committee; and (g) a document (including a report) prepared, made or published under the authority of the Assembly or a committee ... (5) If the way in which a document is dealt with has the effect that, (a) under an Act or (b) under the rules, orders, directions or practices of the Assembly; the document is treated, or accepted as having been tabled in the Assembly for any purpose, then, for the purposes of this Act, the document is taken to be tabled in the Assembly.

² Section 50 of the *Parliament of Queensland Act 2001* provides: (1) The Assembly may authorise the publication of a document relating to proceedings in Parliament. (2) A committee may authorise publication of – (a) evidence given before the committee; or (b) a document presented or submitted to the committee; or (c) a document (including a report) prepared or made by the committee.

APPENDIX K

Section 66 of the *Crime and Misconduct Act 2001*

Division 3 Confidential information

66 Maintaining confidentiality of information

- (1) Despite any other provision of this Act about reporting, if the commission considers that confidentiality should be strictly maintained in relation to information in its possession (*confidential information*)—
 - (a) the commission need not make a report on the matter to which the information is relevant; or
 - (b) if the commission makes a report on the matter, it need not disclose the confidential information or refer to it in the report.
- (2) If the commission decides not to make a report to which confidential information is relevant or, in a report, decides not to disclose or refer to confidential information, the commission—
 - (a) may disclose the confidential information in a separate document to be given to—
 - (i) the Speaker; and
 - (ii) the Minister; and

- (b) must disclose the confidential information in a separate document to be given to the parliamentary committee.
- (3) A member of the parliamentary committee or a person appointed, engaged or assigned to help the committee must not disclose confidential information disclosed to the parliamentary committee or person under subsection (2)(b) until the commission advises the committee there is no longer a need to strictly maintain confidentiality in relation to the information.

Maximum penalty—85 penalty units or 1 year's imprisonment.

- (4) Despite subsection (2)(b), the commission may refuse to disclose information to the parliamentary committee if—
 - (a) a majority of the commissioners considers confidentiality should continue to be strictly maintained in relation to the information; and
 - (b) the commission gives the committee reasons for the decision in as much detail as possible.

APPENDIX L

Section 1043A of the *Corporations Act*



Commonwealth Consolidated Acts

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CORPORATIONS ACT 2001 - SECT 1043A

Prohibited conduct by person in possession of inside information

(1) Subject to this Subdivision, if:

(a) a person (the *insider*) possesses inside information; and

(b) the insider knows, or ought reasonably to know, that the matters specified in paragraphs (a) and (b) of the definition of *inside information* in section 1042A are satisfied in relation to the information;

the insider must not (whether as principal or agent):

(c) apply for, acquire, or dispose of, relevant Division 3 financial products, or enter into an agreement to apply for, acquire, or dispose of, relevant Division 3 financial products; or

(d) procure another person to apply for, acquire, or dispose of, relevant Division 3 financial products, or enter into an agreement to apply for, acquire, or dispose of, relevant Division 3 financial products.

Note 1: Failure to comply with this subsection is an offence (see subsection 1311(1)). For defences to a prosecution based on this subsection, see section 1043M.

Note 2: This subsection is also a civil penalty provision (see section 1317E). For relief from liability to a civil penalty relating to this subsection, see sections 1043N and 1317S.

(2) Subject to this Subdivision, if:

(a) a person (the *insider*) possesses inside information; and

(b) the insider knows, or ought reasonably to know, that the matters specified in paragraphs (a) and (b) of the definition of *inside information* in section 1042A are satisfied in relation to the information; and

(c) relevant Division 3 financial products are able to be traded on a financial market operated in this jurisdiction;

the insider must not, directly or indirectly, communicate the information, or cause the information to be communicated, to another person if the insider knows, or ought reasonably to know, that the other person would or would be likely to:

(d) apply for, acquire, or dispose of, relevant Division 3 financial products, or enter into an agreement to apply for, acquire, or dispose of, relevant Division 3 financial products; or

(e) procure another person to apply for, acquire, or dispose of, relevant Division 3 financial products, or enter into an agreement to apply for, acquire, or dispose of, relevant Division 3 financial products.

financial products.

