

**White, Alex**

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**From:** Bennett, Ebony (Sen B. Brown)  
**Sent:** Wednesday, 16 April 2008 10:54 AM  
**To:** Lobbyists Register  
**Subject:** Submission from Senator Bob Brown  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed  
**Attachments:** Lobbying submission.pdf; Lobbying and Ministerial Accountability Bill 2007.pdf

Dear Secretary,

Please find attached, a copy of Senator Bob Brown's submission regarding the Lobbying Code of Conduct, as well as a copy of the Lobbying and Ministerial Accountability Bill 2007

Kind regards,  
Ebony Bennett

<<Lobbying submission.pdf>> <<Lobbying and Ministerial Accountability Bill 2007.pdf>>

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*Visit Bob's new myspace site at:*  
**[www.myspace.com/bobbrowngreens](http://www.myspace.com/bobbrowngreens)**

Wednesday, April 16, 2008

The Secretary  
Department of the Prime Minister and Cabinet  
PO Box 6500  
CANBERRA ACT 2600

Dear Secretary,

I would like to make a submission in relation to the Government's proposed Lobbying Code of Conduct.

Improving transparency and accountability in the interaction between lobbyists and members of parliament is something I have been working to promote for a long time.

Last year, I introduced a private member's bill, *Lobbying and Ministerial Accountability Bill 2007* which:

- Requires lobbyists to file a return of lobbying activity at the end of each month, including who they met and the purpose of the meeting;
- Covers law firms, public relations companies and former politicians as well as professional lobbyists
- Applies to all senators and members

The bill is attached to this submission for your consideration.

Yours sincerely,

Bob Brown

A handwritten signature in black ink, appearing to read 'Bob Brown', with a stylized flourish at the end.

Leader of the Australia Greens  
Senator for Tasmania

It is my strong view that in order for the Code to be effective it must:

- 1. Apply to all Members and Senators.**  
This will be especially important as of 1 July 2008, when the minor parties and independents will be sharing the balance of power with the major parties in the Senate. At that stage, it will be more important than ever that lobbying efforts are disclosed to the public
- 2. Be enacted as legislation and have a much wider scope.**  
A voluntary Code of Conduct is not enforceable.
- 3. Require lobbyists to regularly file a return of lobbying activity at the end of each month, including who they met and the purpose of the meeting.**  
This would allow for more immediate public scrutiny of lobbying behaviour than the proposal currently provides for.
- 4. Incorporate a broad definition of 'lobbyist' which includes law firms, public relations companies and former politicians, as well as professional lobbyists.**
- 5. Set out explicit rules governing the conduct of Minister and Ministerial Advisors, including upon ceasing to be a Minister.**
- 6. Empower the Australian Crime Commission to investigate lobbying activity.**  
In particular, the ACC should be able to investigate whether a lobbyist has, in the course of any lobbying activity:
  - Adequately disclosed in their quarterly lobbying Return the person on whose behalf the lobbying activity was being conducted; or
  - Provided accurate and factual information in their quarterly lobbying return; or
  - Been accorded any unfairly preferential or discriminatory treatment by the relevant public official; or
  - Attempted to apply any improper influence on the relevant public officer; or
  - Represented competing or conflicting interests without the consent of those whose interests were involved.

2004-2005-2006-2007

The Parliament of the  
Commonwealth of Australia

THE SENATE

*Presented and read a first time*

## **Lobbying and Ministerial Accountability Bill 2007**

**No.     , 2007**

*(Senator B Brown)*

**A Bill for an Act to provide for the disclosure of lobbying activities intended to inform and influence members of Parliament and ministers, to make unlawful the holding and trading of shares by ministers, to regulate the post-ministerial employment of ministers and ministerial advisers, and for related purposes**





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1     **A Bill for an Act to provide for the disclosure of**  
2     **lobbying activities intended to inform and influence**  
3     **members of Parliament and ministers, to make**  
4     **unlawful the holding and trading of shares by**  
5     **ministers, to regulate the post-ministerial**  
6     **employment of ministers and ministerial advisers,**  
7     **and for related purposes**

8     The Parliament of Australia enacts:

9     **Part 1—Preliminary**  
10

11     **1 Short title**

12                     This Act may be cited as the *Lobbying and Ministerial*  
13                     *Accountability Act 2007*.



