



LEGISLATIVE COUNCIL FACT SHEETS

FACT SHEET 7: THE REGISTER OF PECUNIARY INTERESTS

On 13 April 1981, Premier Wran introduced the Constitution (Disclosures by Members) Bill 1981 in the Assembly to insert section 14A into the *Constitution Act 1902* dealing with pecuniary interests. In his second reading speech on the bill, the Premier observed:

The establishment of a scheme whereby Members of Parliament can be seen to be above reproach not only enhances the prestige of our parliamentary system but also protects the Members themselves against scurrilous attacks which in the past they have found difficult to rebut.¹

The bill passed both Houses on 12 May 1981, and was approved at a referendum on 19 September 1981. The bill was subsequently reserved for Her Majesty's assent, notification of which was published in the Government Gazette of 29 January 1982.

Section 14A(1) of the *Constitution Act 1902* provides that the Governor may, subject to certain qualifications, make regulations with respect to the disclosure by members of either House of their pecuniary interests. These interests include:

- real or personal property;
- income;
- gifts;
- financial or other contributions to any travel;
- shareholdings or other beneficial interests in corporations;
- partnerships;
- trusts;
- positions (whether remunerated or not) held in, or membership of, corporations, trade unions, professional associations or other organisations or associations;
- occupations, trades, professions or vocations;
- debts;
- payments of money or transfers of property to relatives or other persons by or under arrangements made by members; and
- any other direct or indirect benefits, advantages or liabilities, whether pecuniary or not, of a kind specified in the regulations.

In 1983, the *Constitution (Disclosures by Members) Regulation 1983* was made pursuant to section 14A(1). The regulation, as amended,² provides for various types of disclosures or returns of pecuniary

¹ *LA Debates* (13/4/1981) 5710.

² The regulation has been amended by the *Corporations (Consequential Amendments) Act 2001* No 34, the *Financial Services Reform (Consequential Amendments) Act 2002* No 26 and most recently by the *Constitution (Disclosures by Members) Amendment Regulation 2007*.

interests – primary returns, ordinary returns, supplementary ordinary returns and discretionary returns. The types of interests to be disclosed reflect the list of interests set out in section 14A(1).

New members must lodge a primary return with the Clerk within three months of the date on which they take the pledge of loyalty under section 12 of the Constitution Act 1902.³ Before 1 October each year, members are required to lodge an ordinary return for the 12 months ending 30 June in that year, except for new members whose primary return date was between 1 May and 30 June that year.⁴ Members must also lodge a supplementary ordinary return before 31 March for the period 1 July to 31 December for the previous year.⁵ The regulation also provides for members to lodge a discretionary return with the Clerk at any time.⁶

Members must lodge a return even if they do not have any interests to disclose.⁷

The Clerk is required to compile and maintain the ‘Register of Disclosures by Members of the Legislative Council’.⁸ The register is open to public inspection at the office of the Clerk between the hours of 10.00 am and 4.00 pm on any day except Saturday, Sunday or a day which is a public holiday throughout New South Wales. Members of the Council may inspect the register on any day that the Council is sitting, outside of the days that the register is open to public inspection.

Within 21 sitting days after the last day for the lodgement of primary returns, and within 21 sitting days after the last day for the lodgement of ordinary returns, the Clerk is required to furnish to the President a copy of the register for tabling in the House.⁹

Contravention of the pecuniary interest regulation

Section 14A(2) of the *Constitution Act 1902* provides that if a member of either House wilfully contravenes any regulation made under section 14A(1) of the *Constitution Act 1902*, including the *Constitution (Disclosures by Members) Regulation 1983*, the House may declare the member’s seat vacant. Section 14A(3) sets out certain requirements which apply to such declarations.

There has been no case in which a member’s seat has been declared vacant under these provisions. However, on 25 September 2002 the House requested the Standing Committee on Parliamentary Privilege and Ethics to investigate and report on whether the Hon Eddie Obeid, Minister for Mineral Resources and Minister for Fisheries, had ‘wilfully contravened’ clause 12 of the *Constitution (Disclosures by Members) Regulation* by failing to disclose interests and positions in 29 corporations and if so, what, if any, sanctions should be enforced. The Committee found that the member had made errors in his pecuniary interest returns, but that the errors were not ‘wilful contraventions’ of the regulation, and that no sanction could be recommended. During the debate on the Committee’s report in the House, Mr Obeid apologised to the House for the errors in his returns.¹⁰

³ *Constitution (Disclosures by Members) Regulation 1983*, cl 4.

⁴ *Ibid*, cl 6.

⁵ *Ibid*, cl 6A.

⁶ *Ibid*, cl 6B.

⁷ *Ibid*, cl 22.

⁸ *Ibid*, cl 17.

⁹ *Ibid*, cl 21.

¹⁰ *LC Minutes* (12/11/2002) 464-465, 466-468; *LC Debates* (12/11/2002) 6438.