Note 1: Failure to comply with this subsection is an offence (see subsection 1311(1)). For defences to a prosecution based on this subsection, see section 1043M.

Note 2: This subsection is also a civil penalty provision (see section 1317E). For relief from liability to a civil penalty relating to this subsection, see sections 1043N and 1317S.

(3) For the purposes of the application of the *Criminal Code* in relation to an offence based on subsection (1) or (2):

(a) paragraph (1)(a) is a physical element, the fault element for which is as specified in paragraph (1)(b); and

(b) paragraph (2)(a) is a physical element, the fault element for which is as specified in paragraph (2)(b).

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APPENDIX M

Schedule 5 of the Standing Orders

SCHEDULE 5 – GUIDELINES FOR THE PROTECTION OF WHISTLEBLOWERS

- (1) These guidelines apply when there is a public interest disclosure to a member pursuant to the *Whistleblower Protection Act 1994*.
- (2) These guidelines seek to provide guidance to a member who receives and acts upon a public interest disclosure about whether a member should or should not reveal the disclosure in a parliamentary proceeding.
- (3) Compliance with these guidelines is not mandatory, and a breach of these guidelines is not a breach of privilege or a contempt, but members are called upon to adhere to these guidelines so as to ensure public interest disclosures are properly investigated, that those making disclosures are protected and that no person's reputation is unnecessarily damaged before the investigation of the allegations has been finalised.
- (4) In general, members should exercise care to avoid saying anything inside the House about a public interest disclosure to a member which:
 - (a) could lead to the unnecessary identification of persons who have made public interest disclosures (unless such persons have consented to the disclosure of their identity);
 - (b) could cause unnecessary damage to any person's reputation before allegations have been appropriately investigated; and
 - (c) may jeopardise the investigation of a public interest disclosure by the appropriate entities.
- (5) If a public interest disclosure is received by any member of the Legislative Assembly and the member refers that disclosure to an appropriate entity to investigate the disclosure in accordance with s.28A of the *Whistleblower Protection Act 1994*, members should avoid disclosing the substance of the disclosure or the referral in any public parliamentary proceedings, unless:
 - (a) after inquiry with an appropriate entity in accordance with s.32 of the *Whistleblower Protection Act 1994*, a member is not satisfied that the matter is being investigated or otherwise resolved; or
 - (b) the disclosure has referred to an appropriate entity, but a member has a reasonable belief that further disclosure in a parliamentary proceeding is justified to prevent harm to any person; or
 - (c) the disclosure has been referred to an appropriate entity, but a member decides to also bring the disclosure to the attention of a committee of the House that has responsibility for the area about which the matter relates.
- (6) In these guidelines "appropriate entity" and "public interest disclosure" have the same meaning as in the *Whistleblower Protection Act 1994*.

APPENDIX N

Guidelines for the use of the Legislative Assembly crest and other insignia

**GUIDELINES FOR THE USE OF THE LEGISLATIVE ASSEMBLY CREST, EMBLEMS AND OTHER
INSIGNIA**

- (1) The Legislative Assembly's crest, emblems and other insignia may be used for:
 - letterhead, business cards and other stationery by Members, committees and staff of the Parliamentary Service;
 - advertisements by Members relating to their constituency role, and by committees of the Parliament;
 - internet websites maintained by Members to aid in the discharge of their constituency role;
 - committee reports and papers, publications by the Parliamentary Library and other parliamentary publications; and
 - any other purpose approved by the Speaker.
- (2) The Legislative Assembly's crest, emblems and other insignia of the Parliament must not be used:
 - where there is a risk that their use might wrongly be regarded or represented as having the authority of the Legislative Assembly;
 - on materials or publications which are created and published for overtly political purposes or which contain political advertising (for example, a newsletter containing political advertising); or
 - for any other purpose which may have the effect of bringing the House into odium, contempt or ridicule, or which may compromise the integrity of the Parliament; and
- (3) In determining whether the use of the crest is in accordance with these guidelines, the source of the funding for a publication is irrelevant.

