



Western Australia

# **Members of Parliament (Financial Interests) Act 1992**

Compare between:

[08 Aug 2003, 01-a0-06] and [22 May 2009, 01-b0-04]





Western Australia

**Reprinted under the  
Reprints Act 1984 as  
at 8 August 2003**

## **Members of Parliament (Financial Interests) Act 1992**

**An Act to require disclosure of certain financial interests by  
Members of Parliament, to establish a register of interests so  
disclosed, and for connected purposes.**

## **Part I — Preliminary**

### **1. Short title**

This Act may be cited as the *Members of Parliament (Financial Interests) Act 1992*<sup>1</sup>.

### **2. Commencement**

This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>.

### **3. Interpretation**

- (1) In this Act, unless the contrary intention appears —

**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 disclosing the address;
- (b) in relation to a corporation, the address of the registered office or principal place of business of the corporation in the State or, where there is no such office or place, the address of the principal office or place of business of the corporation in the place in which it is incorporated or taken to be registered; or
- (c) in relation to any real property, the postal address of the property or the particulars of title of the property;

**annual return** means a return required by section 4(1)(b);

**Clerk** means —

- (a) in relation to a Member of the Legislative Council, the Clerk of the Legislative Council; or
- (b) in relation to a Member of the Legislative Assembly, the Clerk of the Legislative Assembly;

**corporation** means any body corporate, whether formed or incorporated within or outside the State, and includes any “company” or “foreign company” (as those terms are defined in

the *Corporations Act 2001* of the Commonwealth) but does not include —

- (a) a body corporate that is incorporated within Australia or an external Territory and is a public authority or an instrumentality or agency of the Crown;
- (b) a corporation sole;
- [(c)deleted]
- (d) a society registered under the *Co-operative and Provident Societies Act 1903*; or
- (e) an association, society, institution or body incorporated under the *Associations Incorporation Act 1987*;

***de facto partner*** has a meaning affected by subsection (5);

***Member*** means a Member of either House of Parliament;

***primary return*** means a return required by section 4(1)(a);

***property*** includes money;

***re-elected Member*** means —

- (a) in the case of a Member of the Legislative Council, a person who was re-elected thereto at the general election immediately preceding the expiration of his term of service; and
- (b) in the case of a Member of the Legislative Assembly, a person who was a member thereof when it was terminated, either by dissolution or expiry, and was re-elected thereto at the next succeeding general election;

***register*** means a register compiled and maintained under section 16;

***relative***, in relation to any Member, means any of the following —

- (a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, or lineal descendant of the Member or of the Member's spouse or de facto partner; or

- (b) the spouse or de facto partner of the Member or of any relative specified in paragraph (a),

and in deducing any relationship for the purposes of this definition —

- (c) an adopted person shall be treated as the legitimate child of his adopters; and
- (d) an illegitimate person shall be treated as the legitimate child of his parents;

**return** means a primary return or an annual return;

**return period**, in relation to an annual return required to be lodged by a Member in a particular year, means —

- (a) where the last return lodged by the Member was an annual return, the period of 12 months ending on 30 June in that year; or
- (b) where the last return lodged by the Member was a primary return, the period commencing on the first day after the day on which the Member was sworn in and ending on 30 June in that year.

- (2) A reference in this Act to the day on which a Member is sworn in is a reference to the day on which he takes and subscribes the oath, or makes the affirmation, required under section 22 of the *Constitution Act 1889*.
- (3) A reference in this Act to a disclosure concerning any real property, income, corporation or other thing, includes a reference to a disclosure concerning any real property situated, income derived, corporation incorporated (or taken to be registered), or other thing arising or received, outside this State.
- (4) For the purposes of this Act, gifts or contributions to travel given, loans made, or goods or services supplied, to a Member by 2 or more related bodies corporate (as defined in the *Corporations Act 2001* of the Commonwealth) shall be regarded as having been given, made or supplied by a single corporation.

- (5) For the purposes of sections 9(2)(b), 10(2)(b) and 13(3)(b), the reference in the definition of *relative* to the de facto partner of the Member or of any relative specified in paragraph (a) of that definition means a person who was, at the relevant time, living as a de facto partner of the Member or relative and has been so living during the whole of the 2 years immediately preceding that time, and for the purposes of this subsection *the relevant time* means the time when the Member received the gift or contribution or, in the case of the liability to pay a debt, the time to which the return relates or the time of the commencement of the period to which the return relates, as the case may be.

