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PARLIAMENTARY (DISCLOSURE OF INTERESTS) ACT 1996

PRIMARY RETURN – HOUSE OF ASSEMBLY/ LEGISLATIVE COUNCIL

Introduction:

The *Parliamentary (Disclosure of Interests) Act 1996* ("the Act") requires the disclosure of interests of all Members of the House of Assembly and the Legislative Council, and spouses of Members.

Primary Return:

You must lodge a Primary Return, disclosing interests as required by the Act with the appropriate Clerk within three months of the day on which you take an Oath or Affirmation of Allegiance (the 'primary return date').

You are guilty of contempt of Parliament if you fail to lodge a return as required by the Act, fail to disclose any information required under the Act, or provide false or misleading information on a return.

The directions and explanatory notes provided in this form are intended as a guide only. If you are in doubt about whether or not an interest is required to be disclosed you should refer to the Act and/or seek legal advice.

In accordance with Section 20 of the Act, completed returns will be tabled in Parliament and made publicly available online, on the Parliament of Tasmania's website at www.parliament.tas.gov.au

DIRECTIONS:

- a) The interests you are required to disclose in a Primary Return are set out in Section 6 of the Act, and apply to you, as the Member, and your spouse. Under the Act, spouse includes a person in a 'significant relationship' (which can include couples that are not married) as defined in Section 4 of the *Relationships Act 2003*.
- b) You are required to lodge a return even if you (and/or your spouse) have no interests to disclose. If there is nothing at all to declare, please indicate this by selecting 'no' at each question. **All questions must be addressed.**
- c) If there is not enough space in this form for you to list all the particulars required to complete it, attach an appendix for that purpose which is properly identified and signed. Appendix number(s) should be indicated in the relevant section of the form for cross referencing purposes.
- d) You may wish to seek independent professional legal, financial or other advice to ensure that the requirements of the Act are complied with.
- e) Your return must be lodged with the Clerk of the House of Assembly or the Legislative Council (depending on which House you are a Member of).

DISCLOSURE OF PECUNIARY INTERESTS AND OTHER MATTERS BY

David James O'Byrne

.....
(Full name of Member)

AS AT THE PRIMARY RETURN DATE OF

1st May 2018

.....
(Date of taking the Oath or Affirmation)

[Signature]

.....
(Member's signature)

11/7/18

.....
(Date)

A. SOURCES OF INCOME

Have you, or your spouse, received or do you, or your spouse, expect to receive any income in the period between taking the oath of allegiance and the next 30 June, excluding income received as remuneration under the *Parliamentary Salaries, Superannuation and Allowances Act 2012 (Tas)*?

- No – continue to Part B
- Yes – provide particulars below

Explanatory notes:

- 'Income' means assessable income within the meaning of the *Income Tax Assessment Act 1936 (Commonwealth)*.
- The following categories are used as a guide by the Australian Tax Office: employment income; super pensions, annuities and government payments; investment income; business, partnership and trust income; foreign income; and crowdfunding income. Members should refer to the Australian Tax Office for further information.
- A source of income only needs to be recorded here if you or your spouse received income from that source in excess of \$500 during the return period.

Please indicate the **source** of income (amounts are not necessary):

	Person or entity from which income was received or is expected to be received	Why the income was/is expected to be received For example, payment for employment; interest from investments, partnership, or trusts; sale of shares; pension; rental payments; income from superannuation.
Self	not applicable nil	not applicable nil
Spouse	Tasmanian State Govt	employee / public servant wages/income for employment.

B. REAL PROPERTY

Did you, or your spouse, hold any interest in real property (whether or not in Tasmania) on the primary return date?

- No – continue to Part C
- Yes – provide particulars below

Explanatory notes:

- 'Real property' (often referred to as real estate) is property consisting of land or buildings.
- In this section, an interest means any estate, interest, right or power, at law or in equity, in or over the property.
- You may not be required to declare an interest in property if it is held only in the capacity as an executor or a trustee – refer to section 10 of the Act for more information¹.
- You are not required to declare the value of the property, or the value of the interest in the property.

Guidance: what is "the legal nature of my interest in property"?

