



LEGISLATIVE ASSEMBLY (REGISTER OF MEMBERS' INTERESTS) ACT 2004

Act No. 24 of 2004

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Legislative Assembly (Register of Members' Interests) Act 2004

Act No. 24 of 2004

An Act relating to the establishment and maintenance of a register of interests of members of the Legislative Assembly, and for related purposes

[Assented to 18 November 2004]

PART I — PRELIMINARY

Short title

1. This Act may be cited as the *Legislative Assembly (Register of Members' Interests) Act 2004*.

Commencement

2. (1) Sections 1, 2, 3 and 13 of this Act commence on the day on which notification of assent to this Act is published in the Gazette.

(2) The remaining provisions commence on a date to be fixed by the Administrator by notice in the Gazette.

Definitions

- 3.** In this Act, unless the contrary intention appears —
- “Assembly” means the Legislative Assembly;
 - “Clerk” means the Clerk to the Legislative Assembly;
 - “Crown Counsel” means the public sector employee for the time being who is the principal provider of legal advice to the Administration;
 - “family”, in relation to a member, means —
 - (a) the spouse of that member; and
 - (b) the children of that member who are wholly or

mainly dependent on him for support;

“financial benefit” means —

- (a) the remuneration, fee or other pecuniary sum exceeding \$500 received by a member in respect of a contract of service entered into, or paid office held, by him; and
- (b) the total of all remuneration, fees or other pecuniary sums received by a member in respect of any trade, profession or vocation engaged in by the member where the total exceeds \$500; and
- (c) the total of all remuneration, fees or other pecuniary sums received from other sources or to which the member may become entitled in the 12 months next following the date of making a return,

other than remuneration received by the member determined in accordance with paragraph 8(1)(c) of the *Public Sector Remuneration Tribunal Act 1992*;

“income source” means —

- (a) a person or body of persons with whom a member entered into a contract of service, or held a paid office;
or
- (b) a trade, profession or vocation engaged in by a member;

“member” means a member of the Legislative Assembly;

“Register” means the Register of Interests established under section 6;

“remuneration” includes payment in kind;

“return” means a return in a form approved in accordance with section 6;

“return period” means the period of time between the making of successive returns;

“spouse”, in relation to a member, means a person, whether or not legally married to the member, who is living with the member as his or her spouse on a bona fide domestic basis and whether or not of the same sex.

PART 2 — CODE OF CONDUCT

Code of conduct for members

4. It is hereby declared that a member of the Assembly is bound by the following code of conduct —

- (a) members shall —
 - (i) accept that their prime responsibility is to the performance of their public duty and therefore ensure that this aim is not endangered or subordinated by involvement in conflicting private interests;
 - (ii) ensure that their conduct as members must not be such as to bring discredit upon the Assembly;
- (b) members shall not advance their private interests by use of confidential information gained in the performance of their public duty;
- (c) members shall not receive any fee, payment, retainer or reward, nor shall they permit any compensation to accrue to their beneficial interest for or on account of, or as a result of the use of, their position as a member;
- (d) members shall make full disclosure to the Assembly of —
 - (i) any direct pecuniary interest that they have;
 - (ii) the name of any trade or professional organisation of which they are a member which has an interest;
 - (iii) any other material interest whether of a pecuniary nature or not that they have —in or in relation to any matter upon which they speak in the Assembly;
- (e) members who are executive members shall perform their public duty without fear or favour and in such manner as to ensure that neither they nor their family materially benefit from the exercise of their public duties;
- (f) members who are executive members are expected to devote their time and their talents to the carrying out of their public duties.

PART 3 — DISCLOSURE OF MEMBERS' INTERESTS

Return to be submitted to Clerk

5. (1) Every member shall on 30 June in each year or within 30 days thereafter, submit to the Clerk an ordinary return.

(2) A person who is elected (other than re-elected) as a member shall, within 30 days after making and subscribing the oath or affirmation as required by section 32 of the *Norfolk Island Act 1979* submit to the Clerk a primary return.

(3) In subsection 5(2) a person who is re-elected does not include a person who was a member immediately before the commencement of this Act

(4) This subsection and subsection 5(3) expire on January 1 2005.

Form of returns

6. (1) A primary return required by this Part shall be in the prescribed form and shall contain —

- (a) a statement of all income sources that the member has or expects to have in the period commencing on the date of the return until 30 June next following;
- (b) the name of each company or other body in which on the date of the primary return the member held any office of any kind;
- (c) the information as at the date of the primary return referred to in paragraphs (2)(c), (d), (e) and (h).

