

**LOCAL GOVERNMENT (DISCLOSURE OF INTERESTS)
AMENDMENT ACT 1987 No. 126**

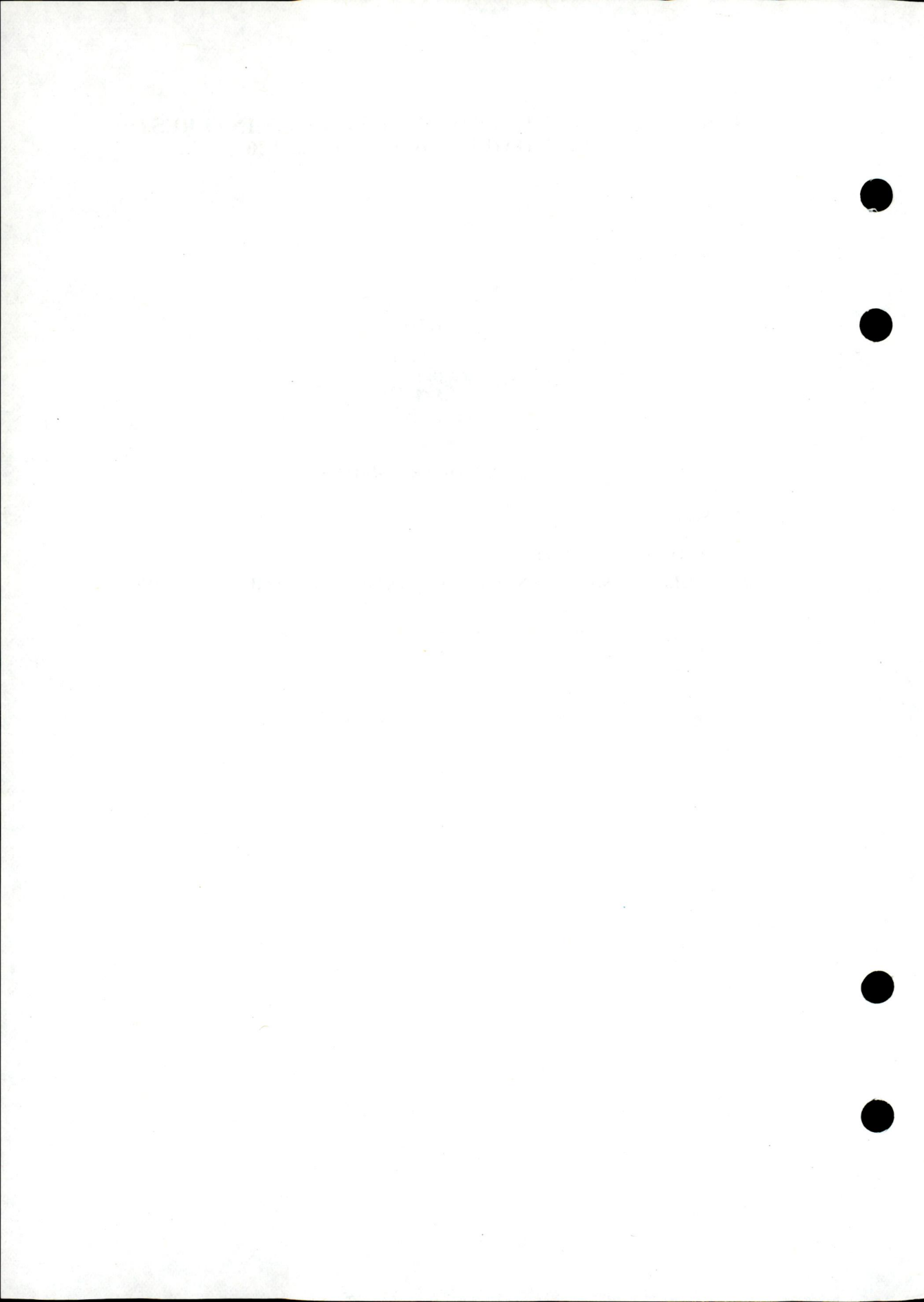
NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919



**LOCAL GOVERNMENT (DISCLOSURE OF INTERESTS)
AMENDMENT ACT 1987 No. 126**

NEW SOUTH WALES



Act No. 126, 1987

An Act to amend the Local Government Act 1919 with respect to the disclosure of interests of certain persons; and for other purposes. [Assented to 16 June 1987]

Local Government (Disclosure of Interests) Amendment 1987

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Local Government (Disclosure of Interests) Amendment Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on 26 September 1987.

Amendment of Act No. 41, 1919

3. The Local Government Act 1919 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919

(1) Section 30 (**Qualification for office**)—

Section 30 (2) (1)—

Omit "against section 30A", insert instead "under section 46G".

(2) Section 30A (**Disability of members of councils for voting on account of interest in contracts etc.**)—

Omit the section.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(3) Part IV, Division 9A—

After Division 9, insert:

DIVISION 9A—*Disclosure of interests*

Interpretation

46A. (1) In this Division and Schedules 5 and 5A, except in so far as the context or subject-matter otherwise indicates or requires—

“committee” means a committee constituted or established under this Act;

“de facto partner” has the same meaning as in the De Facto Relationships Act 1984;

“designated employee” means—

- (a) the clerk or deputy clerk of a council or an employee holding an office or position to which a person is required, under section 56 of the Environmental Planning and Assessment Act 1979 or under Part VI, to be appointed by a council;
- (b) a person to whom authority has been delegated under section 530A—
 - (i) to deal with applications for building or subdivision approval under this Act; or
 - (ii) to determine applications for consent to the carrying out of development (within the meaning of the Environmental Planning and Assessment Act 1979); or
 - (iii) to make contracts or accept tenders; or

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

- (c) an employee of a council holding a position which the council determines, by resolution, is a position whose holder is to be regarded as a designated employee;

“ordinary return” means a return in or to the effect of Form 2 in Schedule 5A;

“primary return” means a return in or to the effect of Form 1 in Schedule 5A;

“relative”, in relation to a person, means any of the following:

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

“shares” includes stock.

(2) If a person is holding a position in a council at the time the council passes a resolution with respect to the position for the purposes of paragraph (c) of the definition of “designated employee” in subsection (1), a reference in this Division to the date on which the person becomes a designated employee shall be read as a reference to the date on which the resolution was passed.

(3) In the case of married persons living together, the interest of one spouse shall, if known to the other, be deemed for the purposes of this Division to be also an interest of that other spouse.

(4) In the case of de facto partners living together, the interest of one partner shall, if known to the other, be deemed for the purposes of this Division to be also an interest of that other partner.

(5) The interest of a relative of a person shall, if known to the person, be deemed for the purposes of this Division to be also an interest of the person.

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

Returns

46B. (1) A person who is, on 26 September 1987, a member or designated employee of a council shall (unless the person sooner ceases to be such a member or employee), within 3 months of that date, lodge with the clerk of the council a primary return.

