



51st PARLIAMENT

CODE OF ETHICAL STANDARDS

LEGISLATIVE ASSEMBLY
OF QUEENSLAND

SEPTEMBER 2004

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NOTICE

This 2004 reprint of the Code of Ethical Standards booklet (51st Parliament) supersedes the 2003 Code booklet (50th Parliament) tabled in the Legislative Assembly on 13 November 2003.

This 2004 Code booklet has been prepared on the basis of legislation, standing orders, resolutions of the Legislative Assembly, and practice and procedure as it stands at 30 September 2004. The 2004 booklet reflects new standing orders, which came into effect on 31 August 2004.

As an adjunct to the Code booklet, the Members' Ethics and Parliamentary Privileges Committee from time to time publishes notices for the assistance of members. These provide information regarding the practical effect of standing orders governing the obligations which members are required to observe. The current committee's information notices are tabled in the Legislative Assembly and are available from the Bills and Papers Office at Parliament House.

The MEPPC has compiled this booklet for the assistance of members of the Legislative Assembly. The committee intends to periodically revise the booklet to keep it up to date with further changes.

**Members' Ethics and
Parliamentary Privileges Committee**

September 2004

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1. PURPOSE OF THE CODE

Purpose of the code

The purpose of this code is to:

- assist members to better understand the nature of their public office and the distinct obligations that arise by virtue of that office;
- provide an educative tool to assist members manage conflicts of interest and resolve ethical dilemmas; and
- provide an overview of the current obligations which members are required to observe.

Supremacy of Parliament acknowledged

The supremacy of the institution of Parliament in a representative democracy is acknowledged. The underlying basis of this code is that the mandate of a member of the Legislative Assembly (“member”) is granted by the free choice of the people, and that members are primarily responsible to the people.

2. STATEMENT OF FUNDAMENTAL PRINCIPLES¹

The following six fundamental principles draw together the various concepts underpinning the duties of, and obligations on, a member of Parliament, to assist members to better understand their representative role and responsibilities.

1. Integrity of the Parliament

The public's confidence in the institution of Parliament is essential. Members are to strive at all times to conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and avoid any action which may diminish its standing, authority or dignity.

2. Primacy of the public interest

Members are elected to act in the public interest and make decisions solely in terms of the public interest. Members also have a continuing duty to declare any private interests relating to their public duties as they arise, and to take steps to avoid, resolve or disclose any conflicts arising in a way that protects the public interest.

3. Independence of action

Parliamentary democracy requires that members make decisions, and be seen to make decisions, in accordance with the public interest and not because they are under any financial obligation or influence. Therefore, members are not to place themselves under any financial obligation to outside individuals or organisations, including the executive government, that might influence them in the discharge of their duties and responsibilities, and must act at all times in accordance with rules set down by the Parliament for outside appointments.

¹ Adopted by the Legislative Assembly on 17 May 2001. Legislative Assembly (Queensland), *Votes and Proceedings*, No. 12, 17 May 2001, p 112.

4. Appropriate use of information

In the course of their duties members often receive information which is either confidential or prized (that is, not available to the general public). Members are not to misuse any confidential or prized information, particularly for personal gain.

5. Transparency and scrutiny

It is vital to parliamentary democracy that the public has confidence in the integrity of the decision-making process of Parliament. To ensure transparency, public scrutiny and public confidence, it is necessary that each member disclose their pecuniary interests on a continuing and ad hoc basis when the need arises.

6. Appropriate use of entitlements

Members are provided certain entitlements to assist them to discharge their duties and responsibilities. Members are to ensure that they comply with any guidelines for the use of these entitlements.

3. OVERVIEW OF OBLIGATIONS

3.1 Registration of interests—registers of interests

Members shall comply with the registration requirements of the registers of interests

It is the responsibility of each member to conscientiously comply with the requirements of the Registers of Members' and Related Persons' Interests. A member who knowingly fails to comply with the requirements contained in the registers commits a contempt of Parliament.

Purpose of the Register of Members' Interests

The purpose of the registration requirements in the Register of Members' Interests is to place on the public record any pecuniary or other interests which may give rise to a conflict of interest, or a perception of a conflict of interest. Public registration by members seeks to provide information which might be thought to affect a member's conduct as a member, or influence their speeches or votes in Parliament. In summary, the public registration of interests provides some basis upon which the integrity of members may be judged.

Source of the Register of Members' Interests

Members of the Legislative Assembly are subject to stringent public registration obligations under the *Standing Rules and Orders of the Legislative Assembly*. Schedule 2 of the standing orders provides for a Register of Members' Interests and a Register of Related Persons' Interests. A copy of the full schedule is contained in Appendix 1.

