

CLAUSE NOTES

Parliamentary (Disclosure of Interests) Amendment Bill 2017

Clause 1: Short Title

The short title will be the *Parliamentary (Disclosure of Interests) Amendment Act 2017*.

Clause 2: Commencement

The Act will commence on 1 July 2017.

Clause 3: Principal Act

The Principal Act to which the amendments apply is the *Parliamentary (Disclosure of Interests) Act 1996*.

Clause 4: Section 3 amended (Interpretation)

Address

The definition of address is amended so that, in relation to a person or a property, it relates to the suburb or locality in which the person resides or the property is located. This removes the requirement to declare a full residential address. The requirement to disclose the full address of corporations is unchanged.

Annual return and annual return period

These definitions replace the definitions of 'ordinary return' and 'ordinary return period'. The term 'ordinary return' does not clearly describe what the purpose of the return is, which is to make an annual disclosure. There are no changes to the substance of the definitions. The definitions of 'ordinary return' and 'ordinary return period' are repealed as a result. The definition of 'return' is also amended to reflect this change.

Gift

The definition of gift is replaced. The new definition is significantly broadened to capture all items of personal property and real property, as well as financial or other benefits. This amendment seeks to ensure that items commonly considered as gifts are captured by the Act.

Income

The definition of income is amended by moving the exception applying to declaration of Parliamentary salaries to a new section 9A in Division 2 – Exceptions to Disclosure.

Ordinary return and ordinary return period

These definitions are repealed and replaced by 'annual return' and 'annual return period'.

Clause 5: Section 4 amended (Primary returns)

This clause removes redundant commencement provisions. The requirements are not altered.

Clause 6: Section 5 amended (Annual returns)

The clause inserts 'date' after 'primary return' in subsection (1) to clarify when disclosures are required and to direct Members to the definition of 'primary return date'. The absence of 'date' in the Principal Act currently makes it unclear whether the section relates to the 'primary return date', or the day that the Member lodges the primary return.

References to 'ordinary return' are updated to 'annual return' to reflect the changes to definitions.

Clause 7: Sections 6, 7 and 8 substituted

This clause substitutes sections 6, 7 and 8 to clarify what Members are required to disclose. The substance of the sections is largely the same, with minor changes.

The current provisions in some cases require Members to read multiple subsections to determine what details are required for each type of interest. This amendment addresses instances of overlap and groups related subsections to streamline the Act.

Section 6 substituted

- Changes to section 6 are as follows:
- References to 'a spouse of the Member' are included to extend the scope of the disclosures required.
- Reference to 'details of income' is replaced with a requirement to declare the source of and reason for the income, to clarify the requirement.
- Sections in relation to real property are consolidated into one section and it is clarified that the legal nature of the interest in property must be declared.
- Sections in relation to interests or positions in corporations have been combined. The requirement to provide the principal objects of a corporation is removed.
- Sections in relation to positions in trade unions or professional or business associations are combined.
- In relation to debts, 'other entity' has been added to clarify that if the debt is owed to a business, rather than a 'person', it should be declared.

Section 7 substituted

Changes to section 7 are as follows:

- References to 'a spouse of the Member' are included to extend the scope of the disclosures required.
- 'ordinary' returns are renamed 'annual' returns.
- Reference to 'details of income' is replaced with a requirement to declare the source of and reason for the income, to clarify the requirement.
- The \$500 threshold for declaration of income has been relocated to Division 2 – Exceptions to Disclosure.
- Sections in relation to real property are combined into one section and it is clarified that the legal nature of the interest in property must be declared.
- Sections in relation to interests or positions in corporations have been combined. The requirement to provide the principal objects of a corporation is removed.
- Sections in relation to positions in trade unions or professional or business associations are combined.
- In relation to debts and contributions to travel, 'other entity' has been added to clarify that if the debt is owed to, or contribution made by, a business, rather than a 'person', it should be declared.
- In relation to dispositions of property, references to 'use and benefit' of the property are replaced with references to 'use or benefit' to better capture the range of interests that should be declared.