Which of the following best describes your ownership:	Your interest may be:
'I possess <u>sole legal title</u> to the property' (this includes group/strata title properties and perpetual leaseholds).	Sole owner
'I possess legal title to a property with <u>somebody else</u> ' (this includes group/strata title properties and perpetual leaseholds).	Joint tenant (if either of the joint owners die, the surviving owner automatically owns the property absolutely, no matter what provision is made in the Will of the deceased joint owner about that property)
	Tenant in common (each owner has a separate interest in the property, which is capable of being left by a Will. If either owner dies, his/her share in the property does not automatically pass to the other owner, but forms part of his/her estate). Tenants in common can hold either equal or unequal shares.
'I enjoy the benefits of ownership (including; usage, income, profits) even though the legal title is in another name.'	Equitable and/or beneficial ownership <ul style="list-style-type: none"> – Example: You help your son to buy an investment property by paying the deposit. The agreement is made on the understanding that you will receive a third of the profits when the property is sold. The title is in your son's name, and your son lives in the house and pays the mortgage. You still have an equitable interest in the property, and have 'beneficial ownership'. – Example: Legal title of a rental property is held under a trust by a corporation, and you are a beneficiary of the trust.
'I have a current right to possession and enjoyment of the property and its income until my death, but no ability to pass that right on to another party.'	Actual life estate Your right to the property is actually being exercised (ie it is not potential/future life estate). Your right to the property may also be contingent upon something (eg your marriage).

¹ Hold the interest only in the capacity as the executor or administrator of an estate of which you and your spouse are not beneficiaries; or Hold the interest in the capacity as a trustee, and you or your spouse's interest was acquired in the ordinary course of your, or your spouse's occupation unrelated to your duties as a Member.

Particulars of interests in real property		
	Suburb or locality and postcode of each parcel of real property you (and/or your spouse) had an interest in on the primary return date	Legal nature of interest: a box <i>MUST</i> be ticked for each property (see the guidance on previous page to assist in determining the nature of your interest)
Self	eg North Hobart, 7000 New Town 7008	<input type="checkbox"/> Sole owner <input checked="" type="checkbox"/> Joint tenant <input type="checkbox"/> Tenant in common <input type="checkbox"/> Equitable interest and/or beneficial owner <input type="checkbox"/> Actual life estate <input type="checkbox"/> Interest not stated above (provide details):
Self	nil	<input type="checkbox"/> Sole owner <input type="checkbox"/> Joint tenant <input type="checkbox"/> Tenant in common <input type="checkbox"/> Equitable interest and/or beneficial owner <input type="checkbox"/> Actual life estate <input type="checkbox"/> Interest not stated above (provide details):
Spouse	New Town 7008	<input type="checkbox"/> Sole owner <input checked="" type="checkbox"/> Joint tenant <input type="checkbox"/> Tenant in common <input type="checkbox"/> Equitable interest and/or beneficial owner <input type="checkbox"/> Actual life estate <input type="checkbox"/> Interest not stated above (provide details):
Spouse	nil	<input type="checkbox"/> Sole owner <input type="checkbox"/> Joint tenant <input type="checkbox"/> Tenant in common <input type="checkbox"/> Equitable interest and/or beneficial owner <input type="checkbox"/> Actual life estate <input type="checkbox"/> Interest not stated above (provide details):

C. INTERESTS AND POSITIONS IN CORPORATIONS

Did you, or your spouse, hold any interest or position in any corporation (whether remunerated or not) on the primary return date?

- No** – continue to Part D
- Yes** – provide particulars below

Explanatory notes:

- Interest in corporations means any relevant interest within the meaning of the Corporations Act 2001 (Commonwealth)² in any securities³ issued or made available by a corporation (whether or not a corporation is taken to be registered in Tasmania under the Corporations Act). Examples might include 'shareholder' or 'majority shareholder'.
- Disclosure is not required if the corporation is:
 - Formed to provide recreation or amusement; to promote commerce, industry, art, science, religion or charity; or for any other community purpose; and
 - is required to apply any profits or other income to promoting its objects; and
 - is prohibited from paying any dividend to members.
- It is not relevant whether or not the position is remunerated.
- Members may wish to seek advice in relation to interests in, for instance, a self-managed superannuation fund or a 'syndicate'.
- You do not need to disclose the value of interests in corporations.

Particulars of interests and positions in corporations				
	Name of each corporation in which you had an interest or held a position on the primary return date	Address of corporation (Head office address)	Nature of interest (if any)	Description of position (if any)
	<i>Example only:</i> XYZ Corporation, Hobart TAS 7000	1 Imaginary Place, Hobart TAS 7000	Shareholder	n/a
Self	nil			
Spouse	nil			

² See ss 608 and 609 of the Corporations Act for the meaning of 'relevant interest' (the 'basic rule' is: "A person has a relevant interest in securities if they: (a) are the holder of the securities; or (b) have power to exercise, or control the exercise of, a right to vote attached to the securities; or (c) have power to dispose of, or control the exercise of a power to dispose of, the securities. It does not matter how remote the relevant interest is or how it arises. If two or more people can jointly exercise one of these powers, each of them is taken to have that power.").