1       **2 Commencement**

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

4       **3 Objects of the Act**

5                   The objects of this Act are to enhance public confidence in the  
6                   integrity of public office holders and the decision-making process  
7                   in government by:

- 8                   (a) requiring ministers to divest themselves of all shares or move  
9                   them to a blind trust within 28 days of becoming a minister;  
10                  and  
11                  (b) requiring the public registration and regulation of lobbyists;  
12                  and  
13                  (c) placing limits on the post-separation employment of:  
14                      (i) ministers for up to two years after leaving Parliament;  
15                      and  
16                      (ii) ministerial advisers for up to two years after ceasing to  
17                      be employed as a ministerial adviser.

18       **4 Simplified outline of Act**

19                  The following is a simplified outline of this Act:

- 20                  (a) Part 2 provides for the disclosure of lobbying activities  
21                  intended to inform and influence ministers and members of  
22                  Parliament and public servants;  
23                  (b) Part 3 provides for the control over shares and other  
24                  securities and trading in them by ministers;  
25                  (c) Part 4 provides for post-separation restrictions on the  
26                  employment of ministers and ministerial advisers.

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## 2 **Part 2—Lobbying**

### 3 **Division 1—Simplified outline of this Part**

#### 4 **5 Simplified outline of this Part**

5 The following is a simplified outline of this Part:

6 This Part provides for effective controls over those lobbying  
7 activities intended to influence the activities and decisions of  
8 ministers in the course of their ministerial duties and members of  
9 Parliament in the course of their parliamentary activities.

10 This Part does this by:

- 11 (a) defining what lobbying activity is; and
- 12 (b) providing for the disclosure of lobbying activities;  
13 and
- 14 (c) providing for the registration of lobbying activities;  
15 and
- 16 (d) providing for the investigation of offences.

17 This Part is not intended to limit normal political discourse or  
18 representations by a person.

### 19 **Division 2—Lobbying disclosure and accountability**

#### 20 **6 Interpretation**

21 In this Act, unless the contrary intention appears:

22 *agency* has the same meaning as in the *Financial Management and*  
23 *Accountability Act 1997*.

1           **appropriate authority** means a person, body or organisation who or  
2           which is empowered by law to take investigatory or other action  
3           and includes:  
4           (a) a member of the Australian Federal Police; or  
5           (b) the Director of Public Prosecutions; or  
6           (c) the Public Service Commissioner.

7           **Commissioner** means the Public Service Commissioner appointed  
8           under the *Public Service Act 1999*.

9           **consultant lobbyist** has the meaning given by section 12.

10          **Corporations Act** means the *Corporations Act 2001*.

11          **employed lobbyist** has the meaning given by section 9.

12          **judicial proceeding** includes any proceeding had or taken in or  
13          before any court, tribunal or person, in which evidence may be  
14          given on oath.

15          **lobbying activity** has the meaning given by section 7.

16          **lobbyist** means a person who is an employed lobbyist, a consultant  
17          lobbyist or both.

18          **minister** means a minister appointed in accordance with section 64  
19          of the Constitution and includes a parliamentary secretary.

20          **person** includes a body corporate or association or body of  
21          persons, whether incorporated or unincorporated.

22          **public money** has the same meaning as in the *Financial*  
23          *Management and Accountability Act 1997*.

24          **public official** includes:  
25          (a) a minister;  
26          (b) a member of either House of Parliament;  
27          (c) a member of staff within the meaning of the *Members of*  
28          *Parliament (Staff) Act 1984*;  
29          (d) an SES employee within the meaning of the *Public Service*  
30          *Act 1999*;

- 1 (e) an agency head within the meaning of the *Public Service Act*  
2 *1999*;  
3 (f) a head within the meaning of the *Public Service Act 1999*;  
4 (g) the holder of such other office, post or position as is  
5 prescribed.

