

House of Representatives

Supplementary Order Paper

Thursday, 23 June 2005

Standing Orders of the House of Representatives

Proposed amendments relating to Pecuniary Interests of Members of Parliament

Hon Dr Michael Cullen, in Committee, to move the following amendments:

New heading and Standing Order 163A

To insert, after Standing Order 163, the following heading and Standing Order:

PECUNIARY INTERESTS

163A Pecuniary interests

- (1) Members must make returns of pecuniary interests in accordance with the provisions of **Part 1 of Appendix B**.
- (2) Returns of members' pecuniary interests are to be maintained in a register in accordance with the provisions of **Part 2 of Appendix B**.

Heading before Standing Order 164

To omit the heading "**PECUNIARY INTERESTS**" before Standing Order 164, and substitute the heading "**DECLARATION OF FINANCIAL INTERESTS**".

Heading to Standing Order 164

To omit from the heading the term "**pecuniary interests**", and substitute the term "**financial interests**".

Standing Orders 164 to 166

To omit the term "pecuniary interest" wherever it appears in these Standing Orders, and substitute the term "financial interest".

Standing Order 165

To add the following paragraph:

- (2) Nothing in this Standing Order requires a member to declare an interest that is contained in the Register of Pecuniary Interests of Members of Parliament.

Standing Order 270

To omit the term “Appendix B”, and substitute the term “Appendix C”.

Standing Order 271

To omit from paragraph (2) the term “Appendix B”, and substitute the term “Appendix C”.

Standing Order 395

To omit from paragraph (f) the term “pecuniary interest”, and substitute the term “financial interest”.

To insert, after paragraph (f), the following paragraphs:

- (fa) as a member, knowingly failing to make a return of pecuniary interests by the due date:
- (fb) as a member, knowingly providing false or misleading information in a return of pecuniary interests:

New Appendix B

To insert, after Appendix A, the following headings and clauses as Appendix B:

APPENDIX B PECUNIARY INTERESTS

DEFINITIONS

1 Definitions

- (1) For the purposes of the return and registration of pecuniary interests, unless the context otherwise requires,—

business entity means any body or organisation, whether incorporated or unincorporated, that carries on any profession, trade, manufacture, or undertaking for pecuniary profit, and includes a business activity carried on by a sole proprietor

company means—

- (a) a company registered under Part 2 of the Companies Act 1993:
- (b) a body corporate that is incorporated outside New Zealand

effective date of the return means the date as at which the return is effective as required by **clause 2(1)** or **clause 3(1)** (as the case may be)

employed—

- (a) means employed under a contract of service, but
- (b) does not include holding the position of a member of Parliament or any other position for which the person in question would not be qualified unless he or she had been elected a member of Parliament (for example, the position of Minister of the Crown, Parliamentary Under-Secretary, Leader of the Opposition, or Whip)

general election means the election that takes place after the dissolution or expiration of Parliament

Government funding means funding from any one or more of the following:

- (a) the Crown;
- (b) any Crown entity;
- (c) any State enterprise

polling day, in relation to any election, means the day appointed in the writ for that election for the polling to take place if a poll is required

register means the Register of Pecuniary Interests of Members of Parliament established by **clause 11**

registrar means—

- (a) the Deputy Clerk or a person appointed by the Clerk, with the agreement of the Speaker, to act as registrar, and
- (b) includes every person who has been authorised by the registrar to act on his or her behalf under the Standing Orders

registered superannuation scheme means any superannuation scheme that is registered under the Superannuation Schemes Act 1989 (including any scheme referred to in section 19H of the Government Superannuation Fund Act 1956)

voting right means a currently exercisable right to cast a vote at meetings of the owners or proprietors of a business entity, not being a right to vote that is exercisable only in relation to a special, immaterial, or remote matter that is inconsequential to control of the entity.

- (2) Every amount specified in this Appendix is inclusive of goods and services tax (if any).
- (3) Every reference in this Appendix to a person elected at an election includes a person elected as a consequence of a recount or an election petition relating to that election.

PART 1

2 Duty to make initial return of pecuniary interests

- (1) Every member must make an initial return of pecuniary interests as at the day that is 90 days after the date that the member takes the oath or makes the affirmation required by section 11(1) of the Constitution Act 1986.
- (2) **Subclause (1)** does not apply if,—
 - (a) in the case of a member who is elected at an election, polling day for the election is after 1 July in the year of the election, or

- (b) in the case of a member who is declared to be elected under section 137 of the Electoral Act 1993, the date that the member's election is notified in the *Gazette* is after 1 July in the year that the member is declared to be elected.
- (3) An initial return must be transmitted by the member to the registrar within 30 days of the effective date of the return.

3 Duty to make annual return of pecuniary interests

- (1) Every member must make an annual return of pecuniary interests in each year as at 31 January.
- (2) The annual return must be transmitted by the member to the registrar by 28 February in each year in which an annual return must be made.