(2) A person who—

(a) becomes, after 26 September 1987, a member or designated employee of a council; and

(b) has not in the previous year lodged with the clerk of the council a primary return or an ordinary return,

shall (unless the person sooner ceases to be such a member or employee), within 3 months of becoming such a member or employee, lodge with the clerk of the council a primary return.

(3) A person who is, on 30 June in any year, a member or designated employee of a council shall (unless the person sooner ceases to be such a member or employee), within 3 months after that date, lodge with the clerk of the council an ordinary return.

(4) Subsection (3) does not apply so as to require lodgment in a particular year of an ordinary return by a person if the 30 June referred to in that subsection is within the 3-month period allowed for lodgment by the person of his or her primary return.

(5) If no disclosures are included in a primary return or an ordinary return, the return shall nevertheless be lodged.

(6) Schedule 5 has effect.

(7) Forms 1 and 2 in Schedule 5A shall be completed in accordance with such directions as are consistent with this Division and specified in those forms.

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

Disclosure of interests at meetings

46c. (1) If a member of a council or of a committee—

- (a) has any pecuniary interest, direct or indirect, in any contract or proposed contract with the council or in any other matter with which the council is concerned; and
- (b) is present at a meeting of the council or committee at which the contract, proposed contract or other matter is the subject of consideration,

the member shall, as soon as practicable after the commencement of the meeting, disclose the nature of the interest to the meeting and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter.

(2) This section does not apply—

- (a) to an interest in a contract, proposed contract or other matter which a member of a council or of a committee may have as—
 - (i) a ratepayer or elector of the area;
 - (ii) a consumer of gas, electricity or water supplied by the council in the same manner and subject to the same conditions applicable in the case of persons who are not members of the council; or
 - (iii) a member (other than a member holding a position, whether remunerated or not) of a club or other organisation or association;
- (b) to an interest in a contract, proposed contract or other matter which a member of a committee may have as a member of a non-profit organisation or other community or special interest group if the member has been appointed to represent the organisation or group on the committee;

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

- (c) to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public; or
 - (d) to an interest which a member of a council or of a committee may have in a proposal relating to the making, amending, altering, varying or repeal of an environmental planning instrument, other than an instrument which effects a change of the permissible uses of—
 - (i) land in which the member has a pecuniary interest, direct or indirect, or land adjoining or adjacent to land in which the member has a pecuniary interest, direct or indirect; or
 - (ii) land in proximity to land in which the member has a pecuniary interest, direct or indirect, the change of the permissible uses of which would affect the value of the land in which the member has an interest.
- (3) For the purposes of this section, a person shall be regarded as having an indirect pecuniary interest in a contract, proposed contract or other matter if—
- (a) the person or any nominee of the person is a member of a company or other body—
 - (i) with which the contract is made or is proposed to be made; or
 - (ii) which has a direct or an indirect pecuniary interest in the other matter under consideration; or
 - (b) the person is a partner, or is in the employment, of a person—
 - (i) with whom the contract is made or is proposed to be made; or
 - (ii) who has a direct or indirect pecuniary interest in the other matter under consideration.

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(4) A person shall not be regarded as having an indirect pecuniary interest, as referred to in subsection (3), only because—

- (a) the person is a member of, or employed by, a council or statutory body; or
- (b) the person is a member of a company or other body if the person has no beneficial interest in any shares of that company or body.

(5) Nothing in this section prevents a person from taking part in the consideration or discussion of, and from voting on—

- (a) any question with respect to a contract, proposed contract or other matter if—
 - (i) the person is regarded as having an indirect pecuniary interest in the contract, proposed contract or other matter only because the person has a beneficial interest in shares of a company or other body; and
 - (ii) the total nominal value of those shares does not exceed \$1,000 or one hundredth of the total nominal value of the issued share capital of the company or body, whichever is the lesser;
- (b) any question at any election to fill the office of mayor or president at which any relative of the person is a candidate, only because an allowance for the ensuing year has been decided upon in respect of that office;
- (c) any question at any meeting of the council or of a committee with respect to the making of a contract or agreement between the council and any incorporated company, association or partnership if the company, association or partnership consists of more than 25 members, only because any relative of the person is a shareholder (other than a director) in the company, association or partnership;

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

- (d) any question at any meeting of the council or of a committee with respect to the making of any contract or agreement with any relative of the person for or in relation to—
- (i) the performance by the council at the expense of the person's relative of any work or service in connection with roads or sanitation;
 - (ii) any permission granted by the council to occupy footways during the erection of buildings;
 - (iii) security for damage to footways or roadways; or
 - (iv) any service or act to be rendered or done by the council under any Act with the administration of which the council is charged, or under any ordinances, by-laws or regulations made under any Act,
- if the contract or agreement proposed to be made is similar in terms and conditions to such contracts or agreements as have been made, or as the council proposes to make, in respect of similar matters with other residents of the area;
- (e) any question at any meeting of the council or of a committee for or in relation to—
- (i) the making or levying of a rate; or
 - (ii) the fixing or levying of a charge or fee in respect of the supply to the person's relative by the council of any service, product or commodity in the same manner and subject to the same conditions applicable in the case of persons who are not members of the council; or
- (f) any question at any meeting of the council or of a committee for or in relation to the passing for payment of any regular account for wages or salary of any employee who may be a relative of the member.

SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(6) Subsection (5) (a) does not apply if, where the share capital of the company or other body is of more than one class, the total nominal value of all the shares of any one class in which the person has a beneficial interest exceeds one hundredth part of the total issued share capital of that class.

(7) A general notice given in writing to the clerk of the council by a person to the effect that the person or the person's spouse or de facto partner is—

(a) a member, or in the employment, of a specified company or other body; or

(b) a partner, or in the employment, of a specified person,

shall, unless and until the notice is withdrawn, be sufficient disclosure of the person's interest in any contract, proposed contract or other matter relating to the company, body or specified person which may be the subject of consideration by the council after the date of the notice.

Powers of Minister and councils in relation to meetings

46D. (1) The Minister may, subject to any conditions the Minister may think fit to impose, remove any disability imposed by section 46C in any case in which—

(a) the number of members of a council so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business; or

(b) it appears to the Minister that it is in the interests of the electors of the area that the disability should be removed.

(2) The council may, by resolution, provide for the exclusion of a member of the council or of a committee from a meeting of the council or committee while any contract, proposed contract or other matter in which the member has an interest is under consideration.

SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
*continued***Disclosure of interests in development applications etc.**

46E. (1) If—

- (a) an application is made to a council for building or subdivision approval under this Act or for consent to the carrying out of development (within the meaning of the Environmental Planning and Assessment Act 1979);
- (b) the application would, but for this section, be determined by a person acting in accordance with a delegation by the council; and
- (c) the person has a pecuniary interest, direct or indirect, in the application,

the person shall, on receipt of the application—

- (d) give to the clerk of the council a disclosure in writing of the nature of the interest; or
- (e) if the person is the clerk of the council, give to the council a disclosure in writing of the nature of the interest.