APPENDIX O

Part 7 of the *Electoral Act 1992*

Part 7 Electoral funding and financial disclosure

126A Purposes of part

- (1) The purposes of this part are to provide for—
 - (a) electoral funding for registered political parties and candidates other than candidates endorsed by registered political parties; and
 - (b) financial disclosure by registered political parties for elections and, on a 6 monthly basis, by candidates for elections and by entities involved with the electoral process.
- (2) However, many of the persons who will be affected by this part receive election funding or are required to disclose financial matters under the Commonwealth Electoral Act, part XX.
- (3) To reduce the administrative burden on these persons, the law of the State about these matters is based on the Commonwealth Electoral Act.

126B Law about electoral funding and financial disclosure

- (1) The schedule provides the law about electoral funding and financial disclosure.
- (2) The schedule is based on the Commonwealth Electoral Act, part XX, and, for that reason, uses the same numbering as the Commonwealth Electoral Act.
- (3) Changes to the text of the Commonwealth Electoral Act in the schedule have been made, or are noted, in italics.
- (4) Following the introduction into the Senate of the Parliament of the Commonwealth of the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008* (the ***Commonwealth Bill***), amendments of the schedule have been made based on proposed amendments of the Commonwealth Electoral Act by the Commonwealth Bill.

[s 126C]

- (5) Amendments of the schedule based on the Commonwealth Bill are identified by editor's notes.
- (6) The schedule is not a mere adoption or application of the Commonwealth Electoral Act.

Example—

A reference in the schedule to regulations is a reference to regulations made under this Act.

126C Regulations for part

In the schedule, a reference to a prescribed amount or prescribed time that is followed by an amount or time in brackets is to be read as providing that the amount or time may be prescribed under the regulations but, if the regulations do not prescribe the amount or time, the amount or time in brackets applies.

Example—

The schedule, section 305(1)(b) provides—

'(b) the amount or value of each of which is equal to or *is more than the prescribed amount (\$1000)*'.

The amount may be prescribed under the regulations. However, if no regulation is made for the schedule, section 305(1)(b), the paragraph is to be read as 'equal to or *is more than \$1000*'.

126D References in the schedule to electoral commission

In the schedule, a reference to the electoral commission is to be read as a reference to the Electoral Commission of Queensland.

Editor's note—

This change has not been made textually to the schedule because the reference appears frequently and the textual change may be disruptive to a user of the legislation.

APPENDIX P

Section 64 of the *Parliament of Queensland Act 2001*

Chapter 4 Candidates and members

Part 1 Qualifications

64 Qualifications to be a candidate and be elected a member

- (1) A person may be nominated as a candidate for election, and may be elected, as a member of the Assembly for an electoral district only if the person is—
 - (a) an adult Australian citizen living in Queensland; and
 - (b) enrolled on an electoral roll for the electoral district or another electoral district; and
 - (c) not a disqualified person under subsection (2) or (3).
- (2) A person is a disqualified person if the person—
 - (a) is subject to a term of imprisonment or detention, periodic or otherwise; or
 - (b) within 2 years before the day of nomination, has been convicted of an offence against the law of Queensland, another State or the Commonwealth and sentenced to more than 1 year's imprisonment; or
 - (c) has been convicted within 7 years before the day of nomination of an offence against the Criminal Code, section 59 or 60; or
 - (d) has been convicted within 10 years before the day of nomination of a disqualifying electoral offence; or

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- (e) has been convicted, and not pardoned, of treason, sedition or sabotage under the law of Queensland, another State or the Commonwealth; or
 - (f) is an undischarged bankrupt under the *Bankruptcy Act 1966* (Cwlth), or a corresponding law of another jurisdiction; or
 - (g) has executed a deed of arrangement as debtor under the *Bankruptcy Act 1966* (Cwlth), part X, or a corresponding law of another jurisdiction, and the terms of the deed have not been fully complied with; or
 - (h) has creditors who have accepted a composition under the *Bankruptcy Act 1966* (Cwlth), part X, or a corresponding law of another jurisdiction, and a final payment has not been made under that composition; or
 - (i) is not entitled to be a candidate for election, or to be elected as a member of the Assembly, under another law.
- (3) Also, the following persons are disqualified persons—
- (a) the Governor-General, Administrator or head of government of the Commonwealth or the Governor, Administrator or head of government of a State;
 - (b) the holder of a judicial office of any jurisdiction of a State or the Commonwealth.
- (4) For subsection (2)(a), the circumstances in which a person is subject to a term of imprisonment or detention—
- (a) include circumstances in which the person is released from the term of imprisonment or detention on parole, leave of absence or otherwise without being discharged from all liability to serve all or part of the term; but
 - (b) do not include circumstances in which a person is subject to a term of imprisonment but is at liberty because the term of imprisonment has been suspended.
- (5) For subsection (2)(b), the following apply—