*[Section 3 amended by No. 26 of 1999 s. 93(2); No. 10 of 2001 s. 126; No. 3 of 2002 s. 88(1), (2), (3)(a) and (b); No. 28 of 2003 s. 134.]*

## **Part II — Lodgement of returns by Members**

### **4. Members to lodge returns with Clerk**

- (1) A Member shall —
  - (a) within 30 days after the day on which he is sworn in lodge a primary return with the Clerk;
  - (b) not later than 30 September in each year lodge an annual return with the Clerk.
- (2) Subsection (1)(a) does not apply to a re-elected Member.
- (3) Nothing in this Act requires a Member to include in an annual return any information which has been disclosed in a previous return made by him.
- (4) Nothing in this Act requires the disclosure of the actual value, amount or extent of any asset, income, interest, gift, contribution, debt or disposition referred to in Part III.

### **5. Transitional provision as to primary returns by existing Members**

- (1) The requirement in section 4(1)(a) that a Member lodge a primary return extends to a person who is a Member (in this section referred to as *an existing Member*) on the day on which this Act comes into operation.
- (2) For the purposes of subsection (1), a reference in this Act —
  - (a) to a primary return shall be read as a reference, in the case of an existing Member, to a return required by section 4(1)(a) when read with subsection (1) of this section; and
  - (b) to the day on which a Member is sworn in shall be read as a reference to the day on which this Act comes into operation.



- (3) Subsection (2) does not apply in the case of an existing Member if he is subsequently again returned as a Member but is not at that time a re-elected Member.
- (4) Subsection (1) of section 18 shall apply to the register comprising primary returns lodged by existing Members, and for that purpose the reference in that subsection to “annual returns under section 4(1)(b)” shall be read as a reference to “primary returns required to be lodged by existing Members”.
- (5) Section 20 shall apply to an existing Member, and for that purpose the reference in that subsection to “section 4(1)” shall be read as a reference to “section 4(1) as applied by section 5”.

### **Part III — Financial interests to be disclosed**

#### **6. Real property**

- (1) A Member shall disclose in a primary return and an annual return —
  - (a) the address of each parcel of real property in which the Member had an interest —
    - (i) in the case of a primary return, on the day on which he is sworn in; and
    - (ii) in the case of an annual return, at any time during the return period;
  - and
  - (b) the nature of the interest in each such parcel of real property.
- (2) An interest in a parcel of real property need not be disclosed by a Member in a primary return or an annual return if the Member had the interest only —
  - (a) in his capacity as the executor or administrator of the estate of a deceased person and the Member was not a beneficiary under the will or intestacy;
  - (b) in his capacity as a trustee and the Member acquired the interest in the ordinary course of any occupation of the Member which is not related to his duties as a Member; or
  - (c) by way of security for a debt.
- (3) In this section *interest* means any estate, interest, right or power whatever, whether at law or in equity, in or over real property.

#### **7. Sources of income**

- (1) A Member shall disclose —
  - (a) in a primary return, each source of income which the Member reasonably expects to receive in the period

- commencing on the first day after the day on which he is sworn in and ending on the next succeeding 30 June; and
- (b) in an annual return, each source of income received by the Member at any time during the return period.
- (2) A reference in subsection (1) to each source of income received, or reasonably expected to be received, by a Member is a reference to —
- (a) in relation to income from a trade, profession or vocation of the Member —
- (i) a description thereof;
- (ii) where the Member is employed or the holder of an office, the name and address of his employer or a description of the office; and
- (iii) where the Member has entered into a partnership with other persons, the name (if any) under which the partnership is conducted;
- (b) in relation to income from a trust, the name and address of the settlor and the trustee; and
- (c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
- (3) The source of any income need not be disclosed by a Member in a primary return or an annual return if the amount of the income received, or reasonably expected to be received, by the Member from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
- (4) In this section **income** means assessable income within the meaning of the *Income Tax Assessment Act 1936* of the Parliament of the Commonwealth, but does not include remuneration payable under the *Salaries and Allowances Act 1975*.

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**8. Trusts**

A Member shall disclose in a primary return and in an annual return the name and address of the settlor and the trustee of any trust in which the Member held a beneficial interest, or of any discretionary trust of which the Member was a trustee or object, other than a trust to which section 7(2)(b) applies, in the case of —

- (a) a primary return, on the day on which he is sworn in; and
- (b) an annual return, at any time during the return period.

