

**Submission
No 6**

**DRAFT CONSTITUTION (DISCLOSURES BY MEMBERS) REGULATION
2024**

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Date Received: 13 June 2024

FIRST PRINCIPLES

Members of Parliament represent voting citizens and, where appropriate, their dependents, with the family unit to be given priority as it is in the interest of the State, and not, directly, their own or family, cultural/ethno/religious, party, union, corporations or other specific groups interests.

The making of laws has two primary functions: the didactic, to inform and set standards; and the punitive, to enforce, where appropriate and necessary, compliance for the common good.

This positive law, by its very man-made nature, is no law at all if it negates or is at odds with the Natural Law. Natural persons have an intrinsic value that transcends the mere economic value of the populace as servants of the State.

Transparency and accountability of parliamentary and government processes are key pillars of a free and fair democratic society and where ALL are equal before the law and reasonable able to access its protection.

The balance between accountability and privacy is often compromised by the act of being in public service, either as an elected member or an administrative functionary of the executive, government or judiciary.

The public's right to know is to be tempered to where such public duties, events or procedures enliven a real, or perceived, conflict of interest or where actions are made in the interests of other parties in conflict with the general responsibilities of Members to their constituents.

Determining such conflicts and responsibilities is often clear and obvious, and at other times, difficult with the general duty to govern and weighing up the many competing interests of a diverse and pluralist community.

CODIFYING INTERESTS, RECORDING LOBBYING AND MONITORING REWARDS

The current provisions do not properly address the elephant in the room - the indirect purchasing of legislative and regulatory influence associated with commercial lobbying and third-party contributions to the political/election process.

The average voter exerts little to no financial influence over the body politic. The 'need' to leverage funding above existing public funding, ostensibly for electoral expenses associated with party political promotion, perverts the responsibility and deference to be afforded to constituents, where the loudest (or best financed) voices override the common good.

The current provisions and suggested revised provisions fall short of an active and live accountability trail and favour the political class that is constantly engaged with the 'sport' of politics whilst the vast majority struggle to comply with the complexities of life and imposition of an ever-growing regulation of activities and, sadly, thought crimes!

TIME FOR A COMPLETE RESET

Noting the Constitutional position where the HCA has deemed the freedom of political communication as an implied right in the constitution (and noting it is mainly Unions that have challenged laws restricting donations) one can only be encouraged by the reforms proposed in SA.

There is no technical reason why a State agency (such as the Electoral Funding Authority or the Clerk of Parliament) cannot be resourced to establish a combined donation/expense and lobbying diary in a live cloud based environment.

Whilst appreciative of the intent with this regulatory review, it is just feel good tinkering and whilst I also acknowledge the potential for foreign data gathering risks and other legitimate security and privacy concerns, why not do this all properly!

I would be happy to be on any advisory group to facilitate such a genuine outcome, and in the absence of self-regulation, would be of a mind to actively finance a public initiative independently forcing this upon the body politic.