

(Reprint No. 1)

SOUTH AUSTRALIA

**MEMBERS OF PARLIAMENT
(REGISTER OF INTERESTS) ACT, 1983**

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 24 June 1993.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

SUMMARY OF PROVISIONS

Section

1. Short title
2. Interpretation
3. Lodging of returns
4. *Contents of returns*
5. Register of Members' Interests
6. Restrictions on publications
7. Failure to comply with Act
8. Regulations

MEMBERS OF PARLIAMENT (REGISTER OF INTERESTS) ACT, 1983

being

Members of Parliament (Register of Interests) Act, 1983, No. 35 of 1983 [Assented to 16 June 1983]

as amended by

Members of Parliament (Register of Interests) (Returns) Amendment Act 1993 No. 64 of 1993 [Assented to 27 May 1993]¹

An Act to establish a Register of certain Interests of Members of the Parliament of South Australia; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title

1. This Act may be cited as the *Members of Parliament (Register of Interests) Act, 1983*.

Interpretation

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

“beneficial interest” in property includes a right to re-acquire the property:

“family”, in relation to a Member, means—

(a) a spouse of the Member;

and

(b) a child of the Member who is under the age of eighteen years and normally resides with the Member:

“family company” of a Member means a proprietary company—

(a) in which the Member or a member of the Member’s family is a shareholder;

and

¹ Came into operation 24 June 1993: *Gaz.* 24 June 1993, p. 2047.

Note: 1. Asterisks indicate repeal or deletion of text.

2. For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

(b) in respect of which the Member or a member of the Member's family, or any such persons together, are in a position to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the company:

"family trust" of a Member means a trust (other than a testamentary trust)—

(a) of which the Member or a member of the Member's family is a beneficiary;

and

(b) which is established or administered wholly or substantially in the interests of the Member or a member of the Member's family, or any such persons together:

"financial benefit", in relation to a person, means—

(a) any remuneration, fee or other pecuniary sum exceeding \$1 000 received by the person in respect of a contract of service entered into, or paid office held by, the person;

and

(b) the total of all remuneration, fees or other pecuniary sums received by the person in respect of a trade, profession, business or vocation engaged in by the person where that total exceeds \$1 000,

but does not include any such financial benefit received by the person as a Member or officer of Parliament or a Minister of the Crown, or in respect of membership of a committee to which the person was appointed by Parliament or either House of Parliament:

"gift" means a transaction in which a benefit of pecuniary value is conferred without consideration or for less than adequate consideration, but does not include an ordinary commercial transaction or a transaction in the ordinary course of business:

"income source", in relation to a person, means—

(a) any person or body of persons with whom the person entered into a contract of service or held any paid office;

and

(b) any trade, vocation, business or profession engaged in by the person:

"Member" means a person who is for the time being—

(a) a Member of the House of Assembly;

or

(b) a Member of the Legislative Council:

"a person related to a Member" means—

(a) a member of the Member's family;

(b) a family company of the Member;

(c) a trustee of a family trust of the Member:

"Register" means—

(a) the Register of Members' Interests kept by the Registrar for the House of Assembly;

or

(b) the Register of Members' Interests kept by the Registrar for the Legislative Council:

“Registrar” means—

(a) in relation to the House of Assembly—the Clerk of the House of Assembly;

or

(b) in relation to the Legislative Council—the Clerk of the Legislative Council:

“return period”, in relation to an ordinary return of a Member, means—

(a) in the case of a Member whose last return was a primary return—the period between the date of the primary return and the thirtieth day of June next following;

and

(b) in the case of any other Member—the period of twelve months expiring on the thirtieth day of June on or within sixty days after which the ordinary return is required to be submitted:

“spouse” includes putative spouse (whether or not a declaration of the relationship has been made under the *Family Relationships Act 1975*):

“trade or professional organization” means a body, corporate or unincorporate, of—

(a) employers or employees;

or

(b) persons engaged in a profession, trade or other occupation,

being a body of which the object, or one of the objects, is the furtherance of its own professional, industrial or economic interests or those of any of its members.

(2) For the purposes of this Act, a person who is an object of a discretionary trust is to be taken to be a beneficiary of that trust.