The Queensland Parliament first established an ongoing Register of Members' Interests on 19 April 1989.²

3.1.1 Overview of obligation

Members shall provide statements of interests within 1 month of making their oath or affirmation as a member

By order of the House, each member is required to provide a statement of their registrable interests to the Registrar of Members' Interests (the Clerk of the Parliament) within one month of making an oath or affirmation as a member of the Legislative Assembly. A member must also register the interests of their related persons (for example, their spouse and any dependent children). Any changes in those interests must be notified within one month of the member becoming aware of the change. Where in any year there is no change to the details contained in the last statement of interests given by the member, the member is required (by 31 July each year) to submit a "Confirmation of correct particulars" to the Registrar.

² The resolution was subsequently amended on 27 November 1990, 2 March 1993 and 11 March 1999. The Assembly passed a new resolution on 25 May 1999, effective from 1 July 1999 and made further amendments to the resolution on 17 August 1999 and 19 June 2002. By sessional orders on 18 March 2004, the Assembly amended the resolution. The registers are now established by standing orders, effective on 31 August 2004.

The Registrar compiles the Register of Members' Interests from statements furnished by the members and the register is published as a parliamentary paper. The Register of Members' Interests is readily accessible to the public and the media through the office of the Clerk of the Parliament. The Register of Related Persons' Interests is, for privacy reasons, available for inspection only by a limited number of specified persons (including, for example, the Speaker, the Premier, the Members' Ethics and Parliamentary Privileges Committee and the Auditor-General).

The public may access the Register of Members' Interests

It is emphasised that whilst the Registrar receives the statements furnished by members, maintains the registers and is responsible for access to the registers and publication of the Register of Members' Interests, it is the personal responsibility of each member to ensure that they have complied with the disclosure requirements. Of course, members may seek advice from the Registrar or the Members' Ethics and Parliamentary Privileges Committee at any time about the interpretation of the requirements.

Members are personally responsible for complying with the requirements

The Registrar and the MEPPC provide advice to members

3.1.2 Matters required to be registered

Members are required to register their interests under 16 separate categories. These categories are:

Categories of interests to be registered

- (a) Shareholdings or controlling interests in shares or companies (showing the company name).

Shareholdings and companies

Where the shareholding or interest is a controlling one, the shareholdings of that company in any other company must be shown.

Where the shareholding or interest is in a private company, the investments of the company must be shown.

Where the shareholding is in a private company that is a holding company, the investments of the holding company must be shown—and also the name and investments of any subsidiary of the holding company, or any subsidiary of the subsidiary company.

Under the *Government Owned Corporations Act 1993* (Qld), Ministers may be required to be shareholders in such corporations. In these instances, Ministers hold shares on behalf of the owner of the shares—the State of Queensland. Such shareholdings are not required to be registered in the Register of Members' Interests.

Positions held in companies	(b) Positions held as an officer of a company (showing name of company, nature of office held and nature of the activities of the company).
Beneficial interests in trusts	(c) Beneficial interests in (a) family or business trusts and (b) nominee companies (showing name/description of trust/name of company; nature of activities of trust/company and nature of interest held; and details of the investments and beneficial interest of the trust).
Trusteeships	(d) Trustee of family or business trusts (showing name/description of trust and the nature of activities of trust).
Private superannuation funds	(e) Trustee or director of private superannuation funds (showing name/description of fund; nature of the activities of fund and the investments or beneficial interests [of which the member is aware] of the fund).
Partnerships	(f) Interests in partnerships (showing name/description of partnership; nature of activities of partnership and nature of interest held).
Real estate	(g) Interests in real estate (showing location by suburb/locality; approximate size; purpose for which property used and intended to be used and nature of interest held).
Liabilities	(h) Liabilities (including liabilities of trusts/private companies but excluding department store and credit card accounts and excluding liabilities arising from the supply of goods or services in the ordinary course of any occupation of a member or a debt which is for an amount of \$10,000 or less) showing nature of liability and name of creditor.
Debentures	(i) Debentures, managed fund or similar investments.
Savings and investments	(j) Savings and investment accounts with banks, building societies, credit unions and other institutions (showing nature of account and name of institution).
Gifts	(k) Gifts over \$500 from one source, or \$500 in aggregate if two or more gifts from one source during the return period (excluding gifts received from related persons or from personal friends in a purely personal capacity).
Sponsored travel or accommodation	(l) Sponsored travel or accommodation (showing source of contribution, purpose of travel).
Other income	(m) Other sources of income over \$500 (including income of private companies and of trusts in which the member has an interest).
Other assets	(n) Other assets over \$5,000 (excluding household and personal effects, private use motor vehicles and industry, public offer and employer superannuation entitlements).

