



New South Wales

Constitution (Disclosures by Members) Amendment Regulation 2006

under the

Constitution Act 1902

Her Excellency the Governor, with the advice of the Executive Council and in compliance with the provisions of section 14A (5) of the *Constitution Act 1902*, has made the following Regulation under the *Constitution Act 1902*.

Premier

Explanatory note

The object of this Regulation is to amend the *Constitution (Disclosures by Members) Regulation 1983*:

- (a) to require any Member of Parliament who is engaged (whether under an employment contract, as an officer of a corporation or by means of certain other contracts, agreements or arrangements for monetary consideration) by a person (the *principal*) to provide a service involving the use of the Member's parliamentary position to or on behalf of clients of the principal to disclose certain information about the service the Member provides, and
- (b) to require newly elected Members of Parliament to lodge primary returns within 1 month after they take office instead of the current period of 3 months, and
- (c) to require Members of Parliament to disclose certain additional information concerning their sources of income, and
- (d) to make certain consequential amendments to the Regulation, and
- (e) to make other minor amendments in the nature of law revision.

This Regulation is made under section 14A (Disclosure of pecuniary interests and other matters by Members) of the *Constitution Act 1902*.

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Clause 1 Constitution (Disclosures by Members) Amendment Regulation 2006

Constitution (Disclosures by Members) Amendment Regulation 2006

under the

Constitution Act 1902

1 Name of Regulation

This Regulation is the *Constitution (Disclosures by Members) Amendment Regulation 2006*.

2 Commencement

This Regulation commences on 24 March 2007.

3 Amendment of Constitution (Disclosures by Members) Regulation 1983

The *Constitution (Disclosures by Members) Regulation 1983* is amended as set out in Schedule 1.

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Constitution (Disclosures by Members) Amendment Regulation 2006

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 2 Arrangement

Omit the clause.

[2] Clause 3 Interpretation

Insert in alphabetical order in clause 3 (1):

first ordinary return date for a year means:

- (a) except as provided in paragraph (b)—31st March, or
- (b) where there are no Members of the Legislative Assembly on 31st March in that year by reason of the termination, either by dissolution or expiry, of the Legislative Assembly—the date that occurs 1 month after the date on which the Legislative Assembly first meets after 31st March in that year.

second ordinary return date for a year means:

- (a) except as provided in paragraph (b)—30th September, or
- (b) where there are no Members of the Legislative Assembly on 30th September in that year by reason of the termination, either by dissolution or expiry, of the Legislative Assembly—the date that occurs 1 month after the date on which the Legislative Assembly first meets after 30th September in that year.

supplementary return means a return in or to the effect of Form 3.

[3] Clause 3 (1), definition of “ordinary return period”

Omit the definition. Insert instead:

ordinary return period means:

- (a) in relation to an ordinary return required to be lodged by a Member before the first ordinary return date for a particular year:
 - (i) if the last return lodged by the Member was an ordinary return—the period of 6 months commencing on 1st July and ending on 31st December in the previous year, or
 - (ii) if the last return lodged by the Member was a primary return—the period commencing on the

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- primary return date in relation to the Member and ending on 31st December in the previous year, or
- (b) in relation to an ordinary return required to be lodged by a Member before the second ordinary return date for a particular year:
- (i) if the last return lodged by the Member was an ordinary return—the period of 6 months commencing on 1 January and ending on 30th June in that particular year, or
 - (ii) if the last return lodged by the Member was a primary return—the period commencing on the primary return date in relation to the Member and ending on 30th June in that particular year.

Note. See clause 24 for a summary of the requirements in respect of the lodgment of returns in the year of 2007.

[4] Clause 3 (1), definition of “primary return date”

Omit the definition. Insert instead:

primary return date, in relation to a person who becomes a Member (not being a re-elected Member), means the date on which he or she takes the pledge of loyalty required by section 12 of the Act.

[5] Clause 3 (1), definition of “return”

Omit the definition. Insert instead:

return means any of the following:

- (a) a primary return,
- (b) an ordinary return,
- (c) a supplementary return.

[6] Clause 3 (2) and (3)

Omit the subclauses. Insert instead:

- (2) A reference in this Regulation to a primary return or an ordinary return that was last lodged by a Member includes a reference to a primary return or ordinary return in or to the effect of the relevant form set out in Schedule 1 (as in force before its substitution by the *Constitution (Disclosures by Members) Amendment Regulation 2006*) if that was the last return lodged by the Member.
- (3) Notes included in this Regulation (except for directions and other notes in a Form) do not form part of this Regulation.