6 *register* means the register compiled and maintained under  
7 section 15.

8 *related entity* has the same meaning as in the Corporations Act.

9 *remuneration* means any form of payment by way of salary, pay,  
10 allowances, contract or otherwise, in return for the service  
11 rendered.

## 12 **7 Lobbying activity defined**

- 13 (1) For the purposes of this Act, but subject to this section, *lobbying*  
14 *activity* means:  
15 (a) any oral or written communication (including an electronic  
16 communication) with a public official intended to influence:  
17 (i) the development of any legislative proposal by the  
18 Commonwealth Government or by a member of either  
19 House of Parliament; or  
20 (ii) the introduction of any bill in either House of  
21 Parliament or the passage or amendment of any bill that  
22 is before either House of Parliament; or  
23 (iii) the making or amendment of any delegated legislation;  
24 or  
25 (iv) introduction of or change to any Commonwealth  
26 Government policy or programme; or  
27 (v) the exercise of any authority or power conferred under  
28 a written law; or  
29 (vi) the expenditure of public money; and  
30 (b) arranging or attending a meeting between a public official  
31 and any other person.
- 32 (2) Lobbying activity does not include oral or written communication  
33 (including an electronic communication) that is:

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- (a) made by a public official, an agency, or any other person holding office under a written law in his, her or its official capacity; or
  - (b) made on behalf of the government of the Commonwealth or of a State or Territory; or
  - (c) made on behalf of the government of a foreign country; or
  - (d) constituted by any application required or authorised by a written law; or
  - (e) made in response to a written request from a public official acting in his or her official capacity; or
  - (f) made by a representative or employee of a media organisation for the purposes of gathering and disseminating news and information to the public; or
  - (g) made in a speech, article, publication or other material that is distributed and made available to the public, or through radio, television, or other medium of mass communication; or
  - (h) made in a petition to either House of Parliament or in evidence or submissions to a committee of either of those Houses, or a joint committee of both Houses of Parliament; or
  - (i) made in the course of any judicial proceedings.
- (3) Lobbying activity does not include arranging or attending a meeting with a public official:
- (a) that is open to members of the public; or
  - (b) by a representative or employee of a media organisation for the purposes of gathering and disseminating news and information to the public.

**8 Act not to affect personal lobbying activity**

Nothing in this Act is to be interpreted so as to apply to lobbying activity engaged in by a natural person on his or her own behalf.



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## 2 **Division 3—Disclosure of lobbying**

### 3 **Subdivision A—Employed lobbyists**

#### 4 **9 Application of Subdivision A**

5 (1) This Subdivision applies to any natural person (referred to in this  
6 Act as an *employed lobbyist*):

7 (a) who is employed by another person (referred to in this  
8 Division as the *employer*); and

9 (b) whose duties or activities with the employer include lobbying  
10 activity on behalf of:

11 (i) the employer; or

12 (ii) if the employer is a corporation within the meaning of  
13 the Corporations Act—the employer and any related  
14 entity of the employer; or

15 (iii) any profession, business, trade, vocation or calling in  
16 relation to which the employer is a representative body.

17 (2) Without limiting subsection (1), an employee of a trade union  
18 within the meaning of the *Workplace Relations Act 1996* who  
19 engages in lobbying activity is deemed to be an employed lobbyist.

#### 20 **10 Employed lobbyists to lodge returns**

21 (1) An employed lobbyist must, by the last day of a quarter (or such  
22 other time as the Commissioner allows under subsection (4)), lodge  
23 a return with the Commissioner setting out the information referred  
24 to in subsection (3).

25 Penalty: 100 penalty units, and a daily penalty of 10 penalty units  
26 for each day after the relevant time limit that the return  
27 has not been lodged.

28 (2) For the purpose of this section, *quarter* means a period of 3 months  
29 beginning on 1 January, 1 April, 1 July or 1 October.