(2) A disclosure under subsection (1) shall be laid on the table at the next meeting of the council and the council shall by resolution determine the application or refer the application to another person with delegated authority to determine the application.

(3) An employee of a council who—

- (a) is required to prepare a recommendation, report or advice in writing in relation to any matter which is to be considered—
 - (i) at a meeting of the council or a committee; or
 - (ii) by a person empowered, by a delegation from the council, to determine an application referred to in subsection (1) (a); and

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(b) has a pecuniary interest, direct or indirect, in the matter, shall make a disclosure in writing of the nature of the interest and attach it to the recommendation, report or advice.

Registers

46F. (1) The clerk of a council shall compile and maintain a register to be called the "Register of Disclosures by Council Members" and a register to be called the "Register of Disclosures by Designated Employees".

(2) The registers shall be in loose-leaf form and shall at any time comprise the returns lodged by members or designated employees of the council, respectively, within the previous 8 years.

(3) A register shall be divided into parts as follows:

- (a) there shall be a separate part of the register for primary returns;
- (b) there shall be separate parts of the register for the ordinary returns lodged in respect of each ordinary return period.

(4) The returns filed in any part of a register shall be filed in alphabetical order according to the surnames of the members or designated employees concerned.

(5) The clerk of the council shall record, in a book to be kept for the purpose, particulars of any disclosure made under section 46C, and of any notice given under section 46C (7).

(6) A disclosure made at a meeting of the council or of a committee shall be recorded in the minute book with the minutes of the meeting.

(7) A register or record kept in accordance with this section shall be available at the council's office at all reasonable hours for inspection by any elector.

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

Offences

46G. (1) A person who fails to comply with section 46B, 46C or 46E (1) or (3)—

(a) is guilty of an offence under this Act; and

(b) in the case of a person who is a member of a council, shall be disqualified for a civic office for a period of 7 years unless the court by which the person is convicted sees fit in the circumstances to reduce the period of disqualification to a shorter period or to declare that the person shall not by virtue of the conviction be disqualified for a civic office.

(2) It is a defence in any prosecution for an offence by virtue of a failure to comply with section 46C if the defendant satisfies the court that the defendant did not know that a contract, proposed contract or other matter in which the defendant had a pecuniary interest was the subject of consideration at the meeting.

Proceedings for offences of non-disclosure

46H. Proceedings for an offence under section 46G may be instituted at any time within 12 months after the offence was committed.

(4) Schedules 5, 5A—

After Schedule 4, insert:

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*
AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

SCHEDULE 5

(Sec. 46B (6))

PECUNIARY INTERESTS ETC. TO BE DISCLOSED

Interpretation

1. (1) In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“address” means—

- (a) in relation to a person other than a corporation—the last residential or business address of the person known to the member or designated employee disclosing the address;
- (b) in relation to a corporation—the address of the registered office of the corporation in New South Wales or, where there is no such office, the address of the principal office of the corporation in the place in which it is incorporated; or
- (c) in relation to any real property—the postal address of the property or the particulars of title of the property;

“disposition of property” means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- (a) the allotment of shares in a company;
- (b) the creation of a trust in respect of property;
- (c) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property;
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in respect of property;
- (e) the exercise by a person of a general power of appointment over property in favour of any other person; and
- (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person;

“donor” means a person who makes a gift;

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

“gift” means any disposition of property made otherwise than by will (whether with or without an instrument in writing), without consideration in money or money’s worth passing from the donee to the donor, or with such consideration so passing if the consideration is not fully adequate, but does not include any financial or other contribution to travel;

“interest” means—

- (a) in relation to any property—any estate, interest, right or power whatever, whether at law or in equity, in or over the property; or
- (b) in relation to any corporation—a relevant interest (within the meaning of section 5 of the Securities Industry (New South Wales) Code) in any securities issued or made available by the corporation;

“member” means a member of a council;

“occupation” includes trade, profession and vocation;

“ordinary return period”, in relation to an ordinary return required to be lodged by a person in a particular year, means—

- (a) if the last return lodged by the member or employee was a primary return—the period commencing on the first day after the primary return date and ending on 30 June in that particular year; or
- (b) if the last return lodged by the person was an ordinary return—the period commencing on the expiration of the period to which the last return relates and ending on 30 June in that particular year;

“political party” means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Parliament of New South Wales, or to a council, of a candidate or candidates endorsed by it or by a body or organisation of which it forms part;

“primary return date”, in relation to a primary return required to be lodged by a person, means—

- (a) 26 September 1987, if the person was a member or designated employee on that date; or
- (b) if the person becomes a member or designated employee after 26 September 1987—the day on which the person becomes a member or designated employee;

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

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

“property” includes money;

“public company” means a company whose shares are listed for quotation on the stock market of a stock exchange in New South Wales;

“securities” has the same meaning as in the Securities Industry (New South Wales) Code;

“travel” includes accommodation incidental to a journey.

(2) A reference in this Schedule to a disclosure concerning any corporation or other thing includes a reference to a disclosure concerning any corporation incorporated, or other thing arising or received, outside New South Wales.

(3) A reference in this Schedule to real property in which a member or designated employee of a council has an interest does not include a reference to real property situated outside the area of the council unless, by reason of its proximity to the area of the council, the interest of the member or designated employee could reasonably be expected to give rise to a pecuniary interest, direct or indirect, in a matter which the council might consider.

(4) For the purposes of this Schedule, gifts or contributions to travel given, loans made, or goods or services supplied, to a member or designated employee by 2 or more corporations which are deemed to be related to each other for the purposes of the Companies (New South Wales) Code shall be regarded as having been given, made or supplied by a single corporation.

Real property

2. (1) A member or designated employee shall disclose in a primary return and an ordinary return—

(a) the address of each parcel of real property in which the member or employee had an interest—

(i) in the case of a primary return—on the primary return date; or

(ii) in the case of an ordinary return—at any time during the ordinary return period; and

(b) the nature of the interest in each such parcel of real property.

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(2) An interest in a parcel of real property need not be disclosed by a member or designated employee in a primary return or an ordinary return if—

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

Gifts

3. (1) A member or designated employee shall disclose in an ordinary return—

- (a) the description of each gift received by the member or employee at any time during the ordinary return period; and
- (b) the name and address of the donor of each such gift.

(2) A gift received by a member or designated employee need not be disclosed in an ordinary return if—

- (a) the amount of the gift did not exceed \$500 unless—
 - (i) the gift was 1 of 2 or more gifts made by 1 person at any time during the ordinary return period; and
 - (ii) the amount of those 2 or more gifts exceeded, in the aggregate, \$500;
- (b) the gift was a political contribution disclosed, or required to be disclosed, under Part VI of the Election Funding Act 1981; or
- (c) the donor was a relative of the member or employee.