**9. Gifts**

(1) A Member shall disclose in an annual return —

- (a) the description of each gift received by the Member at any time during the return period; and
- (b) the name and address of the person who made each such gift.

(2) A gift received by a Member need not be disclosed in an annual return if —

- (a) the amount of the gift did not exceed \$500 unless —
  - (i) the gift was one of 2 or more gifts made by one person at any time during the return period; and
  - (ii) the amount of those 2 or more gifts exceeded in the aggregate \$500;

or

- (b) the donor was a relative of the Member.

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

(4) In this section *gift* means any disposition of property, or the conferral of any other financial benefit, made by one person in

favour of another otherwise than by will (whether with or without an instrument in writing), without consideration in money or money's worth passing from the person in whose favour it is made to the other, or with such consideration so passing if the consideration is not fully adequate, but does not include any financial or other contribution to travel.

**10. Contributions to travel**

- (1) A Member shall disclose in an annual return the name and address of each person who made any financial or other contribution to any travel undertaken by the Member at any time during the return period.
- (2) A financial or other contribution to any such travel undertaken by a Member need not be disclosed in an annual return if —
  - (a) the contribution was made from public funds;
  - (b) the contribution was made by a relative of the Member;
  - (c) the contribution was made in the ordinary course of any trade, profession or vocation of the Member which is not related to his duties as a Member;
  - (d) the amount of the contribution did not exceed \$500 unless —
    - (i) the contribution was one of 2 or more contributions made by one person at any time during the return period; and
    - (ii) the amount of those 2 or more contributions exceeded in the aggregate \$500,and for the purposes of this paragraph the amount of a contribution (other than a financial contribution) shall be deemed to be an amount equal to the value of the contribution; or
  - (e) the contribution was made by a political party of which he was a member and the travel was undertaken for the purpose of political activity of the party, or to enable him to represent the party.

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- (3) In this section —

**political party** means a body or organization, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Parliament of this State of a candidate or candidates endorsed by it or by a body or organization of which it forms part; and

**travel** includes accommodation incidental to a journey.

**11. Interests and positions in corporations**

- (1) A Member shall disclose in a primary return and in an annual return —

- (a) the name and address of each corporation of which he was a member or in which he otherwise had an interest or held any position (whether remunerated or not) on the day on which he is sworn in or at any time during the return period, as the case may be;
- (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 corporation whose shares are quoted on a prescribed financial market in Australia, a description of the principal business of each such corporation.

- (2) In this section —

**interest** means a relevant interest (within the meaning given by section 9 of the *Corporations Act 2001* of the Commonwealth) in any securities (within the meaning given by section 92 of that Act) issued or made available by the corporation;

**prescribed financial market** has the meaning given by section 9 of the *Corporations Act 2001* of the Commonwealth.

[Section 11 amended by No. 10 of 2001 s. 127; No. 21 of 2003 s. 16.]

**12. Positions in trade unions and professional or business associations**

- (1) A Member shall disclose in a primary return and in an annual return —
  - (a) the name of each trade union and each professional or business association in which he held any position (whether remunerated or not) on the day on which he is sworn in or at any time during the return period, as the case may be; and
  - (b) the description of the position held in each such union or association.
- (2) In subsection (1), *professional or business association* means a body or organization, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

**13. Debts**

- (1) A Member shall disclose in a primary return and an annual return the name and address of each person to whom the Member was liable to pay any debt —
  - (a) in the case of a primary return, on the day on which he is sworn in; or
  - (b) in the case of an annual return, at any time during the return period.
- (2) A liability to pay a debt shall be disclosed by a Member in a primary return and an annual return whether or not the amount, or any part of the amount, to be paid was due and payable on the day on which he was sworn in or at any time during the return period, as the case may be.
- (3) A liability to pay a debt need not be disclosed by a Member in a primary return or an annual return if —

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- (a) the amount to be paid did not exceed \$500 on the day on which he was sworn in or at any time during the return period, as the case may be, unless —
    - (i) the debt was one of 2 or more debts which the Member was liable to pay to one person on the day on which he was sworn in or at any time during the return period, as the case may be; and
    - (ii) the amounts to be paid exceeded in the aggregate \$500;
  - (b) the Member was liable to pay the debt to a relative;
  - (c) in the case of a debt arising from a loan of money, the Member was liable to pay the debt to an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth 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; or
  - (d) in the case of a debt arising from the supply of goods or services —
    - (i) the goods or services were supplied in the period of 18 months immediately preceding the day on which he was sworn in or were supplied during the return period, as the case may be; or
    - (ii) the goods or services were supplied in the ordinary course of any trade, profession or vocation of the Member which is not related to his duties as a Member.
- (4) In this section **debt** means a debt arising from —
- (a) a loan of money; or
  - (b) the supply of goods or services.