- (o) Memberships of political parties, trade or professional organisations or name of any other organisation of which the member is an officeholder or financial contributor donating \$500 or more in any single calendar year.
- (p) Other interests (pecuniary or otherwise) known to the member which raise, appear to raise, or could foreseeably raise, a conflict between the member's private interest and their duty as a member.

Membership and financial contributions to organisations

Potential and apparent conflicts of interest

3.1.3 Failure to comply

A member who knowingly:

- fails to give a statement of interests to the Registrar,
- fails to notify the Registrar of a change in details, or
- gives to the Registrar a statement that is false, incomplete or misleading in a material particular,

is guilty of a contempt of Parliament.

Breaches

3.2 Conflicts of interest—ad hoc disclosure

Members have additional disclosure requirements

The Register of Members' Interests is not an exhaustive disclosure mechanism. It is simply one mechanism that has evolved as a means of ensuring members' accountability by recognising and declaring the potential conflict between public duty and private interest.

Members may be required to make oral declaration of financial interests

The Westminster system has a long tradition that requires members of Parliament to declare their financial interests in any matter before the House.

Members may not vote on a question in which they have a direct pecuniary interest

The Queensland Parliament operates on the principle that transparency is, in most cases, the best safeguard against conflicts of interest. However, when the Register of Members' Interests was established in 1989 it did not supersede the long established rule of members not voting on certain types of questions in which they have a direct pecuniary interest.

3.2.1 Standing Order 259

Standing Order 259 provides:

A member's vote on a question in which they have a direct pecuniary interest is disallowed

259. No Member pecuniarily interested may vote

(1) *No member shall be entitled to vote in any division upon a question (not being a matter of public policy) in which they have a direct pecuniary interest, not held in common with the rest of the subjects of the Crown.*

(2) *The vote of a member may not be challenged except on a substantive motion moved immediately after the division is completed, and the vote of a member determined to be so interested shall be disallowed.*

The MEPPC's interpretation of a "direct pecuniary interest"

The definition of what constitutes a "direct pecuniary interest" is not always easy to determine. The Members' Ethics and Parliamentary Privileges Committee has previously stated its view³ that:

... it constitutes a direct financial benefit accruing to the Member or a trust company or other business entity in which the Member has an appreciable interest. It would also extend to such an interest held by a Member's spouse, domestic partner or dependent child.

However, it is not to be taken to extend to interests held in common with the public, or a large section of the public, or to vocational interests or matters of public policy.

³ Members' Ethics and Parliamentary Privileges Committee, *Review of the Register of Members' Interests, Report No. 2*, Goprint, Brisbane, 1996, p 4.

3.2.2 *Standing Order 260*

Standing order 260 provides:

260. Declaration of pecuniary interest in debate and other proceedings

(1) Notwithstanding compliance with any other order of the House concerning the disclosure of interests, a member shall, in respect of any question in the House or a committee, declare any pecuniary interest (of which the member is aware) (whether or not it is a matter of public policy) that the member or a related person has in the question, if such pecuniary interest is greater than the interest held in common with subjects of the Crown or members of the House generally.

(2) The declaration in (1) above shall be made:

(a) at the beginning of their speech if the member participates in debate on the matter in the House or a committee; or

(b) as soon as practicable after a division is called for on the matter in the Legislative Assembly, or a committee, if the member proposes to vote in that division.

(3) The member's declaration shall be recorded and indexed in the Votes and Proceedings or minutes of proceedings of the committee and in any Hansard report of those proceedings of that division.

(4) It shall not be necessary for a member to declare an interest when directing a question seeking information.

Oral declaration of any pecuniary interest

A member shall declare any pecuniary interest which they have on a question in the House or a committee

Standing Order 260 is wider than SO 259, because it requires that any pecuniary interest be declared.

3.2.3 *Standing Order 261*

A member of a parliamentary committee shall disclose any conflict of interest to the committee

Standing Order 261 provides:

261. *Conflict of interest in committee proceedings*

A member of a committee shall disclose to the committee any conflict of interest the member may have in relation to a matter before the committee.

It is noted that SO 261 is in addition to the requirements of SO 259.

Therefore, if a member of the Legislative Assembly has a “direct pecuniary interest” in a matter, the member is precluded from voting on the matter in the House.