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- (3) A return lodged in accordance with subsection (1) must set out the following information in relation to all of the lobbying activity carried out by the employed lobbyist in that quarter:
  - (a) the name and business address of the employed lobbyist;
  - (b) the name and business address of the employer;
  - (c) if the employer is a corporation within the meaning of the Corporations Act, the name and business address of any related entity of the employer that, to the knowledge of the employed lobbyist, has a direct interest in the outcome of the employed lobbyist's lobbying activity;
  - (d) any other person that, to the knowledge of the employed lobbyist, has a direct interest in the outcome of the employed lobbyist's lobbying activity;
  - (e) a description in summary form of the employer's business or activities and such other information to identify the nature of the employer's business or activities as is prescribed;
  - (f) a description, in summary form, of the subject matter of the lobbying activity, and such other information regarding the subject matter as is prescribed;
  - (g) particulars to identify any legislative proposal, bill, delegated legislation, policy, programme, authority, power or expenditure to which the lobbying activity related;
  - (h) if the public officials in relation to whom lobbying activity was directed are persons within paragraph (a), (b) or (c) of the definition of *public official*, the names of the public officials;
  - (i) if the public officials in relation to whom lobbying activity was directed are persons within paragraph (d), (e), (f), (g) or (h) of the definition of *public official*, the titles of the public officials;
  - (j) such other information in relation to the lobbying activity as is prescribed.
  
- (4) The Commissioner may, on the application of an employed lobbyist, extend the time within which a quarterly return required by subsection (1) must be lodged by not more than 14 days.
  
- (5) If an employed lobbyist has not engaged in any lobbying activity in a particular quarter, the employed lobbyist must lodge a return

1                   stating that he or she has not engaged in any lobbying activity in  
2                   that quarter.

3                   **11 Commissioner may require further information**

4                   (1) The Commissioner may, by notice in writing served on the  
5                   employed lobbyist, require an employed lobbyist to provide such  
6                   further written information in relation to a return lodged pursuant  
7                   to section 10 as the Commissioner considers is necessary to clarify  
8                   the information set out in that return.

9                   (2) A notice under subsection (1) must:  
10                   (a) be in writing; and  
11                   (b) specify the nature of the further information required; and  
12                   (c) specify a time at or within which the further information is to  
13                   be provided; and  
14                   (d) state that the person receiving the notice is required by this  
15                   Act to comply with the notice.

16                   (3) A person who, without reasonable excuse (proof of which lies on  
17                   him or her), fails to comply with a notice served on the person  
18                   under subsection (1) is guilty of an offence.

19                   Penalty: 100 penalty units, and a daily penalty of 10 penalty units  
20                   for each day after the relevant time limit that the written  
21                   information is not provided.

22                   **Subdivision B—Consultant lobbyists**

23                   **12 Application of Subdivision B**

24                   (1) This Division applies to any natural person (referred to in this Act  
25                   as a *consultant lobbyist*) who, directly or indirectly, receives  
26                   money or other remuneration for engaging in lobbying activity on  
27                   behalf of any other person (referred to in this Division as the  
28                   *client*), other than as an employed lobbyist.

29                   (2) To avoid doubt, a consultant lobbyist need not carry on a business  
30                   of engaging in lobbying activity, or engage in lobbying activity on  
31                   more than one occasion, for this Division to apply to him or her.

- 1 (3) If a person acts as an employed lobbyist and a consultant lobbyist,  
2 that person must comply with both Subdivision A and this  
3 Subdivision.

4 **13 Consultant lobbyists to lodge returns**

- 5 (1) A consultant lobbyist must, by the last day of a quarter (or such  
6 other time as the Commissioner allows under subsection (4)), lodge  
7 a return with the Commissioner setting out the information referred  
8 to in subsection (3).

9 Penalty: 100 penalty units, and a daily penalty of 10 penalty units  
10 for each day after the relevant time limit that the return  
11 has not been lodged.

- 12 (2) For the purposes of this section, *quarter* means a period of 3  
13 months beginning on 1 January, 1 April, 1 July or 1 October.

