

South Australia

Members of Parliament (Register of Interests) Regulations 2008

under the *Members of Parliament (Register of Interests) Act 1983*

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1—Short title

These regulations may be cited as the *Members of Parliament (Register of Interests) Regulations 2008*.

2—Commencement

These regulations will come into operation on 1 September 2008.

3—Interpretation

In these regulations—

Act means the *Members of Parliament (Register of Interests) Act 1983*.

4—Form of returns

- (1) For the purposes of section 4(1) of the Act, the prescribed form for a primary return is set out in Schedule 1.
- (2) For the purposes of section 4(2) of the Act, the prescribed form for an ordinary return is set out in Schedule 2.
- (3) A primary return or an ordinary return and each annexure to the return must be signed by the Member to whom it relates in the presence of a witness who must subscribe his or her signature to the return and each annexure.

Schedule 1—Form of primary return

Primary return under the *Members of Parliament (Register of Interests) Act 1983* for [*insert full name of Member*]

Instructions—

This return must be submitted to the Registrar within 30 days after taking and subscribing the oath or affirmation as a Member.

A Member must disclose all information known to the Member or ascertainable by the Member by the exercise of reasonable diligence.

A Member may disclose the information in a way that no distinction is made between information relating to the Member personally and information relating to a person related to the Member.

A Member is not required 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.

A Member is not required to disclose the actual amount or extent of any contribution or interest.

A Member may include in a return such additional information as he or she thinks fit.

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

Defined terms—

A person is **related to a Member** if the person is—

- a member of the Member's family; or
- a family company of the Member; or
- a trustee of a family trust of the Member.

A person is a **member of the Member's family** if the person is—

- the Member's spouse or domestic partner; or
- a child of the Member who is under 18 and normally resides with the Member.

A person is, on a certain date, the domestic partner of another person if he or she is, on that date, living with that person in a close personal relationship and—

- (a) he or she—
 - (i) has so lived with that other person continuously for the period of 3 years immediately preceding that date; or
 - (ii) has during the period of 4 years immediately preceding that date so lived with that other person for periods aggregating not less than 3 years; or
- (b) a child, of whom he or she and the other person are the parents, has been born (whether or not the child is still living at that date).

A close personal relationship means the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis, but does not include—

- (a) the relationship between a legally married couple; or
- (b) a relationship where 1 of the persons provides the other with domestic support or personal care (or both) for fee or reward, or on behalf of some other person or an organisation of whatever kind.

A **family company of the Member** is a proprietary company—

- in which the Member or a member of his or her family is a shareholder; and
- in respect of which the Member or a member of his or her 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 that company.

A **family trust of the Member** is a non-testamentary trust—

- of which the Member or a member of his or her family is a beneficiary; and
- which is established or administered wholly or substantially in the interests of the Member or a member of his or her family, or any such persons together.

A person who is an object of a discretionary trust is to be taken to be a beneficiary of that trust.

1—Income sources (existing and expected in the next 12 months) (section 4(1)(a) of Act)

Include a statement of each income source that the Member or a person related to the Member has or expects to have in the period of 12 months after the date of this return.

Income source, in relation to a person, means—

- any person or body of persons with whom the person entered into a contract of service or held any paid office; and*
- any trade, vocation, business or profession engaged in by the person.*

2—Directorships etc (section 4(1)(b) of Act)

Include the name of each company or other body, corporate or unincorporate, in which the Member or a member of his or her family holds any office whether as director or otherwise.

3—Investments (section 4(3)(a) of Act)

Include the name or description of each company, partnership, association or other body in which the Member or a person related to the Member is an investor.

A person is an investor in a body if—

- 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*
- 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—Political, trade and professional bodies (section 4(3)(b) of Act)

Include the name of each political party, each body or association formed for political purposes, and each trade or professional organisation, of which the Member is a member.

A trade or professional organisation means a body, corporate or unincorporate, of—

- employers or employees; or*
- persons engaged in a profession, trade or other occupation,*

being a body of which the object, or 1 of the objects, is the furtherance of its own professional, industrial or economic interests or those of any of its members.