A conflict of interest is not limited to a “direct pecuniary interest”

However, in relation to members of a parliamentary committee, SO 261 imposes a requirement over and above SO 259 and SO 260, because under SO 261 a committee member must disclose **any** conflict of interest. **Any** conflict of interest is a wider concept. It would include pecuniary and non-pecuniary interests and direct and indirect interests. Therefore, for example, SO 261 would require a member of a committee such as the Parliamentary Crime and Misconduct Committee, to disclose to the committee any interest or involvement the member had in any matter before the Crime and Misconduct Commission if the committee was reviewing that matter.

3.2.4 *Standing Order 262*

Standing Order 262 provides:

262. *Disclosure in representations or communications of pecuniary interest*

*In any representation or communication which a member may have **with other members or with Ministers or servants of the Crown**, a member shall disclose any pecuniary interest (of which the member is aware) that the member or a related person (as defined by the resolution for Members’ Register of Interest) has in the subject matter of the representation or communication, if such pecuniary interest is significantly greater than the interest held in common with subjects of the Crown or members of the House. (Emphasis added.)*

A member shall disclose any pecuniary interest to other members or Ministers or public officers in representations or communications

3.2.4.1 *Rationale*

Standing Order 262 recognises that the role and functions of a member extend beyond the proceedings in the House and its committees and that often members act as advocates for local issues and other projects, initiatives and law reform. It also recognises that by virtue of their office, members have preferential access to and potential influence with decision-makers. The standing order is designed to ensure that, where necessary, a member's pecuniary interest in the matters the subject of representation or communications with other members, Ministers and public officers is declared.

Rationale for disclosure of interests in representations or communications

3.2.4.2 *When and how the declaration should be made*

It is recognised that there may not always be formal minutes or even notes taken during meetings a member has **with other members or with Ministers and public officers**. (For example, much informal representation occurs.)

Making a declaration of interest

It is stressed that the standing order places an obligation and responsibility on members to declare their interest. There is no onus on Ministers or public officers to take notes of meetings between Ministers and/or public officials and members, or to record any declaration made by a member. It therefore follows that the member, to safeguard against any future query about their declaration being made, should make some attempt to record the declaration so that it can be evidenced in the future should the need arise.

Obligation is on members to declare their pecuniary interest

The necessity for and form of declaration will largely be determined by the circumstances of the communication or representation and is a matter for the member to assess in the circumstances. The more significant the interest and/or the issue, the higher the onus on the member for a formal record of the declaration.

Recording a declaration of interest

Information Notice No. 1A of 2004 provides a more detailed explanation of the practical effects of the standing order, together with examples of when a declaration may be required.

Guidelines regarding declarations

3.3 Conflicts of interest—rules relating to members dealing with the executive government, and prohibited interests

Restrictions apply to members' financial dealings with the executive government

There have always been restrictions on members of Parliament (including Ministers) having financial dealing with executive government. This has come about because of the perceived need to ensure the independence of members from the executive.

Members who are appointed under the *Constitution of Queensland 2001* as Ministers and Parliamentary Secretaries, and who are remunerated as Ministers and Parliamentary Secretaries by the executive government, do not by that appointment engage in restricted financial dealings with the executive government: *Parliament of Queensland Act 2001*, s 65(3).

A member's seat may be vacated for unauthorised financial dealings with the executive government

Members should ensure that they have no unauthorised financial dealings, either as a contractor, defaulter, consultant or office holder, with the government. Any unauthorised financial dealings with the State may result in the member's seat being vacated.

3.3.1 *Being a contractor of an entity of the State*

Restrictions apply to members contracting with an entity of the State

Section 71 of the *Parliament of Queensland Act* places restrictions on members transacting business with an entity of the State. In regard to contracts, the restrictions do not extend to:

- a contract for the lawful payment of compensation: s 70; or a contract or agreement with WorkCover Queensland in relation to insurance business carried on by it: s 71;
- a contract securing the repayment of the principal, or payment of interest on, or both the repayment of principal and payment of interest on, money lent to a state entity: s 71;
- a contract that relates to the provision of legal assistance under the *Legal Aid Queensland Act 1997*, or similar assistance under another law, directly or indirectly by a member who is a lawyer or by a legal practice in which a member who is a lawyer has an interest: s 70;
- a contract made, entered into, or accepted, by a listed or non-aligned corporation: s 71;
- a contract which, to the extent of the member's interest, provides for:
 - the provision by an entity of the State of goods or services, that are available to the public, on the same terms the goods or services are available to the public; or

- the acquisition from an entity of the State of an interest in land, that is available to the public, on the same terms the interest is available to the public; or
- the acquisition by an entity of the State of an interest in land on terms not less favourable to the entity than if the sale were by a member of the public: s: 70;
- a contract required of, or expressly permitted for the member, under an Act: s 70.