4 Contents of return relating to a member's position as at effective date of return

- (1) Every return of pecuniary interests must contain the following information as at the effective date of the return:
 - (a) the name of each company of which the member is a director or holds or controls more than 5 percent of the voting rights and a description of the main business activities of each of those companies, and
 - (b) the name of every other company or business entity in which the member has a pecuniary interest and a description of the main business activities of each of those companies or entities, and
 - (c) if the member is employed, the name of each employer of the member and a description of the main business activities of each of those employers, and
 - (d) the name of each trust in which the member has a beneficial interest, and
 - (e) if the member is a member of the governing body of an organisation or a trustee of a trust that receives, or has applied to receive, Government funding, the name of that organisation or trust and a description of the main activities of that organisation or trust, unless the organisation or trust is a Government department, a Crown entity, or a State enterprise, and
 - (f) the location of each parcel of real property in which the member has a pecuniary interest, unless the member has no beneficial interest in the real property, and
 - (g) the name of each registered superannuation scheme in which the member has a pecuniary interest, and
 - (h) the name of each debtor of the member who owes more than \$50,000 to the member and a description of each of the debts that are owed to the member by those debtors, and

- (i) the name of each creditor of the member to whom the member owes more than \$50,000 and a description of each of the debts that are owed by the member to those creditors.
- (2) For the purposes of **subclause (1)(b)**, a member does not have a pecuniary interest in a company or business entity (entity A) merely because the member has a pecuniary interest in another company or business entity that has a pecuniary interest in entity A.
- (3) The description of a debt under **subclause (1)(h) and (i)** must include disclosure of the rate of interest payable in relation to the debt if that rate of interest is less than the most recent rate of interest prescribed by regulations made under section ND 1F of the Income Tax Act 2004 (or any successor to that provision) as at the effective date of the return.

5 Debts owed by certain family members do not have to be disclosed

A member does not have to disclose the name of any debtor of the member and a description of the debt owed by that debtor if the debtor is the member's spouse or domestic partner or any parent, child, step-child, foster-child, or grandchild of the member.

6 Short-term debts for supply of goods or services do not have to be disclosed

A member does not have to disclose the name of any debtor or creditor of the member and a description of the debt owed by that debtor or to that creditor if the debt is for the supply of goods or services and payment is required—

- (a) within 90 days after the supply of the goods or services, or
- (b) because the supply of the goods or services is continuous and periodic invoices are rendered for the goods or services, within 90 days after the date of an invoice rendered for those goods or services.

7 Contents of return relating to a member's activities for period ending on effective date of return

- (1) Every return must contain the following information for the period specified in **clause 8**:
 - (a) for each country (other than New Zealand) that the member travelled to,—
 - (i) the name of the country, and
 - (ii) the purpose of travelling to the country, and
 - (iii) the name of each person who contributed (in whole or in part) to the costs of the travel to and from the country, and

- (iv) the name of each person who contributed (in whole or in part) to the accommodation costs incurred by the member while in the country, and
 - (b) a description of each gift (including hospitality and donations in cash or kind but excluding any donation made to cover expenses in an electoral campaign) received by the member that has an estimated market value in New Zealand of more than \$500 and the name of the donor of each of those gifts (if known or reasonably ascertainable by the member), and
 - (c) a description of all debts of more than \$500 that were owing by the member that were discharged or paid (in whole or in part) by any other person and the names of each of those persons, and
 - (d) a description of each payment received by the member for activities in which the member is involved (other than the salary and allowances paid to that person under the Civil List Act 1979 and the Remuneration Authority Act 1977).
- (2) The information referred to in **subclause (1)(a)** does not have to be included in the return if the travel costs or accommodation costs (as the case may be) were paid in full by the following or any combination of the following:
- (a) the member:
 - (b) the member's spouse or domestic partner:
 - (c) any parent, child, step-child, foster-child, or grandchild of the member:
 - (d) the Crown:
 - (e) any State government, if the primary purpose of the travel was in connection with an official parliamentary visit.

8 Period covered by return

- (1) The period for which the information specified in **clause 7** must be provided is the 12-month period ending on the effective date of the return.
- (2) However,—
- (a) a member does not have to include any information specified in **clause 7** that has been included in a previous return:
 - (b) if the member is elected at an election and the member was not also a member of Parliament immediately before that election and the return is the first return required to be made by the member after that election, the period for which the information specified in **clause 7** must be provided is the period beginning on polling day for that election and ending on the effective date of that return:

- (c) if an initial return is required to be made by a member elected at a general election who was also a member of Parliament immediately before that general election, the period for which the information specified in **clause 7** must be provided is the period beginning on 1 February in the year in which the general election is held and ending on the effective date of that return:
 - (d) if the member is declared to be elected under section 137 of the Electoral Act 1993 and the return is the first return required to be made by the member after being elected, the period for which the information specified in **clause 7** must be provided is the period beginning on the date that the member's election is notified in the *Gazette* and ending on the effective date of that return:
 - (e) if the previous return that the member had a duty to make was an initial return, the period for which the information specified in **clause 7** must be provided is the period beginning on the day after the effective date of that initial return and ending on the effective date of the return that must be made.
- (3) For the purposes of **subclause (2)(b) and (d)**, the first return required to be made by a member may be either an initial return or an annual return.