(2) An ordinary return required by this Part shall be in the prescribed form and shall contain —

- (a) where the member receives or is entitled to receive a financial benefit during any part of the return period - a statement of the income source of the financial benefit;
- (b) where the member holds or has held an office whether as director or otherwise in any company or other body, corporate or unincorporate, during the return period - the name of such company or other body;

- (c) the name and description of each company, partnership, association or other body in which the member holds or held during the return period, a beneficial interest which exceeds \$500;
- (d) a concise description of each trust in which the member or the member's family holds or held during the return period, a beneficial interest;
- (e) the address and description of all land in which the member has a beneficial interest other than by way of security for any debt;
- (f) the source of all significant contributions made in cash or otherwise (other than a contribution by the Administration or a statutory authority of Norfolk Island) to any travel beyond the limits of Norfolk Island undertaken by the member during the return period;
- (g) particulars of all gifts of or above, or in total of or above, the amount or value of \$500 received by the member during the return period from a person other than a person related to the member or the member's spouse;
- (h) any other substantial interest of the member or of the member's family of which the member has knowledge, whether of a pecuniary nature or otherwise, and which the member considers might appear to raise a conflict between their private interest and their public duty as a member.

(3) When a member is required to lodge an amended return under section 8, the amended return shall be in the prescribed form.

(4) Nothing in this section shall require a member to disclose the amount of a financial benefit entered in the Register in relation to the member or the member's family.

Register of Interests

7. (1) The Clerk shall maintain a Register of Interests and shall cause to be entered therein, as soon as practicable after the Clerk receives it, all information submitted pursuant to section 5.

(2) The Register shall be in a form approved by the Speaker and may consist of the returns submitted pursuant to section 5.

Change in information in Register

8. (1) A member shall, within 30 days of any change

occurring in relation to information in respect of the member or the member's family contained in the Register, submit to the Clerk an amended return.

(2) Where the Clerk receives an amended return the Clerk shall amend the Register accordingly.

Inspection of Register

9. (1) A person may, during the normal business hours of the office of the Clerk and at an appointed time, inspect the entries made in the Register in relation to a particular member and his or her family after first providing to the Clerk the person's name and address.

(2) The Clerk shall cause to be recorded in the Register, in such manner as the Clerk thinks fit but so that the information is readily available to any other person who later inspects the relevant entries, the name and address of each person who has inspected those entries and the date on which the inspection was made.

(3) A person inspecting an entry in the Register shall not provide to the Clerk as his or her name a name other than his or her full and correct name, or as his or her address an address other than his or her correct residential address.

Penalty: 5 penalty units.

Restriction on publication

10. A person shall not publish or comment on information contained in the Register unless the information published constitutes a fair and accurate summary, or the comment is a fair comment, and it is published or made, without malice, in the public interest.

Penalty: 10 penalty units.

PART 4 — MISCELLANEOUS

Failure to comply with Act

11. (1) Any member of the Assembly or member of the public who wishes to make a complaint about a member's contravention or alleged contravention of this Act must —

- (a) put the complaint in writing in their own name; and
- (b) provide such support of the allegation as may be reasonably required to satisfy the Committee of Privileges that the complaint is one of substance;
- (c) address the complaint to the Speaker, unless the Speaker is

the person complained of, in which case it shall be addressed to the Deputy Speaker;

- (d) deliver the complaint to the Clerk of the Assembly who shall duly record its receipt and deliver a copy thereof to the Speaker or Deputy Speaker; and
- (e) the Speaker, or Deputy Speaker, shall if satisfied that the complaint is one that appears to be bona fide, complains of a matter that if true would be a breach of a provision of this Act, and provides sufficient information to indicate that it is a complaint of substance capable of being investigated, forthwith upon its receipt refer the complaint to the Committee of Privileges of the Assembly;

but if the Speaker, or Deputy Speaker is not so satisfied, or if the matter is one that appears to be such that it is capable of being, or ought to be, determined by a court or tribunal before being considered by the Committee of Privileges, the Speaker or Deputy Speaker shall so advise the person making the complaint.

(2) The Committee of Privileges in receiving and hearing a complaint shall be constituted in accordance with Standing Orders of the Assembly but must not include more than one executive member or the person the subject of the complaint.

(3) If a provision of the Standing Orders of the Assembly is in conflict, or is inconsistent, with a provision of this Act the provision of this Act shall prevail.