(3) For the purposes of this clause, the amount of a gift comprising property other than money shall be deemed to be an amount equal to the value of the property.

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

Contributions to travel

4. (1) A member or designated employee shall disclose in an ordinary return—

- (a) the name and address of each person who made any financial or other contribution to any travel undertaken by the member or employee at any time during the ordinary return period;
- (b) the dates on which the travel was undertaken; and
- (c) the names of the States, Territories of the Commonwealth and overseas countries in which the travel was undertaken.

(2) A financial or other contribution to any travel undertaken by a member or designated employee need not be disclosed in an ordinary return if—

- (a) the contribution was made from public funds (including a contribution arising from travel on free passes issued under any Act or from travel in government or council vehicles);
 - (b) the contribution was made by a relative of the member or employee;
 - (c) the contribution was made in the ordinary course of any occupation of the member or employee which is not related to his or her duties as a member or employee;
 - (d) the amount of the contribution did not exceed \$250 unless—
 - (i) the contribution was 1 of 2 or more contributions made by 1 person at any time during the ordinary return period; and
 - (ii) the amount of those 2 or more contributions exceeded, in the aggregate, \$250;
 - (e) the contribution was a political contribution disclosed, or required to be disclosed, under Part VI of the Election Funding Act 1981; or
 - (f) the contribution was made by a political party of which the member or employee was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales or to enable the member or employee to represent the party within Australia.
- (3) For the purposes of this clause, the amount of a contribution (other than a financial contribution) shall be deemed to be an amount equal to the value of the contribution.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

Interests and positions in corporations

5. (1) A member or designated employee shall disclose in a primary return and an ordinary return—

- (a) the name and address of each corporation in which the member or employee had an interest or held any position (whether remunerated or not) on the primary return date or at any time during the ordinary return period, as the case requires;
- (b) the nature of the interest, or the description of the position held, in each such corporation; and
- (c) except in the case of a public company—a description of the principal objects of each such corporation.

(2) An interest, or position held, in a corporation need not be disclosed by a member or designated employee in a primary return or an ordinary return if the corporation is—

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

Positions in trade unions and professional or business associations

6. A member or designated employee shall disclose in a primary return and an ordinary return—

- (a) the name of each trade union and each professional or business association in which the member or employee held any position (whether remunerated or not) on the primary return date or at any time during the ordinary return period, as the case requires; and
- (b) the description of the position held in each such union or association.

Dispositions of property

7. (1) A member or designated employee shall disclose in an ordinary return particulars of each disposition of real property by the member or employee at any time during the ordinary return period whereby the member or employee retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time.

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(2) A member or designated employee shall disclose in an ordinary return particulars of each disposition of property to a person by any other person under arrangements made by the member or employee, being a disposition made at any time during the ordinary return period, whereby the member or employee obtained, either wholly or in part, the use and benefit of the property.

Discretionary disclosures generally

8. A member or designated employee may, at the member's or employee's discretion, disclose in any return any direct or indirect benefits, advantages or liabilities, whether pecuniary or not—

- (a) which are not required to be disclosed by any other provision of this Schedule; and
- (b) which the member or employee considers might appear to raise a conflict between his or her private interests and his or her public duty as a member or employee or which the member or employee otherwise desires to disclose.

SCHEDULE 5A

(Sec. 46A (1))

Form 1

LOCAL GOVERNMENT ACT 1919

DISCLOSURES BY MEMBERS AND DESIGNATED EMPLOYEES OF
COUNCIL

PRIMARY RETURN

DIRECTIONS:

- (1) The pecuniary interests and other matters to be disclosed in this return are prescribed in clauses 2, 5, 6 and 8 of Schedule 5 to the Local Government Act 1919.

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

B. INTERESTS AND POSITIONS IN CORPORATIONS

Name and address of each corporation in which I had an interest or held a position on the primary return date	Nature of interest (if any)	Description of position (if any)	Description of principal objects of corporation (except in case of public company)
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C. POSITIONS IN TRADE UNIONS AND PROFESSIONAL OR BUSINESS ASSOCIATIONS

Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) on the primary return date	Description of position
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D. DISCRETIONARY DISCLOSURES

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

Form 2

LOCAL GOVERNMENT ACT 1919

DISCLOSURES BY MEMBERS AND DESIGNATED EMPLOYEES OF
COUNCIL

ORDINARY RETURN

DIRECTIONS:

- (1) The pecuniary interests and other matters to be disclosed in this return are prescribed by clauses 2–8 of Schedule 5 to the Local Government Act 1919.
- (2) The particulars required to complete this form are to be written in block letters or typed.
- (3) If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose which is properly identified and signed by the member or designated employee.
- (4) If there are no pecuniary interests or other matters of the kind required to be disclosed under a particular main heading in this form, the word “NIL” is to be placed in an appropriate space under that heading.

DISCLOSURES OF PECUNIARY INTERESTS AND OTHER MATTERS BY
..... IN RESPECT OF THE

(full name of member or designated employee)

PERIOD FROM TO
(ordinary return period)

.....
(member’s or designated
employee’s signature)

.....
(date)

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

A. REAL PROPERTY

Address of each parcel of real property in which I had an interest at any time during the ordinary return period	Nature of interest
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B. GIFTS

Description of each gift I received at any time during the ordinary return period	Name and address of donor
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C. CONTRIBUTIONS TO TRAVEL

Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time during the ordinary return period	Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel undertaken
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D. INTERESTS AND POSITIONS IN CORPORATIONS

Name and address of each corporation in which I had an interest or held a position at any time during the ordinary return period	Nature of interest (if any)	Description of position (if any)	Description of principal objects of corporation (except in case of public company)
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*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
*continued*E. POSITIONS IN TRADE UNIONS AND PROFESSIONAL OR
BUSINESS ASSOCIATIONS

Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at any time during the ordinary return period	Description of position
--	-------------------------

F. DISPOSITIONS OF PROPERTY

1. Particulars of each disposition of real property by me at any time during the ordinary return period whereby I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time.

2. Particulars of each disposition of property to a person by any other person under arrangements made by me, being dispositions made at any time during the ordinary return period, whereby I obtained, either wholly or in part, the use and benefit of the property.

G. DISCRETIONARY DISCLOSURES

FIRST PRINT

**LOCAL GOVERNMENT (DISCLOSURE OF INTERESTS)
AMENDMENT BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Local Government Act 1919—

- (a) to require members of councils and persons employed in certain positions by councils to lodge a return each year containing information as to certain interests and assets of those members or employees;
- (b) to extend the existing provisions relating to disclosure of interests by members of councils to members of committees constituted or established under that Act; and
- (c) for other purposes relating to disclosure of interests.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the provisions of the proposed Act, with minor exceptions, will commence on 26 September 1987.