[s 65]

- (a) if the sentence of imprisonment is suspended, the provision does not apply;
 - (b) however, if the person is ordered at any time to actually serve more than 1 year of the suspended term of imprisonment, the provision applies.
- (6) In this section—
- disqualifying electoral offence*** means—
- (a) a disqualifying electoral offence within the meaning of the *Electoral Act 1992*, section 3; or
 - (b) an offence that would be a disqualifying electoral offence within the meaning of the *Electoral Act 1992*, except that offender was convicted of the offence before the commencement of the *Electoral and Other Acts Amendment Act 2002*.

APPENDIX Q

Code of Conduct for Election Candidates

CODE OF CONDUCT FOR ELECTION CANDIDATES

The purpose of the Code is:

- (a) To maintain public confidence in the electoral process by promoting conditions conducive to the conduct of free and fair elections; and*
- (b) To provide general guidance to candidates on what is fair and reasonable conduct in elections, thereby ensuring candidates know what is required of them.*

The code applies to all candidates for state elections (independents and candidates endorsed by parties).

A “candidate” is any person who is publicly identified as a candidate in a state election, either by the candidate’s party, or through the actions of the person in the case of independent candidates. The Code applies to candidates who are so publicly identified before they are formally nominated as a candidate under the Electoral Act 1992.

The Code binds candidates personally, and not their agents. Candidates are expected to make all reasonable efforts to ensure their campaign workers are aware of and observe the standards of conduct set by the Code, and of the public interest in free and fair elections.

How election candidates shall conduct themselves.

Candidates shall conduct themselves and their campaigns so as to maintain and strengthen the public’s trust and confidence in the democratic election process, and promote integrity in our electoral system.

Candidates conduct should be fair and reasonable. This requires that a candidate will:

- (a) Act honestly in making representations about the candidate’s own claims for election, and their intention to represent the electorate.*
- (b) Refrain from knowingly acting dishonestly in making representations about the claims of other candidates for election.*
- (c) Avoid making public statements which the candidate knows, or ought to know, are untrue, about an opponent’s personal affairs.*
- (d) Avoid making vexatious complaints to the Crime and Misconduct Commission against an opponent during a campaign.*
- (e) Avoid conduct which is contrary to state or Commonwealth law including but not limited to:*
 - Racial and religious vilification offences under the Anti-Discrimination Act 1991;*
 - Official misconduct under the Crime and Misconduct Act 2001;*
 - Criminal Code offences; and*
 - Electoral Act 1992 offences.*
- (f) Avoid conduct which would tend to compromise a free and fair election process.*
- (g) Avoid conflicts of interest arising from advocating election policies or proposals which would specifically deliver a private pecuniary benefit to the candidate and, if the candidate is not a Member of Parliament who has already lodged a pecuniary interests declaration on the Parliamentary Members’ Register of Interests, furnish to the Electoral Commissioner a declaration of the candidate’s pecuniary interests.*

The Code is voluntary, with the exception of (e) above, but candidates who do not follow it will risk disfavour in the electorate because they have not followed the Code.

APPENDIX R

Chapter 40 of the Standing Orders – Procedures for Raising and Considering Complaints

CHAPTER 40 PROCEDURES FOR RAISING AND CONSIDERING COMPLAINTS

267. A matter suddenly arising

A matter suddenly arising may be raised by a member at any time in the House under SO 248.