9 Actual value, amount, or extent not required

Nothing in this Appendix requires the disclosure of the actual value, amount, or extent of any asset, payment, interest, gift, contribution, or debt.

10 Form of returns

Returns must be either—

- (a) in a form specifically prescribed by the House, or
- (b) in a form approved by the registrar.

PART 2

11 Register of Pecuniary Interests of Members of Parliament

- (1) A register called the Register of Pecuniary Interests of Members of Parliament is established.
- (2) The register comprises all returns transmitted by members under this Appendix.

12 Office of registrar

The office of registrar is held by the Deputy Clerk or a person appointed by the Clerk, with the agreement of the Speaker, to act as registrar.

13 Functions of registrar

The functions of the registrar are to—

- (a) compile and maintain the register, and
- (b) provide advice and guidance to members in connection with their obligations under this Appendix.

14 Registrar must supply returns to Auditor-General

The registrar must supply to the Controller and Auditor-General a copy of every return within 14 days of the date on which that return is received by the registrar.

15 Auditor-General's review and inquiry

- (1) The Auditor-General will review the returns provided under **clause 14** as soon as is reasonably practicable.
- (2) The Auditor-General may inquire, either on request or on the Auditor-General's own initiative, into any issue as to whether—
 - (a) any member has complied, or is complying, with his or her obligations under this Appendix, or
 - (b) the registrar has complied, or is complying, with his or her obligations under this Appendix.
- (3) The Auditor-General may, after he or she has completed an inquiry under **subclause (2)**, report to the House the findings of the inquiry and any other matter that the Auditor-General considers it desirable to report on.

16 Registrar must publish summary of returns of current members of Parliament

- (1) The registrar must, within 90 days of the due date for transmitting any initial returns that are required to be made following a general election, publish on a website and in booklet form a summary containing a fair and accurate description of the information contained in those initial returns that has been transmitted by persons who, at the date of publication, are members of Parliament.
- (2) The registrar must, within 90 days of the due date for transmitting annual returns, publish on a website and in booklet form a summary containing a fair and accurate description of the information contained in those annual returns that has been transmitted by persons who, at the date of publication, are members of Parliament.
- (3) The registrar must promptly provide a copy of the booklet to the Speaker.

- (4) The registrar must ensure that a summary containing a fair and accurate description of information contained in all returns is—
 - (a) maintained on a website:
 - (b) available for inspection by any person at Parliament Buildings in Wellington on every working day between the hours of 10 am and 4 pm.
- (5) A person may take a copy of any part of the summary referred to in **subclause (4)(b)** on the payment of a fee (if any) specified by the House.

17 Speaker must present copy of booklet to House of Representatives

The Speaker must, as soon as practicable after receipt of a copy of a booklet under **clause 16(3)**, present a copy of the booklet to the House.

18 Information about register

- (1) The registrar must disclose any information relating to the register that the Auditor-General requires for the purposes of reviewing and inquiring into the returns under **clause 15**.
- (2) Subject to **subclause (1)**, all returns and information held by the registrar relating to an individual member (other than information that is required to be disclosed under **clause 16**) are confidential until the dissolution or expiration of Parliament.
- (3) On the dissolution or expiration of Parliament all returns and information held by the registrar relating to individual members are to be destroyed, except in respect of the return of any individual member which the Auditor-General requires to be retained for the purposes of a review or inquiry under **clause 15**.

19 Responsibilities of members and registrar

- (1) It is the responsibility of each member to ensure that he or she fulfils the obligations imposed on the member by this Appendix.
- (2) The registrar is not required to—
 - (a) notify any member of that member's failure to transmit a return by the due date or of any error or omission in that member's return, or
 - (b) obtain any return from a member.

Heading to Appendix B

To omit the heading “APPENDIX B” and insert the heading “APPENDIX C”.

Transitional provision

Despite **clause 8** of **Appendix B** to the Standing Orders, the period for which the information specified in **clause 7** of **Appendix B** must be provided in relation to the first return that a member of Parliament who is elected at the general election held in 2005 is required to make is the period beginning on polling day for the 2005 election and ending on the effective date of that return.

Explanatory note

These provisions are drawn from Appendix B to the commentary of the Standing Orders Committee on the Members of Parliament (Pecuniary Interests) Bill (Bill 81—2). See that commentary for discussion of these provisions. The transitional provision is also recommended by the committee in the commentary.