- Sections in relation to travel are reworded to provide clarity about requirements to disclose contributions to travel including free or upgraded accommodation, transport or hospitality.
- Sections in relation to gifts are combined. The requirement to declare a description of any gift and the name and address of the donor remains.

Section 8 deleted

Amendments to sections 6 and 7 clarifying details that must be declared in relation to income make this section unnecessary. The level of detail required in relation to income is reduced to the source of the income and the reason for the income.

Clause 8: Section 9A inserted

The substantive requirements are not changed. This clause consolidates exceptions previously listed in the definition of 'income' and sections 6(a) and 7(a) (relating to sources of income). Inserting this provision under Division 2 – Exceptions to Disclosure provides consistency by grouping all exceptions in the same part of the Act.

The reference to *Parliamentary Salaries and Allowance Act 1973*, moved from the definition of income, is updated to refer to the current equivalent *Parliamentary Salaries, Superannuation and Allowances Act 2012*.

This clause ensures that the exceptions also apply to income received by a spouse of a Member.

Clause 9: Section 10 amended (Real property)

The provision is amended to ensure the exceptions are also applicable to the interests of spouses.

Clause 10: Section 11 amended (Corporation)

The provision is amended to ensure the exceptions are also applicable to the interests of spouses.

Clause 11: Section 12 amended (Debt)

The provision is amended to ensure the exceptions are also applicable to the interests of spouses.

This clause also replaces references to 'ordinary' with 'annual' consistent with clause 5.

Clause 12: Section 13 amended (Contribution to travel)

The provision is amended to ensure the exceptions are also applicable to the interests of spouses.

This clause also replaces one instance of 'ordinary' with 'annual' consistent with clause 5. A new exception is included so that a contribution to travel does not need to be declared if it was made in a personal capacity and could not reasonably be perceived to have been given in relation to the Member's role or duties.

Clause 13: Section 14 amended (Gifts)

The provision is amended to ensure the exceptions are also applicable to the interests of spouses.

This clause also replaces one instance of 'ordinary' with 'annual' consistent with clause 5. A new exception is included so that a gift does not need to be declared if it was given in a personal capacity and could not reasonably be perceived to have been given in relation to the Member's role or duties.

The reference to the amount of the gift relates to the fair market value of the gift at the time it was made.

Clause 14: Section 17 substituted (Form of registers)

This sets out that the form of the Registers will be prescribed in Regulations rather than contained in the Principal Act.

Clause 15: Section 18 amended (Inspection of registers)

This sets out that the availability of the Registers will be prescribed in Regulations rather than contained in the Principal Act.

Clause 16: Section 19 amended (Tabling of registers)

This clause replaces one reference of 'ordinary' with 'annual' consistent with clause 5.

Clause 17: Section 20 amended (Publication of registers)

This inserts a new requirement for Registers to be published online in a manner to be prescribed in Regulations.

Clause 18: Section 21 (Deletion of certain matter)

This clause inserts a new provision that enables the Clerk to delete information that, if published online, would in his or her view unreasonably compromise the privacy or safety of any person.

Clause 19: Section 23A inserted

This clause provides for the indexation of the thresholds included in the Act relating to declaration of income, gifts, debts, and contributions to travel, to ensure that these thresholds do not become impractically low over time. The thresholds will be indexed in accordance with the Consumer Price Index for the Hobart area, but will only increase in amounts of \$50 due to the rounding-off provision. This is to ensure changes are practical and manageable over time, rather than having small increases each year.

Clause 20: Section 24 amended (Contempt of Parliament)

This clause adds two new exceptions to contempt of Parliament.

It provides that Members will not be guilty of contempt if they fail to disclose information in relation to a spouse if they have made all reasonable attempts to obtain the information, or if they could not reasonably be expected to be aware of the information.

It also provides that a Member is not guilty of contempt if a return is lodged in good faith and complies with the Act at the time it is lodged. This clarifies that if circumstances change, a Member cannot be held in contempt for something that was correct at the time.

Clause 21: Repeal of Act

This is a standard provision included in all Amendment Acts that provides for the repeal of the amending Act after its provisions have come into effect and been incorporated into the Principal Act.