*[Section 13 amended by No. 26 of 1999 s. 93(3).]*



**14. Dispositions of property**

- (1) A Member shall disclose in an annual return particulars of each disposition of real property by the Member at any time during the return period whereby the Member 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) A Member shall disclose in an annual return particulars of each disposition of property to a person by any other person under arrangements made by the Member, being a disposition made at any time during the return period, whereby the Member obtained, either wholly or in part, the use and benefit of the property.
- (3) In this section *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 his own property and to increase the value of the property of any other person.

**15. Discretionary disclosures generally**

A Member may, at his 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 Part; and
- (b) which the Member considers might appear to raise a conflict between his private interests and his public duty as a Member or which he otherwise desires to disclose.

## **Part IV — Registers of interests**

### **16. Registers**

- (1) The Clerk of each House of Parliament shall compile and maintain a register to be called the “Register of Members’ Financial Interests”.
- (2) The register for each House of Parliament shall comprise the returns under this Act lodged by Members of that House.
- (3) A register shall be in loose-leaf form.
- (4) A register may be divided into such parts as the Clerk may consider convenient.
- (5) The returns filed in any part of a register shall be filed in alphabetical order according to the surnames of the Members concerned.

### **17. Inspection of registers**

- (1) The register for a House of Parliament shall be open to inspection by any person at the office of the Clerk of that House between the hours of 10.00 a.m. and 4.00 p.m. on any day except Saturday, Sunday or a day which is a public holiday.
- (2) A Member of either House of Parliament may also inspect the register for a House at the office of the Clerk of that House at any time when that House is sitting.
- (3) A person inspecting a register may take a copy of any part of a register or may, subject to payment of such charge as the Clerk may determine, require the Clerk to allow him to take a photocopy of any part.

### **18. Laying before Parliament**

- (1) The Clerk of each House shall, within 14 sitting days of that House after the last day for the lodgement of annual returns under section 4(1)(b), furnish to the Speaker or the President of

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that House, as the case may be, a copy of so much of the register for that House as has not previously been laid before that House; and the Speaker or the President shall thereupon cause the same to be laid before that House.

- (2) For the purposes of subsection (1), sitting days shall be counted, whether or not they occur during the same session.
- (3) When a copy of a register or a copy of part of a register is laid before a House of Parliament the Clerk of that House shall cause it to be published as a parliamentary paper by the Government Printer.
- (4) The Clerk of a House of Parliament may, for the purpose of the laying or publication of a copy of a register, or of a part of a register, referred to in this section, delete —
  - (a) any notes or directions concerning the completion of a return;
  - (b) where no disclosures are made under a particular main heading in a return, any matter under that heading apart from the word “NIL”; and
  - (c) any page number or other matter that is not relevant to any disclosure in a return.

**19. Restrictions on publication by Member**

- (1) Notwithstanding any other law, a Member shall not publish in the course of the proceedings of Parliament —
    - (a) any information derived from a register unless that information —
      - (i) constitutes a fair and accurate report or summary of information contained in the register; and
      - (ii) is published in good faith;
- or

- (b) any comment on the facts set forth in a register unless that comment —
  - (i) is fair; and
  - (ii) is published in good faith.
- (2) A Member who publishes, in the course of the proceedings of Parliament, any information or a comment in contravention of subsection (1), is guilty of a contempt of Parliament and the House of which he is a Member may deal with him accordingly.
- (3) For the purposes of subsections (1) and (2) **publish** has the same meaning in relation to any information or comment referred to in those subsections as is assigned to it in sections 348 and 349 of *The Criminal Code* in relation to the publication of defamatory matter.