(3) For the purposes of this Act, a person is an investor in a body if—

(a) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds \$10 000;

or

(b) the person holds, or has a beneficial interest in, shares in, or debentures of, the body or a policy of life insurance issued by the body.

(4) For the purposes of this Act, in relation to a return by a Member—

(a) two or more separate contributions made by the same person for or towards the cost of travel undertaken by the Member or a member of the Member's family during the return period are to be treated as one contribution for or towards the cost of travel undertaken by the Member;

(b) two or more separate gifts received by the Member or a person related to the Member from the same person during the return period are to be treated as one gift received by the Member;

- (c) two or more separate transactions to which the Member or a person related to the Member is a party with the same person during the return period under which the Member or a person related to the Member has had the use of property of the other person (whether or not being the same property) during the return period are to be treated as one transaction under which the Member has had the use of property of the other person during the return period.

Lodging of returns

3. (1) Every person who is a Member on the first day of September, 1983, shall on or before the thirtieth day of September, 1983, submit to the Registrar a primary return.

(2) Every person who becomes a Member after the first day of September, 1983, and was not a Member within the period of ninety days preceding the day on which he became a Member shall, within thirty days after taking and subscribing the oath or affirmation as a Member, submit to the Registrar a primary return.

(3) Every Member shall, on or within sixty days after the thirtieth day of June in 1984 and each succeeding year, submit to the Registrar an ordinary return.

Contents of returns

4. (1) For the purposes of this Act, a primary return shall be in the prescribed form and contain the following information:

- (a) a statement of any income source that the Member required to submit the return or a person related to the Member has or expects to have in the period of twelve months after the date of the primary return;
- (b) the name of any company or other body, corporate or unincorporate, in which the Member or a member of his family holds any office whether as director or otherwise;

and

- (c) the information required by subsection (3).

(2) For the purposes of this Act, an ordinary return shall be in the prescribed form and shall contain the following information:

- (a) where the Member required to submit the return or a person related to the Member received, or was entitled to receive, a financial benefit during any part of the return period—the income source of the financial benefit;
- (b) where the Member or a member of his family held an office whether as director or otherwise in any company or other body, corporate or unincorporate, during the return period—the name of the company or other body;
- (c) the source of any contribution made in cash or in kind of or above the amount or value of \$750 (other than any contribution by the State or any public statutory corporation constituted under the law of the State, by an employer or by a person related by blood or marriage) for or towards the cost of any travel beyond the limits of South Australia undertaken by the Member or a member of his family during the return period, and for the purposes of this paragraph "cost of travel" includes accommodation costs and other costs and expenses associated with the travel;

- (d) particulars (including the name of the donor) of any gift of or above the amount or value of \$750 received by the Member or a person related to the Member during the return period from a person other than a person related by blood or marriage to the Member or to a member of the Member's family;
- (e) where the Member or a person related to the Member has been a party to a transaction under which the Member or person related to the Member has had the use of property of the other person during the return period and—
 - (i) the use of the property was not acquired for adequate consideration or through an ordinary commercial transaction or in the ordinary course of business;
 - (ii) the market price for acquiring a right to such use of the property would be \$750 or more;
- and
- (iii) the person granting the use of the property was not related by blood or marriage to the Member or to a member of the Member's family—
the name and address of that person;
- and
- (f) the information required by subsection (3).

(3) For the purposes of this Act, a return (whether primary or ordinary) shall contain the following information:

- (a) the name or description of any company, partnership, association or other body in which the Member required to submit the return or a person related to the Member is an investor;
- (b) the name of any political party, any body or association formed for political purposes or any trade or professional organization of which the Member is a member;
- (c) a concise description of any trust (other than a testamentary trust) of which the Member or a person related to the Member is a beneficiary or trustee (including the name and address of each trustee);
- (d) the address or description of any land in which the Member or a person related to the Member has any beneficial interest other than by way of security for any debt;
- (e) any fund in which the Member or a person related to the Member has an actual or prospective interest to which contributions are made by a person other than the Member or a person related to the Member;
- (f) where the Member or a person related to the Member is indebted to another person (not being related by blood or marriage to the Member or to a member of the Member's family) in an amount of or exceeding \$7 500—the name and address of that other person;
- (fa) where the Member or a person related to the Member is owed money by a natural person (not being related to the Member or a member of the Member's family by blood or marriage) in an amount of or exceeding \$10 000—the name and address of that person;

and

(g) any other substantial interest whether of a pecuniary nature or not of the Member or of a person related to the Member of which the Member is aware and which he considers might appear to raise a material conflict between his private interest and the public duty that he has or may subsequently have as a Member.