³ See s 92 of the Corporations Act for the definition of 'securities' (as a guide only, the first part of the definition is: "(1) Subject to this section, securities means: (a) debentures, stocks or bonds issued or proposed to be issued by a government; or (b) shares in, or debentures of, a body; or (c) interests in a managed investment scheme; or (d) units of such shares; but does not include: (f) a derivative (as defined in Chapter 7), other than an option to acquire by way of transfer a security covered by paragraph (a), (b), (c) or (d); or (g) an excluded security.").

D. POSITIONS IN TRADE UNIONS AND PROFESSIONAL OR BUSINESS ASSOCIATIONS

Did you, or your spouse, hold any position in any trade union or professional or business association, whether remunerated or not, on the primary return date?

No – continue to Part E

Yes – provide particulars below

Explanatory notes:

- "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.
- Position refers to an office or a formal role within the organisation. An ordinary membership does not need to be declared but an executive role or formal status, such as patron, should be declared.

Particulars of each position		
	Name of each trade union and association in which you held a position on the primary return date	Description of position (if any)
	<i>Example only: XYZ Trade Union</i>	<i>Vice President</i>
Self	United Voice - H.A.C.S.U.	life member member
Spouse	not applicable nil	nil.

E. DEBTS

Were you, or your spouse, liable to pay any debt as at the primary return date?

- No – continue to Part F
- Yes – provide particulars below

Explanatory notes:

- Only debts exceeding \$500 must be disclosed, unless the debt was one of two or more debts to the same person that exceed \$500 in total.
- A debt should be disclosed whether or not it was due and payable during the annual return period.
- The following debts are excluded from disclosure:
 - a debt to a relative⁴;
 - a debt arising from a loan of money from an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender (eg. a standard mortgage from a recognised financial institution); and
 - a debt arising from the supply of goods or services that were supplied during the annual return period in the ordinary course of any occupation (trade, profession or vocation) of the Member that is not related to his or her duties as a Member, or in the ordinary course of any occupation of a spouse of the Member.

Particulars of any debts		
	Name of each person or entity to whom you were liable to pay a debt as at the primary return date	Address <i>(Suburb and postcode if an individual; full head office address if a corporation)</i>
Self	not applicable nil	nil
Spouse	not applicable nil	nil

⁴ Relative is defined in s 3 of the Act as any of the following: (a) The parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant, surrogate child or adopted child of a Member or of a Member's spouse; or (b) the spouse of a Member or of any other person specified in (a).

F. DISCRETIONARY DISCLOSURES

Do you wish to disclose any additional direct or indirect benefits, advantages or liabilities, whether pecuniary or not?

- No – please lodge this form with the appropriate Clerk (Details provided below).
- Yes – provide particulars below

Explanatory notes:

- In the interests of transparency, you may disclose any direct or indirect benefits, advantages or liabilities, whether pecuniary or not, that are not required by the Act to be disclosed.
- You should consider any possibility of a conflict between your private interests and your duties as a Member (s9 of the Act). A conflict of interest can be actual, perceived or potential, pecuniary or non-pecuniary.
- You may wish to disclose interests in this Part that are not specifically required elsewhere on this form.

	Disclosure	Nature of benefit/advantage/liability
Self	My state shares David O'Byrne Consulting ABN - 95150880415	shareholder owner/sole trader
Spouse	not applicable nil	nil

Please lodge your completed form with the appropriate Clerk:

For Members of the House of Assembly	For Members of the Legislative Council
Clerk: Shane Donnelly	Clerk: David Pearce
Telephone: (03) 6212 2374	Telephone: (03) 6212 2331
Address: House of Assembly, Hobart, TAS 7000	Address: Legislative Council, Hobart, TAS 7000
Email: shane.donnelly@parliament.tas.gov.au	Email: david.pearce@parliament.tas.gov.au

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Primary Return Appendix

This Appendix is for use when more space for disclosure is required than the standard Primary Return form allows. Please number, sign and date each page and ensure each appendix is cross referenced in relevant Parts of the form.



Member's Signature:..... Date:.....