Clause 3 is a formal provision which gives effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919

Schedule 1 (1) amends section 30 of the Principal Act as a consequence of the amendment made by Schedule 1 (3).

Local Government (Disclosure of Interests) Amendment 1987

Schedule 1 (2) omits section 30A of the Principal Act (Disability of members of councils for voting on account of interest in contracts etc.). The provisions of this section have been included in proposed Division 9A of Part IV of the Principal Act as inserted by Schedule 1 (3).

Schedule 1 (3) inserts proposed Division 9A of Part IV into the Principal Act. The Division contains the following provisions:

Proposed section 46A is an interpretation provision which defines, among other things, "designated employee" (that is, an employee to whom the disclosure provisions will apply). The section also provides that the interests (if known to a person) of a spouse, de facto partner or relative of the person are to be regarded as interests of the person for the purposes of the Division.

Proposed section 46B requires a member or designated employee of a council to lodge a primary return on becoming a member or designated employee and an ordinary return each year thereafter. The section gives effect to Schedule 5 which sets out the pecuniary interests to be disclosed in the returns and Schedule 5A which sets out the forms of the returns.

Proposed section 46C requires a member of a council or of a committee constituted by a council to disclose at a meeting of the council or committee pecuniary interests which the member has in matters to be dealt with at the meeting. The member must not vote or take part in discussions of any matter in which the member has a pecuniary interest. In addition to the existing exceptions (which are retained in the new section), a member is disqualified from voting or discussing a matter relating to the making or repeal of an environmental planning instrument if the member has an interest in land which may be affected.

Proposed section 46D contains provisions currently found in section 30A (8) and (9). These enable the Minister to remove a disability imposed by proposed section 46C in certain circumstances and allows the council to exclude a member of a council or committee from a meeting if the member has an interest in a matter under consideration.

Proposed section 46E requires a person with delegated authority to deal with building and development applications to disclose any interest which the person has in a particular application. The matter must then be referred to the council which shall decide whether to deal with the application or refer it to another person with delegated authority to determine the application. The proposed section also requires a council employee when giving a report, recommendation or advice in writing in relation to certain council matters to disclose any pecuniary interest which the employee has in the matter.

Proposed section 46F provides for the keeping of registers of returns and records of disclosures.

Proposed section 46G provides that a person is guilty of an offence for a failure to comply with the disclosure provisions, the penalty being a fine of up to \$2,000 and possible disqualification for a civic office for a period of up to 7 years.

Proposed section 46H extends the time within which proceedings for offences under the Division may be instituted from 6 months to 12 months.

Local Government (Disclosure of Interests) Amendment 1987

Schedule 1 (4) inserts proposed Schedules 5 and 5A into the Principal Act.

Proposed Schedule 5 sets out the pecuniary interests to be disclosed in primary and ordinary returns by members and designated employees of councils.

Proposed Schedule 5A contains the forms of the primary and ordinary returns.

**LOCAL GOVERNMENT (DISCLOSURE OF INTERESTS)
AMENDMENT BILL 1987**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 41, 1919

SCHEDULE 1—AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919

**LOCAL GOVERNMENT (DISCLOSURE OF INTERESTS)
AMENDMENT BILL 1987**

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Local Government Act 1919 with respect to the disclosure of interests of certain persons; and for other purposes.

Local Government (Disclosure of Interests) Amendment 1987

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Local Government (Disclosure of Interests) Amendment Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on 26 September 1987.

Amendment of Act No. 41, 1919

3. The Local Government Act 1919 is amended in the manner set forth
15 in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919

(1) Section 30 (**Qualification for office**)—

20 Section 30 (2) (1)—

Omit "against section 30A", insert instead "under section 46G".

(2) Section 30A (**Disability of members of councils for voting on account of interest in contracts etc.**)—

Omit the section.

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(3) Part IV, Division 9A—

After Division 9, insert:

DIVISION 9A—*Disclosure of interests*

Interpretation

- 5 46A. (1) In this Division and Schedules 5 and 5A, except in
so far as the context or subject-matter otherwise indicates or
requires—
- “committee” means a committee constituted or established
 under this Act;
- 10 “de facto partner” has the same meaning as in the De Facto
 Relationships Act 1984;
- “designated employee” means—
- (a) the clerk or deputy clerk of a council or an employee
15 holding an office or position to which a person is
 required, under section 56 of the Environmental
 Planning and Assessment Act 1979 or under Part VI, to
 be appointed by a council;
- (b) a person to whom authority has been delegated under
 section 530A—
- 20 (i) to deal with applications for building or
 subdivision approval under this Act; or
- (ii) to determine applications for consent to the
 carrying out of development (within the meaning
25 of the Environmental Planning and Assessment Act
 1979); or
- (iii) to make contracts or accept tenders; or

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(c) an employee of a council holding a position which the council determines, by resolution, is a position whose holder is to be regarded as a designated employee;

5 “ordinary return” means a return in or to the effect of Form 2 in Schedule 5A;

“primary return” means a return in or to the effect of Form 1 in Schedule 5A;

“relative”, in relation to a person, means any of the following:

10 (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person’s spouse or de facto partner;

(b) the spouse or de facto partner of the person or of any other person specified in paragraph (a);

“shares” includes stock.

15 (2) If a person is holding a position in a council at the time the council passes a resolution with respect to the position for the purposes of paragraph (c) of the definition of “designated employee” in subsection (1), a reference in this Division to the date on which the person becomes a designated employee shall be
20 read as a reference to the date on which the resolution was passed.

(3) In the case of married persons living together, the interest of one spouse shall, if known to the other, be deemed for the purposes of this Division to be also an interest of that other spouse.

25 (4) In the case of de facto partners living together, the interest of one partner shall, if known to the other, be deemed for the purposes of this Division to be also an interest of that other partner.

30 (5) The interest of a relative of a person shall, if known to the person, be deemed for the purposes of this Division to be also an interest of the person.

SCHEDULE 1—*continued*
AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

Returns

5 46B. (1) A person who is, on 26 September 1987, a member or designated employee of a council shall (unless the person sooner ceases to be such a member or employee), within 3 months of that date, lodge with the clerk of the council a primary return.

(2) A person who—

(a) becomes, after 26 September 1987, a member or designated employee of a council; and

10 (b) has not in the previous year lodged with the clerk of the council a primary return or an ordinary return,

shall (unless the person sooner ceases to be such a member or employee), within 3 months of becoming such a member or employee, lodge with the clerk of the council a primary return.

15 (3) A person who is, on 30 June in any year, a member or designated employee of a council shall (unless the person sooner ceases to be such a member or employee), within 3 months after that date, lodge with the clerk of the council an ordinary return.

20 (4) Subsection (3) does not apply so as to require lodgment in a particular year of an ordinary return by a person if the 30 June referred to in that subsection is within the 3-month period allowed for lodgment by the person of his or her primary return.