- 14 (3) A return lodged in accordance with subsection (1) must set out the  
15 following information in relation to each instance of lobbying  
16 activity carried out by the consultant lobbyist in that quarter:

- 17 (a) the name and business address of the consultant lobbyist;  
18 (b) if applicable, the name and business address of any firm,  
19 corporation or other entity through which the consultant  
20 lobbyist carried out the lobbying activity (whether as an  
21 employee or otherwise);  
22 (c) the name and business address of the client and the name and  
23 business address of any person that, to the knowledge of the  
24 consultant lobbyist, controls or directs the activities of the  
25 client and has a direct interest in the outcome of the  
26 consultant lobbyist's lobbying activity;  
27 (d) if the client is a corporation within the meaning of the  
28 Corporations Act, the name and business address of any  
29 related entity of the client that, to the knowledge of the  
30 consultant lobbyist, has a direct interest in the outcome of the  
31 consultant lobbyist's lobbying activity;  
32 (e) particulars to identify the subject matter of the lobbying  
33 activity, and such other information regarding the subject  
34 matter as is prescribed;



- 1 (f) particulars to identify any legislative proposal, bill, delegated  
2 legislation, policy, programme, authority, power or  
3 expenditure to which the lobbying activity related;  
4 (g) the date on which the lobbying activity occurred;  
5 (h) if the public officials in relation to whom the lobbying  
6 activity was directed are persons within paragraph (a), (b) or  
7 (c) of the definition of *public official*, the names of the public  
8 officials;  
9 (i) if the public officials in relation to whom the lobbying  
10 activity was directed are persons within paragraph (d), (e),  
11 (f), (g) or (h) of the definition of *public official*, the titles of  
12 the public officials;  
13 (j) if applicable, whether the money or other remuneration  
14 payable in respect of the lobbying activity is wholly or partly  
15 contingent on the consultant lobbyist's degree of success in  
16 influencing the matters referred to in subparagraphs 7(1)(a)(i)  
17 to (vi);  
18 (k) such other information in relation to the lobbying activity as  
19 is prescribed.
- 20 (4) The Commissioner may, on the application of a consultant  
21 lobbyist, extend the time within which a quarterly return required  
22 by subsection (1) must be lodged by not more than 14 days.
- 23 (5) If a consultant lobbyist has not engaged in any lobbying activity in  
24 a particular quarter, the employed lobbyist must lodge a return  
25 stating that he or she has not engaged in any lobbying activity in  
26 that quarter.

#### 27 **14 Commissioner may require further information**

- 28 (1) The Commissioner may, by notice in writing served on the  
29 consultant lobbyist, require a consultant lobbyist to provide such  
30 further written information in relation to a return lodged pursuant  
31 to section 13 as the Commissioner considers is necessary to clarify  
32 the information set out in that return.
- 33 (2) A notice under subsection (1) must:  
34 (a) be in writing; and  
35 (b) specify the nature of the further information required; and

- 1 (c) specify a time at or within which the further information is to  
2 be provided; and  
3 (d) state that the person receiving the notice is required by this  
4 Act to comply with the notice.
- 5 (3) A person who, without reasonable excuse (proof of which lies on  
6 him or her), fails to comply with a notice served on the person  
7 under subsection (1) is guilty of an offence.
- 8 Penalty: 100 penalty units, and a daily penalty of 10 penalty units  
9 for each day after the relevant time limit that the written  
10 information is not provided.

11 **Subdivision C—Register of Lobbying Activity**

12 **15 Register established**

- 13 (1) The Commissioner must compile and maintain a register to be  
14 called the *Register of Lobbying Activity*.
- 15 (2) The register is to comprise all of the information set out in returns  
16 lodged under this Act and all of the information provided to the  
17 Commissioner pursuant to notices served under subsections 11(1)  
18 and 14(1).
- 19 (3) The register may be compiled in such manner and form as the  
20 Commissioner considers convenient, except that the register must  
21 be available and up-to-date for inspection on the Internet.
- 22 (4) The register must be open to inspection by any person at such place  
23 and at such reasonable times as the Commissioner may determine.

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## 2 **Division 4—Investigation and offences**

### 3 **Subdivision A—Investigations by Australian Crime** 4 **Commission**

#### 5 **16 Australian Crime Commission may investigate lobbying activity**

6 (1) The Australian Crime Commission (ACC) may investigate any  
7 matter relating to any lobbying activity carried out by a lobbyist.