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[7] Clause 3A

Insert after clause 3:

3A Forms

- (1) In this Regulation, a reference to a Form is a reference to a Form in Schedule 1.
- (2) A Form must be completed in accordance with such of the following directions and guidelines (if any) as are consistent with this Regulation:
 - (a) any directions specified in the Form,
 - (b) any guidelines issued or approved from time to time by the appropriate parliamentary committee for the Member completing the Form.
- (3) In this clause, the *appropriate parliamentary committee* for a Member completing a Form means:
 - (a) a committee of the House of Parliament to which the Member belongs that is authorised by that House to issue or approve guidelines of the kind referred to in subclause (2) (b), or
 - (b) if a joint committee of the Houses of Parliament is so authorised by both Houses, that joint committee.

[8] Clauses 4–6

Omit the clauses. Insert instead:

4 Primary returns

A person who becomes a Member (not being a re-elected Member) must, within 1 month after the date on which he or she takes the pledge of loyalty required by section 12 of the Act, lodge a primary return with the Clerk.

5 Ordinary returns

- (1) In each year a Member must lodge an ordinary return with the Clerk both before the first ordinary return date and the second ordinary return date for that year.
- (2) However, a Member is not required to lodge an ordinary return if the primary return date in relation to the Member occurs after the end of the ordinary return period in respect of which the ordinary return is required to be lodged.

Note. See clause 24 for a summary of the requirements in respect of the lodgment of returns in the year of 2007.

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6 Supplementary returns

- (1) If a Member considers it appropriate to do so, the Member may lodge a supplementary return with the Clerk at any time before the date on which the Member is next required to lodge an ordinary return.
- (2) A supplementary return may contain such disclosures as the Member wishes to make concerning any or all of the matters that under this Regulation are required or permitted to be disclosed in an ordinary return.

[9] Clause 7 Interpretation: Part 3

Insert in alphabetical order in clause 7 (1):

entity means any of the following:

- (a) a corporation or body corporate,
- (b) a partnership or other unincorporated association of persons.

[10] Clause 7 (1), definition of “disposition of property”

Omit “his” from paragraph (f) of the definition. Insert “his or her”.

[11] Clause 7 (1), definition of “income”

Omit “*Income Tax Assessment Act 1936* of the Parliament of the Commonwealth”.

Insert instead “*Income Tax Assessment Act 1997* of the Commonwealth”.

[12] Clause 7 (4)

Insert after clause 7 (3):

- (4) A reference in this Part to a description that is reasonably sufficient to identify a matter is a reference to a description that would enable a reasonable person to identify the nature or the kind of matter.

[13] Clause 7A

Insert after clause 7:

7A Use of Member’s parliamentary position to provide services

A reference in this Part to a service provided by a Member involving the use of the Member’s parliamentary position is a reference to any service provided by the Member to another person that arises from or relates to the use of the Member’s

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position as a Member, including (but not limited to) any of the following services:

- (a) the provision of public policy advice,
- (b) the development of strategies, or the provision of advice, on the conduct of relations with the Government or Members,
- (c) lobbying the Government or other Members on a matter of concern to the person to whom the service is provided.

[14] Clauses 8 (2), 11 (2) (c) and (f), 12 (1) (a), 13 (a), 14 (3) (d) (ii) and 16

Omit “he” and “his” wherever occurring.

Insert instead “he or she” and “his or her” respectively.

[15] Clause 9 Sources of income

Omit clause 9 (1) (a). Insert instead

- (a) in a primary return—each source of income that the Member received, or reasonably expects to receive, in the period commencing on the primary return date and ending on the next succeeding 30th June or 31st December (whichever is last date of the ordinary return period for the Member’s first ordinary return), and

[16] Clause 9 (2) (a)

Omit the paragraph. Insert instead:

- (a) in relation to income from any service provided by a Member:
 - (i) a description that is reasonably sufficient to identify the service provided, or that is reasonably expected to be provided, for that income, and
 - (ii) where the service is provided, or is reasonably expected to be provided, as part of an occupation—a description that is reasonably sufficient to identify the occupation, and
 - (iii) where the service is provided, or is reasonably expected to be provided, as an employee of another person or as the holder of an office—the name and address of the Member’s employer or a description of the office (as the case may be), and
 - (iv) where the service is provided, or is reasonably expected to be provided, in connection with a partnership the Member has entered into with other

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persons—the name (if any) under, and address from which, the partnership is conducted, and

- (v) where the service is provided, or is reasonably expected to be provided, under any other contract, agreement or arrangement—the name and address of the person from whom the income was, or is reasonably expected to be, received, or

[17] Clause 9 (2) (c)

Insert “that is reasonably” before “sufficient”.