5—Trusts (section 4(3)(c) of Act)

Include a concise description of each non-testamentary trust (including the name and address of each trustee) of which the Member or a person related to the Member is a beneficiary or trustee.

A person who is an object of a discretionary trust is to be taken to be a beneficiary of that trust.

6—Beneficial interests in land (section 4(3)(d) of Act)

Include the address or description of all land in which the Member or a person related to the Member has a beneficial interest other than by way of security for a debt.

Beneficial interest in property includes a right to reacquire the property.

Interests in land by way of security for a debt must be disclosed at clause 9.

7—Contributions made to funds for Member's benefit (section 4(3)(e) of Act)

Include details of each fund in which the Member or a person related to the Member has an actual or prospective interest to which contributions are made by someone other than the Member or a person related to the Member.

8—Creditors (section 4(3)(f) of Act)

Include the name and address of each person or body to whom the Member or a person related to the Member owes an amount of \$7 500 or more.

It is not necessary to disclose creditors who are related by blood or marriage to the Member or a member of his or her family.

9—Debtors (section 4(3)(fa) of Act)

Include the name and address of each natural person who owes an amount of \$10 000 or more to the Member or a person related to the Member.

It is not necessary to disclose debtors who are related by blood or marriage to the Member or a member of his or her family.

10—Other substantial interests (section 4(3)(g) of Act)

Include details of all other substantial interests (whether of a pecuniary nature or not) of the Member or a person related to the Member of which the Member is aware and which the Member considers might appear to raise a material conflict between the Member's private interest and the public duty that the Member has or may subsequently have as a Member.

Signature of Member:

Signature of witness:

Date:

Schedule 2—Form of ordinary return

Ordinary return under the *Members of Parliament (Register of Interests) Act 1983* for [insert full name of Member] for [insert beginning and end dates of return period]

Instructions—

If the Member's previous return was a primary return, the return period runs from the date of the primary return until the following 30 June. Otherwise, the return period is a financial year.

This return must be submitted to the Registrar within 60 days after 30 June.

A Member must supply all information for the return period, even if the information was previously disclosed in an earlier return.

A Member must disclose all information known to the Member or ascertainable by the Member by the exercise of reasonable diligence.

A Member may disclose the information in a way that no distinction is made between information relating to the Member personally and information relating to a person related to the Member.

A Member is not required 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.

A Member is not required to disclose the actual amount or extent of any financial benefit, gift, contribution or interest.

A Member may include in a return such additional information as he or she thinks fit.

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

Defined terms—

A person is **related to a Member** if the person is—

- a member of the Member's family; or
- a family company of the Member; or
- a trustee of a family trust of the Member.

A person is a **member of the Member's family** if the person is—

- the Member's spouse or domestic partner; or
- a child of the Member who is under 18 and normally resides with the Member.

A person is, on a certain date, the domestic partner of another person if he or she is, on that date, living with that person in a close personal relationship and—

- (a) he or she—
 - (i) has so lived with that other person continuously for the period of 3 years immediately preceding that date; or
 - (ii) has during the period of 4 years immediately preceding that date so lived with that other person for periods aggregating not less than 3 years; or
- (b) a child, of whom he or she and the other person are the parents, has been born (whether or not the child is still living at that date).

A close personal relationship means the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis, but does not include—

- (a) the relationship between a legally married couple; or
- (b) a relationship where 1 of the persons provides the other with domestic support or personal care (or both) for fee or reward, or on behalf of some other person or an organisation of whatever kind.

A **family company of the Member** is a proprietary company—

- in which the Member or a member of his or her family is a shareholder; and
- in respect of which the Member or a member of his or her 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 that company.

A **family trust of the Member** is a non-testamentary trust—

- of which the Member or a member of his or her family is a beneficiary; and
- which is established or administered wholly or substantially in the interests of the Member or a member of his or her family, or any such persons together.

A person who is an object of a discretionary trust is to be taken to be a beneficiary of that trust.

1—Income sources of certain financial benefits (section 4(2)(a) of Act)

Include the income source of each financial benefit that the Member, or a person related to the Member received, or was entitled to receive, during any part of the return period.

A 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.