8 (2) In particular, without limiting subsection (1), the ACC may  
9 investigate whether a lobbyist has, in the course of any lobbying  
10 activity:

11 (a) adequately disclosed to the relevant public officials the  
12 person on whose behalf the lobbying activity was being  
13 conducted; or

14 (b) provided accurate and factual information to the relevant  
15 public official; or

16 (c) been accorded any unfairly preferential or discriminatory  
17 treatment by the relevant public official; or

18 (d) attempted to apply any improper influence on the relevant  
19 public officer; or

20 (e) represented competing or conflicting interests without the  
21 consent of those whose interests were involved.

22 (3) In this section, the *relevant public official* means the public  
23 official to whom the lobbying activity was directed.

24 (4) If, during the course of an investigation under this section, the  
25 ACC suspects that a person has committed an offence, a breach of  
26 discipline or otherwise engaged in conduct which may be the  
27 subject of further action, the ACC may refer that conduct to an  
28 appropriate authority for further action.

#### 29 **17 Report on completion of investigation or generally**

30 (1) If the ACC conducts an investigation under section 16, the ACC  
31 must within a reasonable period and in any event, not longer than 6



- 1 months after commencing the investigation, prepare a written  
2 report with conclusions, and the reasons for those conclusions, in  
3 relation to the matter the subject of the investigation.
- 4 (2) The ACC must, within 5 sitting days of the completion of a report  
5 in accordance with subsection (1), cause to be laid before each  
6 House of Parliament any report prepared under subsection (1) or  
7 (3).
- 8 (3) The ACC may, if appropriate, prepare a report in relation to any  
9 matter arising out of the administration of this Act generally.
- 10 (4) If neither House of Parliament is sitting at the time when the ACC  
11 completes a report in accordance with subsection (1) or (3), the  
12 ACC must send copies of the report to the Presiding Officers of  
13 both Houses of Parliament who may make the report available to  
14 the public in accordance with any rules or orders made by the  
15 Houses.

## 16 **Subdivision B—Offences and legal proceedings**

### 17 **18 False or misleading information**

18 A person who:

- 19 (a) includes any information in a return lodged under this Act  
20 that the person knows is false or misleading in a material  
21 particular; or
- 22 (b) omits any information in a return lodged under this Act  
23 without which the return is, to the person's knowledge, false  
24 or misleading in a material particular; or
- 25 (c) includes any information in a response to a notice served  
26 under subsection 11(1) or 14(1) that the person knows is false  
27 or misleading in a material particular; or
- 28 (d) omits any information in a response to a notice served under  
29 subsection 11(1) or 14(1) without which the response is, to  
30 the person's knowledge, false or misleading in a material  
31 particular;

32 is guilty of an offence.

33 Penalty: 500 penalty units.



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## 2 **Part 3—Divestiture of shares etc. by ministers**

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### 4 **22 Simplified outline of this Part**

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The following is a simplified outline of this Part:

6

This Part provides controls over the holding of shares, options, futures, debentures, stocks, bonds or any like security and the trading of these by ministers.

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This Part does this by providing that:

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- (a) ministers must divest themselves of all shares, options, futures, debentures, stocks, bonds or any like security within 28 days of taking office under section 64 of the Constitution; and

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- (b) ministers must place beyond their control for the duration of their ministry any shares and securities of the kind mentioned in paragraph (a).

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### 17 **23 Purpose of this Part**

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The purpose of this Part is to require ministers to:

19

- (a) divest themselves of all shares, options, futures, debentures, stocks, bonds or any like security; or

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21

- (b) place their shares and securities of the kind mentioned in paragraph (a) with a professional nominee or in a blind trust;

22

23

within 28 days of becoming a minister.

### 24 **24 Interpretation**

25

In this Part, unless the contrary intention appears:

26

*asset* means shares, options, futures, debentures, stocks, bonds or any like security.