[18] Clause 9 (2A)

Insert after clause 9 (2):

(2A) Without limiting subclause (2), if:

- (a) the source of income was, or is reasonably expected to be, received:
 - (i) from the Member’s employer, or
 - (ii) for an office held by a Member in an entity, or
 - (iii) under a contract or any other agreement, and
- (b) the Member knows that the source of income was, or is reasonably expected to be, received for the provision by the Member of any service involving the use of the Member’s parliamentary position,

the disclosure required by subclause (1) in relation to that source of income must include a description that is reasonably sufficient to identify the business carried on by the employer, entity or other party to the contract or agreement (as the case may be).

[19] Clause 15A

Insert after clause 15:

15A Provision of client services

- (1) This clause applies to any Member who is or was engaged by a person (the *principal*) to provide any service that involves the use of the Member’s parliamentary position (a *relevant service*) to or on behalf of any client of the principal regardless of whether or not the Member also received, or is also reasonably expected to receive, a payment, gift or other financial benefit from the client or other person to whom the service is (or is to be) provided.
- (2) For the purposes of this clause, a *client* of a principal is any person to whom a service is, or is to be, provided or made

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available in circumstances where the principal has received, or is reasonably expected to receive, consideration in money or money's worth for the service.

- (3) For the purposes of subclause (1), a Member is ***engaged by a principal*** to provide a relevant service to or on behalf of clients of the principal if the Member provides the service in connection with:
- (a) any contract of employment that the Member has entered into with the principal, or
 - (b) where the Member is an officer of the principal—the Member's functions as an officer of the principal, or
 - (c) any other contract, agreement or arrangement that the Member has entered into with the principal under which the Member receives, or is reasonably expected to receive, consideration in money or money's worth.
- (4) For the purposes of this clause, a relevant service is provided ***on behalf of a client of the principal*** if the client has requested that the service be provided to another person on the client's behalf.
- (5) A Member to whom this clause applies must disclose:
- (a) in a primary return—each relevant service the Member provided, or reasonably expects to provide, to or on behalf of any clients of the principal in the period commencing on the primary return date in relation to the Member and ending on the next succeeding 30th June or 31st December (whichever is last date of the ordinary return period for the Member's first ordinary return), and
 - (b) in an ordinary return—each relevant service provided to or on behalf of any clients of the principal that the Member provided at any time during the ordinary return period.
- (6) A reference in subclause (5) to each relevant service provided, or reasonably expected to be provided, by a Member to or on behalf of any clients of the principal is a reference to:
- (a) a description that is reasonably sufficient to identify the nature of the service, and
 - (b) the names and addresses of the persons that the Member knows, or ought reasonably to know, have directly benefited or are likely to benefit directly from the provision of the service, and
 - (c) a description that is reasonably sufficient to identify the nature of the business carried on by any of the persons referred to in paragraph (b).

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(7) In this clause:

function includes a power, authority or duty.

officer, in relation to a person that is corporation, has the same meaning as officer of a corporation has in section 9 of the *Corporations Act 2001* of the Commonwealth.

[20] Clause 19 Form of registers

Omit clause 19 (2) (b). Insert instead:

- (b) There shall be separate parts of a register for the ordinary returns lodged in respect of each ordinary return period, together with:
 - (i) primary returns lodged under clause 4 in respect of primary return dates in that period, and
 - (ii) supplementary returns lodged under clause 6 in that period.

[21] Clause 24

Insert after clause 23:

24 Summary of operation of this Regulation in 2007

(1) Summary of requirements in 2007

For the avoidance of doubt, this clause summarises the operation of this Regulation (as amended by the *Constitution (Disclosures by Members) Amendment Regulation 2006*) in the year of 2007.

(2) When first ordinary return is due

The first ordinary return date for the lodgment of an ordinary return in 2007 (the *first 2007 ordinary return date*) is the date that occurs 1 month after the date on which the Legislative Assembly first meets following the general election to be held on Saturday 24th March 2007 (the *2007 general election*).