(3a) A Member is required by this section only to disclose information that is known to the Member or ascertainable by the Member by the exercise of reasonable diligence.

(4) Nothing in this section requires a Member to disclose information relating to a person as trustee of a trust unless the information relates to the person in the person's capacity as trustee of a trust by reason of which the person is related to the Member.

(5) A Member may at any time notify the Registrar of any change or variation in the information appearing on the Register in respect of himself or a member of his family.

(6) A Member may include in a return such additional information as he thinks fit.

(7) Nothing in this section shall be taken to prevent a Member from disclosing the information required by this section in such a way that no distinction is made between information relating to himself personally and information relating to a person related to the Member.

(8) Nothing in this section shall be taken to require disclosure of the actual amount or extent of any financial benefit, gift, contribution or interest.

Register of Members' Interests

5. (1) Each Registrar shall maintain a Register of Members' Interests and shall cause to be entered in the Register all information furnished to him pursuant to this Act.

(2) A Registrar shall, at the request of any member of the public, permit him to inspect the Register maintained by him and to take a copy of any of its contents.

(3) Each Registrar shall, as soon as practicable after the receipt of primary or ordinary returns from Members, prepare a statement constituting a compilation of the information contained in the Register relating to those Members.

(4) Each Registrar shall cause a copy of a statement prepared by him pursuant to subsection (3) to be laid before the House of Parliament for which he is Registrar within fourteen days of its preparation if Parliament is then sitting, or, if Parliament is not then sitting, within fourteen days of the next meeting of Parliament.

Restrictions on publications

6. (1) A person shall not publish whether in Parliament or outside Parliament—

(a) any information derived from the Register or a statement prepared pursuant to section 5 unless that information constitutes a fair and accurate summary of the information contained in the Register or statement and is published in the public interest;

or

(b) any comment on the facts set forth in the Register or statement unless that comment is fair and published in the public interest and without malice.

(2) Where a person publishes within Parliament any information or comment in contravention of subsection (1), the person shall be guilty of a contempt of Parliament.

(3) Where any information or comment is published by any person outside Parliament in contravention of subsection (1), that person and any person who authorized the publication of the information or comment shall be guilty of an offence and liable—

(a) in the case of a corporation—to a penalty not exceeding twenty five thousand dollars;

or

(b) in any other case—to a penalty not exceeding five thousand dollars or imprisonment for three months.

Failure to comply with Act

7. (1) Any person who wilfully contravenes, or fails to comply with, any of the provisions of this Act (other than section 6) shall be guilty of an offence and liable to a penalty not exceeding five thousand dollars.

(2) Proceedings for an offence against this Act shall be disposed of summarily.

Regulations

8. The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

APPENDIX**LEGISLATIVE HISTORY**

Section 2:	redesignated as s. 2(1) by 64, 1993, s. 3(h) definition of "beneficial interest" inserted by 64, 1993, s. 3(a) definition of "family company" inserted by 64, 1993, s. 3(b) definition of "family trust" inserted by 64, 1993, s. 3(b) definition of "financial benefit" amended by 64, 1993, s. 3(c), (d) definition of "gift" inserted by 64, 1993, s. 3(e) definition of "a person related to a Member" inserted by 64, 1993, s. 3(f) definition of "spouse" substituted by 64, 1993, s. 3(g)
Section 2(2) - (4):	inserted by 64, 1993, s. 3(h)
Section 4(1):	amended by 64, 1993, s. 4(a)
Section 4(2):	amended by 64, 1993, s. 4(a)-(d)
Section 4(3):	amended by 64, 1993, s. 4(a), (c), (e)-(h)
Section 4(3a):	inserted by 64, 1993, s. 4(i)
Section 4(4):	substituted by 64, 1993, s. 4(i)
Section 4(7):	amended by 64, 1993, s. 4(j)