(5) If no disclosures are included in a primary return or an ordinary return, the return shall nevertheless be lodged.

(6) Schedule 5 has effect.

25 (7) Forms 1 and 2 in Schedule 5A shall be completed in accordance with such directions as are consistent with this Division and specified in those forms.

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

Disclosure of interests at meetings

46C. (1) If a member of a council or of a committee—

- 5 (a) has any pecuniary interest, direct or indirect, in any contract or proposed contract with the council or in any other matter with which the council is concerned; and
- (b) is present at a meeting of the council or committee at which the contract, proposed contract or other matter is the subject of consideration,

10 the member shall, as soon as practicable after the commencement of the meeting, disclose the nature of the interest to the meeting and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter.

(2) This section does not apply—

- 15 (a) to an interest in a contract, proposed contract or other matter which a member of a council or of a committee may have as—
- 20 (i) a ratepayer or elector of the area;
- (ii) a consumer of gas, electricity or water supplied by the council in the same manner and subject to the same conditions applicable in the case of persons who are not members of the council; or
- 25 (iii) a member (other than a member holding a position, whether remunerated or not) of a club or other organisation or association;
- (b) to an interest in a contract, proposed contract or other matter which a member of a committee may have as a member of a non-profit organisation or other community or special interest group if the member has been appointed to represent the organisation or group on the committee;
- 30

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

- (c) to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public; or
- 5 (d) to an interest which a member of a council or of a committee may have in a proposal relating to the making, amending, altering, varying or repeal of an environmental planning instrument, other than an instrument which effects a change of the permissible uses of—
- 10 (i) land in which the member has a pecuniary interest, direct or indirect, or land adjoining or adjacent to land in which the member has a pecuniary interest, direct or indirect; or
- 15 (ii) land in proximity to land in which the member has a pecuniary interest, direct or indirect, the change of the permissible uses of which would affect the value of the land in which the member has an interest.
- (3) For the purposes of this section, a person shall be regarded as having an indirect pecuniary interest in a contract, proposed contract or other matter if—
- 20 (a) the person or any nominee of the person is a member of a company or other body—
- (i) with which the contract is made or is proposed to be made; or
- 25 (ii) which has a direct or an indirect pecuniary interest in the other matter under consideration; or
- (b) the person is a partner, or is in the employment, of a person—
- (i) with whom the contract is made or is proposed to be made; or
- 30 (ii) who has a direct or indirect pecuniary interest in the other matter under consideration.

SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(4) A person shall not be regarded as having an indirect pecuniary interest, as referred to in subsection (3), only because—

(a) the person is a member of, or employed by, a council or statutory body; or

5 (b) the person is a member of a company or other body if the person has no beneficial interest in any shares of that company or body.

(5) Nothing in this section prevents a person from taking part in the consideration or discussion of, and from voting on—

10 (a) any question with respect to a contract, proposed contract or other matter if—

15 (i) the person is regarded as having an indirect pecuniary interest in the contract, proposed contract or other matter only because the person has a beneficial interest in shares of a company or other body; and

(ii) the total nominal value of those shares does not exceed \$1,000 or one hundredth of the total nominal value of the issued share capital of the company or body, whichever is the lesser;

20 (b) any question at any election to fill the office of mayor or president at which any relative of the person is a candidate, only because an allowance for the ensuing year has been decided upon in respect of that office;

25 (c) any question at any meeting of the council or of a committee with respect to the making of a contract or agreement between the council and any incorporated company, association or partnership if the company, association or partnership consists of more than 25 members, only because any relative of the person is a shareholder (other than a director) in the company, association or partnership;

30

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

- (d) any question at any meeting of the council or of a committee with respect to the making of any contract or agreement with any relative of the person for or in relation to—
- 5 (i) the performance by the council at the expense of the person's relative of any work or service in connection with roads or sanitation;
- (ii) any permission granted by the council to occupy footways during the erection of buildings;
- 10 (iii) security for damage to footways or roadways; or
- (iv) any service or act to be rendered or done by the council under any Act with the administration of which the council is charged, or under any ordinances, by-laws or regulations made under any
- 15 Act,
- if the contract or agreement proposed to be made is similar in terms and conditions to such contracts or agreements as have been made, or as the council proposes to make, in respect of similar matters with other residents of the area;
- 20 (e) any question at any meeting of the council or of a committee for or in relation to—
- (i) the making or levying of a rate; or
- (ii) the fixing or levying of a charge or fee in respect of the supply to the person's relative by the council of
- 25 any service, product or commodity in the same manner and subject to the same conditions applicable in the case of persons who are not members of the council; or
- 30 (f) any question at any meeting of the council or of a committee for or in relation to the passing for payment of any regular account for wages or salary of any employee who may be a relative of the member.

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

5 (6) Subsection (5) (a) does not apply if, where the share capital of the company or other body is of more than one class, the total nominal value of all the shares of any one class in which the person has a beneficial interest exceeds one hundredth part of the total issued share capital of that class.

(7) A general notice given in writing to the clerk of the council by a person to the effect that the person or the person's spouse or de facto partner is—

10 (a) a member, or in the employment, of a specified company or other body; or

(b) a partner, or in the employment, of a specified person,

15 shall, unless and until the notice is withdrawn, be sufficient disclosure of the person's interest in any contract, proposed contract or other matter relating to the company, body or specified person which may be the subject of consideration by the council after the date of the notice.

Powers of Minister and councils in relation to meetings

20 46D. (1) The Minister may, subject to any conditions the Minister may think fit to impose, remove any disability imposed by section 46C in any case in which—

(a) the number of members of a council so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business; or

25 (b) it appears to the Minister that it is in the interests of the electors of the area that the disability should be removed.

(2) The council may, by resolution, provide for the exclusion of a member of the council or of a committee from a meeting of the council or committee while any contract, proposed contract or other matter in which the member has an interest is under
30 consideration.

SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
*continued***Disclosure of interests in development applications etc.**

46E. (1) If—

- 5 (a) an application is made to a council for building or subdivision approval under this Act or for consent to the carrying out of development (within the meaning of the Environmental Planning and Assessment Act 1979);
- (b) the application would, but for this section, be determined by a person acting in accordance with a delegation by the council; and
- 10 (c) the person has a pecuniary interest, direct or indirect, in the application,

the person shall, on receipt of the application—

- (d) give to the clerk of the council a disclosure in writing of the nature of the interest; or
- 15 (e) if the person is the clerk of the council, give to the council a disclosure in writing of the nature of the interest.
- (2) A disclosure under subsection (1) shall be laid on the table at the next meeting of the council and the council shall by resolution determine the application or refer the application to
- 20 another person with delegated authority to determine the application.