(3) Members required to lodge first ordinary return

The following Members (other than recently elected Members referred to in subclause (4) (b)) will be required to lodge an ordinary return before the first 2007 ordinary return date:

- (a) any re-elected Member, and
- (b) any Member of the Legislative Council whose term of office does not expire with the 2007 general election.

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- (4) However, the following Members (*recently elected Members*) will not be required to lodge an ordinary return before the first 2007 ordinary return date:
- (a) any Member (other than a re-elected Member) who is elected at the 2007 general election,
 - (b) any Member (other than a re-elected Member) who took the pledge of loyalty required by section 12 of the Act in early 2007 before the 2007 general election.
- (5) **Ordinary return period**
- The ordinary return period in respect of the ordinary return required to be lodged before the first 2007 ordinary return date is:
- (a) if the last return lodged by the Member was an ordinary return—the period of 6 months commencing on 1st July 2006 and ending on 31st December 2006, or
 - (b) if the last return lodged by the Member was a primary return and the Member is not a recently elected Member—the period commencing on the date on which the Member takes the pledge of loyalty required by section 12 of the Act and ending on 31st December 2006.
- (6) **Requirements in relation to recently elected Members**
- Instead of lodging an ordinary return before the first 2007 ordinary return date, a recently elected Member elected at the 2007 general election will be required to lodge a primary return within 1 month after the Member takes the pledge of loyalty required by section 12 of the Act.
- (7) Recently elected Members will be required to lodge their first ordinary returns before the second ordinary return date in 2007 (that is, 30th September 2007).
- (8) The ordinary return period for any such ordinary return for a recently elected Member will be:
- (a) the period commencing on the date on which the Member takes the pledge of loyalty required by section 12 of the Act, and
 - (b) ending on 30th June 2007.

[22] Schedule 1

Omit the Schedule. Insert instead:

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Schedule 1 Amendments

Schedule 1 Forms

(Clauses 3 (1) and 3A)

Form 1 Primary return

(Clause 3 (1), definition of "primary return")

Constitution (Disclosures by Members) Regulation 1983

Primary Return—Legislative *Council/*Assembly

Directions

- 1 The pecuniary interests and other matters required to be disclosed in this return are prescribed in clauses 8, 9, 12, 13, 14 and 15A of the *Constitution (Disclosures by Members) Regulation 1983*.
- 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, attach an appendix for that purpose which is properly identified and signed by the Member.
- 4 Where 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.
- 5 Matter marked with an asterisk (*) is to be omitted if it is not appropriate for the Member concerned.

Disclosures of pecuniary interests and other matters by:

..... as at

(full name of Member) *(primary return date)*

.....

(Member's signature)

.....

(Date)

Part 1 Real property

Address of each parcel of real property in which I had an interest on the primary return date	Nature of interest

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Address of each parcel of real property in which I had an interest on the primary return date	Nature of interest

Part 2 Sources of income

- 1** Particulars of the sources of income I received or reasonably expect to receive from any services provided, or to be provided, in the period commencing on the day I took the pledge of loyalty required by section 12 of the *Constitution Act 1902* and ending on the next succeeding 30th June or 31st December (whichever is the last date of the ordinary return period for my first ordinary return):

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Description that is reasonably sufficient to identify the services that were provided, or are reasonably expected to be provided, for the income	If services were provided, or are reasonably expected to be provided, as part of an occupation—a description of the occupation that is reasonably sufficient to identify the occupation	If services were provided, or are reasonably expected to be provided, as an employee, office holder, in connection with a partnership or under any other contract, agreement or arrangement—the name and address of the employer, partnership or other party to the contract, agreement or other arrangement or a description of the office (as applicable)	If a service involves the use of the Member's parliamentary position—a description that is reasonably sufficient to identify the nature of the business carried on by the employer, partnership, entity in which an office is held or other party to the contract, agreement or other arrangement (as applicable)

2 Sources of income I reasonably expect to receive from a trust in that period:

Name and address of settlor	Name and address of trustee

3 Sources of other income I reasonably expect to receive in that period:

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Schedule 1

(Include description reasonably sufficient to identify the person from whom, or the circumstances in which, that income is expected to be received.)

.....
.....
.....
.....

Part 3 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	Description of principal objects of corporation (except in case of public company)

Part 4 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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Schedule 1 Amendments

Part 5 Debts

Name and address of each person to whom I was liable to pay any debt on the primary return date.

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.....