Procedure before the Committee of Privileges

12. (1) Upon receipt of a complaint the Committee of Privileges shall —

- (a) within 7 days consider the matters complained of and if it is satisfied —
 - (i) that the complaint is not merely a report taken from the media without further substantiation;
 - (ii) that the person making the complaint is a real person who did in fact make the complaint; and

- (iii) that there is sufficient evidence tendered in support of the complaint to justify it taking the matter further

then it shall within 14 days —

- (b) so inform the member involved;
- (c) commence an inquiry into the matters stated in the complaint; and
- (d) report to the Speaker an inquiry is under way but shall not make any reference to any party or the nature of the complaint and the Speaker shall at the next meeting of the Assembly so inform the Assembly.

(2) From the commencement of its inquiry into a complaint against a member, the Committee of Privileges is required to —

- (a) provide the member with details of the complaint;
- (b) invite the member to respond to the complaint and to issues that arise during the inquiry;
- (c) invite the member to address the Committee on issues raised by the inquiry before the Committee completes its deliberations and prepares its report for the Assembly.

(3) The Committee of Privileges has all the powers necessary as a Committee of the Assembly to send for, obtain, and subpoena, papers and persons to be produced to or appear before it, including papers held by members, other than the member concerned, that relate to the matters complained of and generally as provided by the *Legislative Assembly Privileges Act 1987*.

(4) If the Committee of Privileges at any time during its inquiry or deliberation reaches a conclusion that the member concerned has or may have committed an offence other than only an offence created by this Act, it must cease further deliberation and forward all of the information and records obtained by it, other than any statements made by the member or any other member to the Committee, to Crown Counsel for consideration and determination of whether charges should be laid.

(5) The Committee of Privileges must refer a complaint to Crown Counsel if it appears from the complaint or its inquiries that the member concerned has taken or agreed to take, directly or indirectly, any remuneration, allowance, honorarium or reward for services rendered in the Assembly, otherwise than in accordance with section 65 of the *Norfolk*

Island Act 1979.

(6) Crown Counsel may —

- (a) make further inquiries; and
- (b) commence such proceedings as are considered appropriate; or
- (c) if the information presented for consideration or any subsequent inquiry appear insufficient to justify the commencement of proceedings refer the complaint back to the Committee of Privileges to complete its deliberations.

(7) Unless the Assembly grants an extension of time, the Committee of Privileges must within 60 days of the receipt of a complaint complete its inquiries and report to the Assembly as to —

- (a) its findings; and
- (b) its recommendations.

(8) If the Committee of Privileges reports that the complaint was justified it shall recommend to the Assembly what action it considers to be appropriate in the circumstance.

(9) The action or actions that may be recommended to and may be applied by the Assembly are —

- (a) reprimand;
- (b) if the Committee considers that the complaint constitutes a serious contempt of the Assembly, suspension from the Assembly for a period not exceeding 6 months; and/or
- (c) if the member is an executive member, advice to the Administrator that the member be removed from executive office; and /or
- (d) fine of an amount not exceeding 50 penalty units.

(10) The Assembly must, not later than 2 sitting days after presentation of the report of the Committee of Privileges resolve to —

- (a) accept, or
- (b) reject,
the report and —
- (c) if it accepts the report - resolve what action under subsection (9) to apply; or

- (d) if it rejects the report - state in a resolution its reasons for so doing.

(11) The Speaker must no later than 30 September each year prepare and submit a report to the Assembly —

- (a) stating how many complaints under this Act have been received by the Speaker or Deputy Speaker and the Committee of Privileges in the 12 months to the preceding 30 June;
- (b) categorising the complaints;
- (c) stating how many complaints were referred to the Committee and of those how many proceeded to an inquiry;
- (d) of the complaints that were —
 - (i) not referred to the Committee; and
 - (ii) were referred to the Committee but did not proceed to an inquirystating the reasons therefore;
- (e) of the complaints that did proceed to an inquiry, stating what were the findings of the Committee and the recommendations made to the Assembly; and
- (f) stating the number of complaints that were referred to the Crown Counsel and whether any were returned to the Committee for further deliberation.

Regulations

13. The Administrator may make Regulations prescribing any matters or things authorised or required or necessary to be prescribed under this Act.

Notified Gazette No. 58, 3 December 2004.

Sections No. 1, 2, 3 and 13 commenced on gazettal (3 December 2004). The remaining provisions commenced on 24 June 2005, a date fixed by the Administrator by notice in the Gazette (No. 30, 24 June 2005).

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