(3) An employee of a council who—

- (a) is required to prepare a recommendation, report or advice in writing in relation to any matter which is to be considered—
- 25 (i) at a meeting of the council or a committee; or
- (ii) by a person empowered, by a delegation from the council, to determine an application referred to in subsection (1) (a); and

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(b) has a pecuniary interest, direct or indirect, in the matter, shall make a disclosure in writing of the nature of the interest and attach it to the recommendation, report or advice.

Registers

5 46F. (1) The clerk of a council shall compile and maintain a register to be called the "Register of Disclosures by Council Members" and a register to be called the "Register of Disclosures by Designated Employees".

10 (2) The registers shall be in loose-leaf form and shall at any time comprise the returns lodged by members or designated employees of the council, respectively, within the previous 8 years.

(3) A register shall be divided into parts as follows:

(a) there shall be a separate part of the register for primary returns;

15 (b) there shall be separate parts of the register for the ordinary returns lodged in respect of each ordinary return period.

(4) The returns filed in any part of a register shall be filed in alphabetical order according to the surnames of the members or designated employees concerned.

20 (5) The clerk of the council shall record, in a book to be kept for the purpose, particulars of any disclosure made under section 46C, and of any notice given under section 46C (7).

25 (6) A disclosure made at a meeting of the council or of a committee shall be recorded in the minute book with the minutes of the meeting.

(7) A register or record kept in accordance with this section shall be available at the council's office at all reasonable hours for inspection by any elector.

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
*continued***Offences**

46G. (1) A person who fails to comply with section 46B, 46C or 46E (1) or (3)—

(a) is guilty of an offence under this Act; and

5 (b) in the case of a person who is a member of a council, shall
be disqualified for a civic office for a period of 7 years
unless the court by which the person is convicted sees fit
10 in the circumstances to reduce the period of
disqualification to a shorter period or to declare that the
person shall not by virtue of the conviction be disqualified
for a civic office.

(2) It is a defence in any prosecution for an offence by virtue
of a failure to comply with section 46C if the defendant satisfies
15 the court that the defendant did not know that a contract,
proposed contract or other matter in which the defendant had a
pecuniary interest was the subject of consideration at the meeting.

Proceedings for offences of non-disclosure

20 46H. Proceedings for an offence under section 46G may be
instituted at any time within 12 months after the offence was
committed.

(4) Schedules 5, 5A—

After Schedule 4, insert:

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*
 AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

SCHEDULE 5

(Sec. 46B (6))

PECUNIARY INTERESTS ETC. TO BE DISCLOSED

Interpretation

5 1. (1) In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“address” means—

- 10 (a) in relation to a person other than a corporation—the last residential or business address of the person known to the member or designated employee disclosing the address;
- (b) in relation to a corporation—the address of the registered office of the corporation in New South Wales or, where there is no such office, the address of the principal office of the corporation in the place in which it is incorporated; or
- 15 (c) in relation to any real property—the postal address of the property or the particulars of title of the property;

“disposition of property” means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- 20 (a) the allotment of shares in a company;
- (b) the creation of a trust in respect of property;
- (c) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property;
- 25 (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in respect of property;
- (e) the exercise by a person of a general power of appointment over property in favour of any other person; and
- 30 (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person;

“donor” means a person who makes a gift;

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

5 “gift” means any disposition of property made otherwise than by will (whether with or without an instrument in writing), without consideration in money or money’s worth passing from the donee to the donor, or with such consideration so passing if the consideration is not fully adequate, but does not include any financial or other contribution to travel;

“interest” means—

- (a) in relation to any property—any estate, interest, right or power whatever, whether at law or in equity, in or over the property; or
- 10 (b) in relation to any corporation—a relevant interest (within the meaning of section 5 of the Securities Industry (New South Wales) Code) in any securities issued or made available by the corporation;

“member” means a member of a council;

“occupation” includes trade, profession and vocation;

15 “ordinary return period”, in relation to an ordinary return required to be lodged by a person in a particular year, means—

- (a) if the last return lodged by the member or employee was a primary return, the period commencing on the first day after the primary return date and ending on 30 June in that particular year; or
- 20 (b) if the last return lodged by the person was an ordinary return—the period commencing on the expiration of the period to which the last return relates and ending on 30 June in that particular year;

25 “political party” means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Parliament of New South Wales, or to a council, of a candidate or candidates endorsed by it or by a body or organisation of which it forms part;

“primary return date”, in relation to a primary return required to be lodged by a person, means—

- 30 (a) 26 September 1987, if the person was a member or designated employee on that date; or
- (b) if the person becomes a member or designated employee after 26 September 1987—the day on which the person becomes a member or designated employee;

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

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

“property” includes money;

5 “public company” means a company whose shares are listed for quotation on the stock market of a stock exchange in New South Wales;

“securities” has the same meaning as in the Securities Industry (New South Wales) Code;

“travel” includes accommodation incidental to a journey.

10 (2) A reference in this Schedule to a disclosure concerning any corporation or other thing includes a reference to a disclosure concerning any corporation incorporated, or other thing arising or received, outside New South Wales.

15 (3) A reference in this Schedule to real property in which a member or designated employee of a council has an interest does not include a reference to real property situated outside the area of the council unless, by reason of its proximity to the area of the council, the interest of the member or designated employee could reasonably be expected to give rise to a pecuniary interest, direct or indirect, in a matter which the council might consider.

20 (4) For the purposes of this Schedule, gifts or contributions to travel given, loans made, or goods or services supplied, to a member or designated employee by 2 or more corporations which are deemed to be related to each other for the purposes of the Companies (New South Wales) Code shall be regarded as having been given, made or supplied by a single corporation.

Real property

25 2. (1) A member or designated employee shall disclose in a primary return and an ordinary return—

(a) the address of each parcel of real property in which the member or employee had an interest—

(i) in the case of a primary return—on the primary return date; or

30 (ii) in the case of an ordinary return—at any time during the ordinary return period; and

(b) the nature of the interest in each such parcel of real property.

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(2) An interest in a parcel of real property need not be disclosed by a member or designated employee in a primary return or an ordinary return if—

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

Gifts

3. (1) A member or designated employee shall disclose in an ordinary return—

- 15 (a) the description of each gift received by the member or employee at any time during the ordinary return period; and
- (b) the name and address of the donor of each such gift.

(2) A gift received by a member or designated employee need not be disclosed in an ordinary return if—

- 20 (a) the amount of the gift did not exceed \$500 unless—
- (i) the gift was 1 of 2 or more gifts made by 1 person at any time during the ordinary return period; and
- (ii) the amount of those 2 or more gifts exceeded, in the aggregate, \$500;
- 25 (b) the gift was a political contribution disclosed, or required to be disclosed, under Part VI of the Election Funding Act 1981; or
- (c) the donor was a relative of the member or employee.

(3) For the purposes of this clause, the amount of a gift comprising property other than money shall be deemed to be an amount equal to the value of the property.