27

1            *blind trust* means an arrangement where the assets of a person are  
2 transferred to a trustee who, without consulting the person and  
3 being expressly prohibited by the terms of the trust from consulting  
4 the person, deals with those assets in an ordinary commercial  
5 manner (including sales of assets and purchase of further assets),  
6 on behalf of the person. For the purposes of this definition, a  
7 person must not be able to exercise any control over the assets  
8 placed in the blind trust.

9            *futures* has the same meaning as in the Corporations Act.

10           *residual interest* means an interest in the shares, options, futures,  
11 debentures, stocks, bonds or like security which a person had  
12 placed in the hands of a professional nominee or in a blind trust  
13 after the person was sworn in as a minister.

14           *share* has the same meaning as in the *Income Tax Assessment Act*  
15 *1997* and includes stocks and options to purchase or obtain shares.

16           *securities* has the same meaning as in the Corporations Act.

## 17        **25 Ministers to divest ownership of all shares etc.**

- 18           (1) A minister commits an offence if, within 28 days of becoming a  
19 minister, the minister does not divest himself or herself of all  
20 control of:
- 21            (a) all securities (including, but not limited to, all stocks, shares,  
22                debentures or bonds, interests in managed investment  
23                schemes and units of such shares); and
  - 24            (b) all derivatives (including, but not limited to, all options,  
25                futures and warrants); and
  - 26            (c) all legal or equitable rights or interests in such securities or  
27                derivatives.
- 28           (2) The transfer by a minister to a spouse, de facto partner or family  
29 member does not constitute a divestiture within the terms of  
30 subsection (1).
- 31           (3) A minister may transfer control of any interest in any matter  
32 mentioned in subsection (1) to a professional nominee or a blind  
33 trust providing the minister or any member of the minister's family



1 exercises no control over the operation of the nominee or the blind  
2 trust.

3 Penalty: Revocation of commission as a minister and a fine of  
4 2000 penalty units.

## 5 **26 Ministers prohibited from purchasing shares etc.**

6 A minister commits an offence if the minister, during the period of  
7 his or her ministry:

- 8 (a) purchases:
- 9 (i) any securities (including, but not limited to, all stocks,  
10 shares, debentures or bonds, interests in managed  
11 investment schemes and units of such shares); or
  - 12 (ii) any derivatives (including, but not limited to, all  
13 options, futures and warrants); or
  - 14 (iii) any legal or equitable rights or interests in such  
15 securities or derivatives; or
- 16 (b) instructs any person to purchase:
- 17 (i) any securities (including, but not limited to, all stocks,  
18 shares, debentures or bonds, interests in managed  
19 investment schemes and units of such shares); or
  - 20 (ii) any derivatives (including, but not limited to, all  
21 options, futures and warrants); or
  - 22 (iii) any legal or equitable rights or interests in such  
23 securities or derivatives.

24 Penalty: Revocation of commission as a minister and a fine of  
25 2000 penalty units.

## 26 **27 Ministers to declare shareholding interest**

27 A minister commits an offence if the minister does not notify  
28 cabinet in writing as part of a cabinet submission of his or her  
29 residual interest in a matter which is the subject matter of, or  
30 related to, the cabinet submission.

31 Penalty: Revocation of commission as a minister and a fine of  
32 2000 penalty units.

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## Part 4—Post-separation restrictions on employment of ministers and ministerial advisers

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### 28 Simplified outline of this Part

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This Part implements measures:

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- (a) to ensure that ministers and ministerial advisers do not act after they leave office in such a manner as to take improper advantage of their previous office; and

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- (b) to enhance public confidence in the integrity of ministerial office holders and the independence of the decision-making processes of government by establishing clear rules of conduct respecting conflict of interest for, and post-separation practices applicable to, ministers and ministerial advisers; and

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- (c) to eliminate the possibility of preferential treatment or privileged access to government being obtained from or through ministers and ministerial advisers after they have left office.

23

### 29 Interpretation

24

In this Part, unless the contrary intention appears:

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*ceasing to be a minister* in relation to a minister means ceasing to be a minister in accordance with section 64 of the Constitution.

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*department or agency* includes any body for which the minister had ministerial responsibility during his or her term as minister.