268. Committee reports and Speaker's initiative

(1) A committee of the House may report that a matter involving its proceedings has arisen and recommend that the matter be referred to the ethics committee, in which case the matter stands referred to the ethics committee.

(2) The Speaker may draw the attention of the House to a matter and recommend that the matter be referred to the ethics committee, in which case the matter stands referred to the ethics committee.

269. Procedure for other matters

(1) In circumstances other than outlined in SO 267 and SO 268, the procedure in this Standing Order shall be followed.

(2) A member should write to the Speaker at the earliest opportunity stating the matter and requesting that the matter be referred to the ethics committee.

(3) A member must formulate as precisely as possible the matter, and where a contempt is alleged, enough particulars so as to give any person against whom it is made a full opportunity to respond to the allegation.

(4) In considering whether the matter should be referred to the committee, the Speaker shall take account of the degree of importance of the matter which has been raised and whether an adequate apology or explanation has been made in respect of the matter. No matter should be referred to the ethics committee if the matter is technical or trivial and does not warrant the further attention of the House.

(5) The Speaker in considering the matter may request further information from the complainant, the person the subject of the allegations or any other person.

(6) The Speaker is to inform the House either:

(a) that the matter stands referred to the ethics committee; or

(b) that no matter arises or that it is technical, trivial or vexatious and the Speaker is not going to refer the matter to the ethics committee.

(7) If the Speaker makes a determination in accordance with 6(b) and informs the House, a member may immediately move that the matter be referred to the ethics committee.

(8) If a motion is moved in accordance with (7), the Speaker must put the question immediately without amendment or debate.

270. Procedures of the ethics committee

(1) Where a matter is referred to it, the committee:

(a) may summarily dispose of the matter if it believes it is trivial, technical or vexatious or does not warrant further attention by the committee; or

(b) shall, if the matter is not disposed of under (a), request any person the subject of complaint in the matter to provide a written explanation of any allegations contained in the complaint; and

(c) shall, if the person the subject of complaint disputes the allegation:

(i) give the person the opportunity to be heard; and

- (ii) give any persons that the person nominates the opportunity to be heard; and
 - (d) may obtain information from such other persons, and make such inquiries, as it thinks fit.
- (2) The ethics committee shall hear any evidence in a private hearing, unless the ethics committee determines that it is in the public interest to hold the hearing in public.
- (3) Witnesses shall be heard by the ethics committee on oath or affirmation.
- (4) The ethics committee must make a report to the House in respect of any matter referred to it, if any person concerned:
- (a) disputes the allegation the subject of the complaint in the matter – on completion of its consideration of the complaint;
 - (b) confirms the allegation the subject of the complaint – on receiving notice to that effect;
 - (c) does not, within a reasonable period, respond to a request given to them under (1)(b) – on the expiration of the period.
- (5) The ethics committee must, with the report, recommend the action that should be taken.
- (6) The ethics committee must not, in any report, make a finding that is adverse to any person unless it has given the person:
- (a) full particulars of the complaint; and
 - (b) the opportunity to be heard in relation to the complaint.

271. Restriction on debating matter in the House

A matter referred to the ethics committee must not be debated in the House until such time as the ethics committee has reported on the matter if, in the opinion of the Speaker, such debate could prejudice the matter.

272. Impartiality and conflicts of interest

- (1) Any member of the ethics committee who is directly concerned in a matter referred to the ethics committee or who has made any statements in the House revealing a prior judgement in the matter shall not be involved in any consideration of that matter.
- (2) The Speaker shall appoint another member to replace a member who has stood down in accordance with (1) and shall notify the ethics committee in writing.
- (3) A member who is stood down is replaced for the duration of that inquiry.
- (4) Before appointing a replacement member, the Speaker may consult with the Leader of the House and the Leader of the Opposition regarding the member to be appointed.
- (5) The appointment in (2) is effective from when the appointment in writing is communicated to the ethics committee.

273. Other offences disclosed

Where a matter that is referred to the ethics committee discloses a possible criminal offence, or it appears to be a matter more appropriately investigated by another agency, the ethics committee may refer the matter to the Director of Public Prosecutions, the Queensland Police Service, the Crime and Misconduct Commission or other appropriate agency.