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
*continued***Contributions to travel**

4. (1) A member or designated employee shall disclose in an ordinary return—

- 5 (a) the name and address of each person who made any financial or other contribution to any travel undertaken by the member or employee at any time during the ordinary return period;
- (b) the dates on which the travel was undertaken; and
- (c) the names of the States, Territories of the Commonwealth and overseas countries in which the travel was undertaken.
- 10 (2) A financial or other contribution to any travel undertaken by a member or designated employee need not be disclosed in an ordinary return if—
- (a) the contribution was made from public funds (including a contribution arising from travel on free passes issued under any Act or from travel in government or council vehicles);
- 15 (b) the contribution was made by a relative of the member or employee;
- (c) the contribution was made in the ordinary course of any occupation of the member or employee which is not related to his or her duties as a member or employee;
- (d) the amount of the contribution did not exceed \$250 unless—
- 20 (i) the contribution was 1 of 2 or more contributions made by 1 person at any time during the ordinary return period; and
- (ii) the amount of those 2 or more contributions exceeded, in the aggregate, \$250;
- (e) the contribution was a political contribution disclosed, or required to be disclosed, under Part VI of the Election Funding Act 1981; or
- 25 (f) the contribution was made by a political party of which the member or employee was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales or to enable the member or employee to represent the party within Australia.
- 30 (3) For the purposes of this clause, the amount of a contribution (other than a financial contribution) shall be deemed to be an amount equal to the value of the contribution.

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
*continued***Interests and positions in corporations**

5. (1) A member or designated employee shall disclose in a primary return and an ordinary return—

- 5 (a) the name and address of each corporation in which the member or employee had an interest or held any position (whether remunerated or not) on the primary return date or at any time during the ordinary return period, as the case requires;
- (b) the nature of the interest, or the description of the position held, in each such corporation; and
- 10 (c) except in the case of a public company—a description of the principal objects of each such corporation.

(2) An interest, or position held, in a corporation need not be disclosed by a member or designated employee in a primary return or an ordinary return if the corporation is—

- 15 (a) formed for the purpose of providing recreation or amusement or promoting commerce, industry, art, science, religion or charity or for any other community purpose;
- (b) required to apply its profits (if any) or other income in promoting its objects; and
- 20 (c) prohibited from paying any dividend to its members.

Positions in trade unions and professional or business associations

6. A member or designated employee shall disclose in a primary return and an ordinary return—

- 25 (a) the name of each trade union and each professional or business association in which the member or employee held any position (whether remunerated or not) on the primary return date or at any time during the ordinary return period, as the case requires; and
- (b) the description of the position held in each such union or association.

Dispositions of property

- 30 7. (1) A member or designated employee shall disclose in an ordinary return particulars of each disposition of real property by the member or employee at any time during the ordinary return period whereby the member or employee retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time.

Local Government (Disclosure of Interests) Amendment 1987
Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—continued
AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

(2) A member or designated employee shall disclose in an ordinary return particulars of each disposition of property to a person by any other person under arrangements made by the member or employee, being a disposition made at any time during the ordinary return period, whereby the member or employee obtained, either wholly or in part, the use and benefit of the property.

Discretionary disclosures generally

8. A member or designated employee may, at the member's or employee's discretion, disclose in any return any direct or indirect benefits, advantages or liabilities, whether pecuniary or not—

- (a) which are not required to be disclosed by any other provision of this Schedule; and
- (b) which the member or employee considers might appear to raise a conflict between his or her private interests and his or her public duty as a member or employee or which the member or employee otherwise desires to disclose.

SCHEDULE 5A
SCHEDULE 5A

(Sec. 46A (1))
(Sec. 46A (1))

Form 1

Form 1

LOCAL GOVERNMENT ACT 1919
LOCAL GOVERNMENT ACT 1919
DISCLOSURES BY MEMBERS AND DESIGNATED EMPLOYEES OF
DISCLOSURES BY MEMBERS AND DESIGNATED EMPLOYEES OF
COUNCIL
PRIMARY RETURN
PRIMARY RETURN

DIRECTIONS:

DIRECTIONS:

- (1) The pecuniary interests and other matters to be disclosed in this return are prescribed in clauses 2, 5, 6 and 8 of Schedule 5 to the Local Government Act 1919.

*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

B. INTERESTS AND POSITIONS IN CORPORATIONS

5	Name and address of each corporation in which I had an interest or held a position on the primary return date	Nature of interest (if any)	Description of position (if any)	Description of principal objects of corporation (except in case of public company)
10				

15 C. POSITIONS IN TRADE UNIONS AND PROFESSIONAL OR BUSINESS ASSOCIATIONS

20	Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) on the primary return date	Description of position

D. DISCRETIONARY DISCLOSURES

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

Form 2

LOCAL GOVERNMENT ACT 1919

DISCLOSURES BY MEMBERS AND DESIGNATED EMPLOYEES OF
COUNCIL

5

ORDINARY RETURN

DIRECTIONS:

- (1) The pecuniary interests and other matters to be disclosed in this return are prescribed by clauses 2–8 of Schedule 5 to the Local Government Act 1919.
- 10 (2) The particulars required to complete this form are to be written in block letters or typed.
- (3) If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose which is properly identified and signed by the member or designated employee.
- 15 (4) If there are no pecuniary interests or other matters of the kind required to be disclosed under a particular main heading in this form, the word “NIL” is to be placed in an appropriate space under that heading.

DISCLOSURES OF PECUNIARY INTERESTS AND OTHER MATTERS BY
..... IN RESPECT OF THE

20

(full name of member or designated employee)

PERIOD FROM TO

(ordinary return period)

25

.....
(member’s or designated
employee’s signature)

.....
(date)

Local Government (Disclosure of Interests) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
continued

A. REAL PROPERTY

Address of each parcel of real property in which I had an interest at any time during the ordinary return period	Nature of interest
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5 B. GIFTS

Description of each gift I received at any time during the ordinary return period	Name and address of donor
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C. CONTRIBUTIONS TO TRAVEL

10 Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time during the ordinary return period	15 Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel undertaken
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20 D. INTERESTS AND POSITIONS IN CORPORATIONS

25 Name and address of each corporation in which I had an interest or held a position at any time during the ordinary return period	30 Nature of interest (if any)	Description of position (if any)	Description of principal objects of corporation (except in case of public company)
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*Local Government (Disclosure of Interests) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919—
*continued*E. POSITIONS IN TRADE UNIONS AND PROFESSIONAL OR
BUSINESS ASSOCIATIONS

5	Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at any time during the ordinary return period	Description of position
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F. DISPOSITIONS OF PROPERTY

10 1. Particulars of each disposition of real property by me at any time during the ordinary return period whereby I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time.

15 2. Particulars of each disposition of property to a person by any other person under arrangements made by me, being dispositions made at any time during the ordinary return period, whereby I obtained, either wholly or in part, the use and benefit of the property.

G. DISCRETIONARY DISCLOSURES