Part 6 Client services

Particulars of services involving use of my parliamentary position that I provided, or reasonably expect to provide, to or on behalf of any client of a principal in the period commencing on the day I took the pledge of loyalty required by section 12 of the *Constitution Act 1902* and ending on the next succeeding 30th June or 31st December (whichever is the last date of the ordinary return period for my first ordinary return):

Description that is reasonably sufficient to identify the nature of the services	Names and addresses of the persons who benefited, or are likely to benefit, directly from the provision of the services	Description that is reasonably sufficient to identify the nature of the business carried on by any persons who benefited, or are likely to benefit, directly from the provision of the services

Part 7 Discretionary disclosures

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.....
.....

Form 2 Ordinary return

(Clause 3 (1), definition of "ordinary return")

Constitution (Disclosures by Members) Regulation 1983
Ordinary Return—Legislative *Council/*Assembly

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Constitution (Disclosures by Members) Amendment Regulation 2006

Amendments

Schedule 1

Directions

- 1 The pecuniary interests and other matters required to be disclosed in this return are prescribed by clauses 8–15A of the *Constitution (Disclosures by Members) Regulation 1983*.
- 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, attach an appendix for that purpose which is properly identified and signed by the Member.
- 4 Where 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.
- 5 Matter marked with an asterisk (*) is to be omitted if it is not appropriate for the Member concerned.

Disclosures of pecuniary interests and other matters by:

.....
(full name of Member)

in respect of the period from to
(ordinary return period)

.....
(Member's signature)

.....
(Date)

Part 1 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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Constitution (Disclosures by Members) Amendment Regulation 2006

Schedule 1 Amendments

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

Part 2 Sources of income

1 Particulars of sources of income I received from any services provided at any time during the ordinary return period:

Description that is reasonably sufficient to identify the services that were provided for the income	If services were provided as part of an occupation—a description of the occupation that is reasonably sufficient to identify the occupation	If services were provided as an employee, office holder, in connection with a partnership or under any other contract, agreement or arrangement—the name and address of the employer, partnership or other party to the contract, agreement or other arrangement or a description of the office (as applicable)	If a service involves the use of the Member's parliamentary position—a description that is reasonably sufficient to identify the nature of the business carried on by the employer, partnership, entity in which an office is held or other party to the contract, agreement or other arrangement (as applicable)

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- 2** Sources of income I received from a trust at any time during the ordinary return period:

Name and address of settlor	Name and address of trustee

- 3** Sources of other income I received at any time during the ordinary return period:
(Include description reasonably sufficient to identify the person from whom, or the circumstances in which, that income was received.)

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.....
.....

Part 3 Gifts

Description of each gift I received at any time during the ordinary return period	Name and address of donor

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Schedule 1 Amendments

Part 4 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	Names of States, Territories of the Commonwealth and overseas countries in which travel undertaken

Part 5 Interests and positions in corporations

Name and address of each corporation in which I had an interest or held a position during ordinary return period	Nature of interest (if any)	Description of position	Description of principal objects of corporation (except in case of public company)

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Part 6 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

Part 7 Debts

Name and address of each person to whom I was liable to pay any debt at any time during the ordinary return period.

.....
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Part 8 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 reacquire the property at a later time.

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.....

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.

.....
.....
.....

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Part 9 Client services

Particulars of services involving use of my parliamentary position that I provided to or on behalf of any client of a principal at any time during the ordinary return period:

Description that is reasonably sufficient to identify the nature of the services	Names and addresses of the persons who benefited, or are likely to benefit, directly from the provision of the services	Description that is reasonably sufficient to identify the nature of the business carried on by any persons who benefited, or are likely to benefit, directly from the provision of the services

Part 10 Discretionary disclosures

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.....
.....
.....

Form 3 Supplementary return

(Clause 3 (1), definition of "supplementary return")

Constitution (Disclosures by Members) Regulation 1983 Supplementary Return—Legislative *Council/*Assembly

Directions

- 1 If a Member considers it appropriate to do so, a Member may make any disclosures in a supplementary return concerning any or all of the matters that a Member is required or permitted to disclose under the *Constitution (Disclosures by Members) Regulation 1983* in an ordinary return, before the date on which the Member is next required to lodge an ordinary return.
- 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, attach an appendix for that purpose which is properly identified and signed by the Member.

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- 4 Matter marked with an asterisk (*) is to be omitted if it is not appropriate for the Member concerned.

Disclosures of pecuniary interests and other matters by:

.....

(full name of Member)

in respect of the period from to

.....

(Member's signature)

.....

(Date)

Disclosures

.....

.....

.....

.....