1                    *former minister* means a minister who has ceased to be a minister  
2                    in accordance with section 64 of the Constitution.

3                    *former ministerial adviser* means a person who has ceased to be  
4                    employed as a ministerial adviser in accordance with the *Members*  
5                    *of Parliament (Staff) Act 1984*.

6                    *ministerial adviser* means a person appointed as a member of staff  
7                    of an office-holder in accordance with Part III of the *Members of*  
8                    *Parliament (Staff) Act 1984*, if that appointment is to the level, or is  
9                    remunerated at the level equivalent to, persons appointed as Senior  
10                    Executive Service employees in accordance with Part 4, Division 2  
11                    of the *Public Service Act 1999*.

### 12                    **30 Conduct before ceasing to be a minister or a ministerial adviser**

13                    Ministers and ministerial advisers must not allow themselves to be  
14                    influenced in the conduct of their official duties and  
15                    responsibilities by plans for or offers of employment or other  
16                    remuneration proposed for a time after they cease to be ministers  
17                    or ministerial advisers.

### 18                    **31 Conduct after ceasing to be a minister**

19                    A former minister must not, within two years after ceasing to be a  
20                    minister:

- 21                    (a) provide advice for personal profit or for commercial  
22                    advantage on any aspect of the work of any department or  
23                    agency for which the former minister had ministerial  
24                    responsibility for any period of time during the last two years  
25                    of service as a minister; or  
26                    (b) accept employment with a person or entity, association or  
27                    union or an appointment to the board of directors or  
28                    equivalent body of an entity that had significant dealings with  
29                    a department or agency for which the former minister had  
30                    ministerial responsibility for any period of time during the  
31                    last two years of service as a minister; or  
32                    (c) enter into a contract for services with any commercial entity  
33                    which had significant commercial dealings with any  
34                    department or agency for which the former minister had

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- ministerial responsibility for any period of time during the last two years of service as a minister; or
- (d) make representations in return for any consideration for or on behalf of any other person or entity to a department or agency for which the former minister had ministerial responsibility for any period of time during the last two years of service as a minister.

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**32 Conduct after ceasing to be a ministerial adviser**

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- A former ministerial adviser must not, within two years after ceasing to be employed as a ministerial adviser:
- (a) provide advice for personal profit or for commercial advantage on any aspect of the work of any department or agency for which the ministerial adviser's minister had ministerial responsibility for any period of time during the ministerial adviser's last two years of employment with the minister; or
  - (b) accept employment with a person or entity, association or union or an appointment to the board of directors or equivalent body of an entity that had significant dealings with a department or agency for which the former ministerial adviser's minister had ministerial responsibility for any period of time during the ministerial adviser's last two years of employment with the minister; or
  - (c) enter into a contract for services with any commercial entity which had significant commercial dealings with any department or agency for which the former ministerial adviser's minister had ministerial responsibility for any period of time during the ministerial adviser's last two years of employment with the minister; or
  - (d) make representations in return for any consideration for or on behalf of any other person or entity to a department or agency for which the former ministerial adviser's minister had ministerial responsibility for any period of time during the ministerial adviser's last two years of employment with the minister.

1       **33 Exceptions**

2               Sections 31 and 32 do not prevent a former minister or a former  
3               ministerial adviser from taking action on behalf of or engaging in  
4               the service of:

- 5               (a) a charitable organisation; or
- 6               (b) official duties on behalf of the Commonwealth; or
- 7               (c) duties on behalf of an international organisation in which the  
8               Commonwealth participates, if the Minister for Foreign  
9               Affairs certifies that such duty is in the interests of the  
10              Commonwealth; or
- 11              (d) duties on behalf of a foreign government or an  
12              instrumentality of a foreign government, if the Minister for  
13              Foreign Affairs certifies that such duty is in the interests of  
14              the Commonwealth; or
- 15              (e) a political party.

16       **34 Offences and penalties**

17               A person who contravenes section 30, 31 or 32 is guilty of an  
18               offence.

19               Penalty: Imprisonment for two years or a fine not exceeding 2500  
20               penalty units.