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.*

2—Directorships etc (section 4(2)(b) of Act)

Include the name of each company or other body, corporate or unincorporate, in which the Member or a member of his or her family held an office (whether as director or otherwise) during the return period.

3—Travel contributions (section 4(2)(c) of Act)

Include the source of each contribution in cash or in kind of an amount or value of \$750 or more for or towards the costs of any travel undertaken by the Member or a member of his or her family outside South Australia during the return period (but not including a contribution by the State, a State public statutory corporation, an employer or a person related by blood or marriage).

The costs of travel include accommodation costs and other costs and expenses associated with the travel.

2 or more separate contributions made by the same person for or towards the costs of travel undertaken by the Member or a member of his or her family during the return period are to be treated as 1 contribution for or towards the cost of travel undertaken by the Member.

4—Gifts (section 4(2)(d) of Act)

Include particulars (including the name of the donor) of each gift of an amount or value of \$750 or more received by the Member or a person related to the Member during the return period from a person other than a person who is related by blood or marriage to the Member or a member of his or her family.

A 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.

2 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 1 gift received by the Member.

5—Use of property (section 4(2)(e) of Act)

If 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—

- the use of the property was not acquired for adequate consideration or through an ordinary commercial transaction or in the ordinary course of business; and*
- the market price for acquiring a right to such use of the property would be \$750 or more; and*
- the person granting the use of the property was not related by blood or marriage to the Member or a member of his or her family,*

include the name and address of that person.

2 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 1 transaction under which the Member has had the use of property of the other person during the return period.

6—Contracts with Crown (section 4(2)(ea) of Act)

Include particulars of each contract made during the return period with the Crown in right of the State by the Member or a person related to the Member where any monetary consideration payable by a party to the contract equals or exceeds \$7 500.

If each contract of a class of contracts with the Crown is an ordinary commercial or arm's length contract, it is necessary to disclose only particulars of the class of contracts (rather than particulars of the individual contracts).

7—Investments (section 4(3)(a) of Act)

Include the name or description of each company, partnership, association or other body in which the Member or a person related to the Member is an investor.

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.*

8—Political, trade and professional bodies (section 4(3)(b) of Act)

Include the name of each political party, each body or association formed for political purposes, and each trade or professional organisation, of which the Member is a member.

A trade or professional organisation 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 1 of the objects, is the furtherance of its own professional, industrial or economic interests or those of any of its members.

9—Trusts (section 4(3)(c) of Act)

Include a concise description of each non-testamentary trust (including the name and address of each trustee) of which the Member or a person related to the Member is a beneficiary or trustee.

A person who is an object of a discretionary trust is to be taken to be a beneficiary of that trust.

10—Beneficial interests in land (section 4(3)(d) of Act)

Include the address or description of all land in which the Member or a person related to the Member has a beneficial interest other than by way of security for a debt.

Beneficial interest in property includes a right to re-acquire the property.

Interests in land by way of security for a debt must be disclosed at clause 13.

11—Contributions made to funds for Member's benefit (section 4(3)(e) of Act)

Include details of each fund in which the Member or a person related to the Member has an actual or prospective interest to which contributions are made by someone other than the Member or a person related to the Member.

12—Creditors (section 4(3)(f) of Act)

Include the name and address of each person or body to whom the Member or a person related to the Member owes an amount of \$7 500 or more.

It is not necessary to disclose creditors who are related by blood or marriage to the Member or a member of his or her family.

13—Debtors (section 4(3)(fa) of Act)

Include the name and address of each natural person who owes an amount of \$10 000 or more to the Member or a person related to the Member.

It is not necessary to disclose debtors who are related by blood or marriage to the Member or a member of his or her family.

14—Other substantial interests (section 4(3)(g) of Act)

Include details of all other substantial interests (whether of a pecuniary nature or not) of the Member or a person related to the Member of which the Member is aware and which the Member considers might appear to raise a material conflict between the Member's private interest and the public duty that the Member has or may subsequently have as a Member.

Signature of Member:

Signature of witness:

Date:

Schedule 3—Revocation of *Members of Parliament (Register of Interests) Regulations 1993*

The *Members of Parliament (Register of Interests) Regulations 1993* are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 28 August 2008

No 234 of 2008

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