## **Part V — General**

**20. Breach of section 4 by Member**

A Member of either House who wilfully contravenes or fails to comply with section 4(1) is guilty of a contempt of the House of which he is a Member, and that House may deal with him accordingly.

**21. Punishments in this Act exhaustive**

A Member who contravenes or fails to comply with any provision of this Act shall not be punished except as provided in section 19 or 20.

**22. Regulations**

- (1) The Governor may make regulations prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, prescribing the forms to be used for making returns.
- (2) Regulations shall not be made under subsection (1) so as to impose a greater obligation on the Members of one House than on the Members of the other House of Parliament.

Notes

<sup>1</sup> This ~~reprint~~ is a compilation ~~as at 8 August 2003~~ of the *Members of Parliament (Financial Interests) Act 1992* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Members of Parliament (Financial Interests) Act 1992</i>	44 of 1992	20 Nov 1992	24 Nov 1992 (see s. 2 and <i>Gazette</i> 24 Nov 1992 p. 5725)
<i>Acts Amendment and Repeal (Financial Sector Reform) Act 1999</i> s. 93	26 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(1) and <i>Gazette</i> 30 Jun 1999 p. 2905)
<i>Corporations (Consequential Amendments) Act 2001</i> Pt. 37	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
<i>Acts Amendment (Lesbian and Gay Law Reform) Act 2002</i> <del>Pt. 16</del> <u>s. 88</u> <sup>2</sup>	3 of 2002 ( <u>as amended by No. 8 of 2009 s. 17</u> )	17 Apr 2002	<del>Pt. 16</del> <u>S.88</u> other than s. 88(3)(c): 21 Sep 2002 (see s. 2 and <i>Gazette</i> 20 Sep 2002 p. 4693); s. 88(3)(c) <del>will not come into operation</del> <sup>3</sup> <u>deleted by No. 8 of 2009 s. 17</u>
<i>Corporations (Consequential Amendments) Act (No. 3) 2003</i> Pt. 8 <sup>3</sup>	21 of 2003	23 Apr 2003	11 Mar 2002 (see s. 2 and <i>Cwlth Gazette</i> 24 Oct 2001 No. GN42)
<i>Acts Amendment (Equality of Status) Act 2003</i> Pt. 41	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)

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(includes amendments listed above)

<sup>2</sup> ~~The amendment in the *Acts Amendment (Lesbian and Gay Law Reform) Act 2002* s. Section 88(3)(c) is not included because the section it sought to amend of this Act had been amended before the amendment purported to not come into operation when it was deleted by the *Statutes (Repeals and Miscellaneous Amendments) Act 2009* s. 17.~~

<sup>3</sup> The *Corporations (Consequential Amendments) Act (No. 3) 2003* s. 2-4 read as follows:

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**2. Commencement**

- (1) If this Act receives the Royal Assent before the day on which Schedule 1 to the Financial Services Reform Act comes into operation, this Act comes into operation at the same time as that Schedule comes into operation.
- (2) If this Act receives the Royal Assent on or after the day on which Schedule 1 to the Financial Services Reform Act comes into operation, this Act is deemed to have come into operation at the same time as that Schedule comes into operation.

**3. Interpretation**

In this Part —

*Financial Services Reform Act* means the *Financial Services Reform Act 2001* of the Commonwealth;

*FSR commencement time* means the time when Schedule 1 to the Financial Services Reform Act comes into operation;

*statutory rule* means a regulation, rule or by-law.

**4. Validation**

- (1) This section applies if this Act comes into operation under section 2(2).
- (2) Anything done or omitted to have been done after the FSR commencement time and before this Act receives the Royal Assent that could have been done if this Act had received the Royal Assent before the FSR commencement time is taken to be as valid and lawful, and to always have been as valid and lawful, as it would have been if this Act had received the Royal Assent before the FSR commencement time.
- (3) Anything done or omitted to have been done by a person after the FSR commencement time and before this Act received the Royal Assent that would have been valid and lawful if the Financial Services Reform Act had not commenced, is taken to be valid and lawful.
- (4) Anything done or omitted to have been done after the FSR commencement time and before this Act receives the Royal Assent —
  - (a) that could only have been validly and lawfully done or omitted because this Act received the Royal Assent after the FSR commencement time; and



(b) that could not have been validly and lawfully done or omitted if this Act had received the Royal Assent before the FSR commencement time,  
is taken not to be valid, and to never have been valid.

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