3.3.2 *Transacting business with an entity of the State*

Section 71 of the *Parliament of Queensland Act* provides that a member must not, directly or indirectly, transact business with or for an entity of the State. A member who contravenes the provision is not entitled to receive any fee or reward. Section 72 provides that, if a member contravenes s 71, the member's seat is liable to becoming vacant on resolution of the Assembly. Section 73 of the act provides that the Assembly may, by resolution, disregard this disqualifying ground if the Assembly considers the ground:

- (a) has stopped having effect; and
- (b) was in all the circumstances trivial in nature; and
- (c) happened or arose without the actual knowledge or consent of the member or was accidental or due to inadvertence.

Members should seek the advice of the Clerk of the Parliament or their own legal advice if they are concerned about the application of the provisions of the act to their particular circumstances.

Restrictions apply to members transacting business with an entity of the State

Where necessary members should seek further advice

Members may perform a duty or service for the State where they waive their entitlement to any reward, or if they receive only reasonable expenses for accommodation etc.

For the purposes of the *Parliament of Queensland Act*, a member does not “transact business” with an entity of the State under certain circumstances, including if it is required or permitted by an act, or if neither the member nor another person is entitled to or receives any reward on account of performing the service or duty. A member is not taken to be entitled to a reward if the member irrecoverably waives the entitlement in writing to the Speaker. A reward does not include reasonable expenses for accommodation, meals, domestic air travel, taxi fares or public transport charges and motor vehicle hire.

A duty performed as a Minister or Parliamentary Secretary (being a duty or service expressly provided or required under an act) is excluded under s 70(2)(b) of the *Parliament of Queensland Act*.

Members should seek advice if concerned about the application of s 71 of the *Parliament of Queensland Act* to their particular circumstances

The *Parliament of Queensland Act* does not prohibit a member transacting business with an entity of the Commonwealth or another State. For the purposes of s 71, an “entity” of the State does not include local governments or State universities.

Members should seek the advice of the Clerk of the Parliament or their own legal advice if they are concerned about the application of these provisions to their particular circumstances.

3.3.3 Interactive gambling licence

Members and their families and staff are prohibited from holding an interactive gambling licence

Under the *Interactive Gambling (Player Protection—Disqualified Persons) Regulation 1999* and its authorising act, the *Interactive Gambling (Player Protection) Act 1998*, members of the Legislative Assembly, their families and staff members of members of the Assembly are prohibited from having a beneficial interest in companies holding an interactive gambling licence, and from holding an interactive gambling licence or a key person licence.

3.4 Conflicts of interest—bribery, advocacy and accepting professional fees

3.4.1 *The Criminal Code—bribery of a member*

Part 2, Chapter 8 of the *Criminal Code* provides for a number of offences against the executive and legislative power.

Section 59 provides that it is an offence for a member of Parliament to ask for, receive, obtain, agree or attempt to receive or obtain any property **or benefit of any kind** for themselves or any other person, in order to influence that member's conduct in the House or any committees. Section 59 states:

59 Member of Parliament receiving bribes

(1) Any person who, being a member of the Legislative Assembly, asks for, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person upon any understanding that the person's vote, opinion, judgment, or action, in the Legislative Assembly, or in any committee thereof, shall be influenced thereby, or shall be given in any particular manner or in favour of any particular side of any question or matter, is guilty of a crime, and is liable to imprisonment for 7 years, and is disqualified from sitting or voting as a member of the Legislative Assembly for 7 years.

The crime of bribery is punishable by 7 years imprisonment and disqualification for 7 years

Similarly, s 60 provides that it is an offence for any person to bribe or attempt to bribe a member. Section 60 states:

60 Bribery of member of Parliament.

(1) Any person who—

- (a) in order to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any question or matter arising in the Legislative Assembly or in any committee thereof or in order to induce the member to absent himself or herself from the Assembly or from any such committee, gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, such member, or to, upon, or for, any other person; or*
- (b) attempts, directly or indirectly, by fraud, or by threats or intimidation of any kind, to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any such question or matter, or to induce the member to so absent himself or herself;*

is guilty of a crime, and is liable to imprisonment for 7 years.

The crime of attempted bribery is punishable by 7 years imprisonment

Intention of the member whether or not to act in the manner agreed is irrelevant

The merits of the matter to which the bribe relates, or the intention of the member when accepting the bribe, is irrelevant. Therefore, a member who accepts a bribe in relation to any matter may be convicted of the offence whether or not the member actually intended to act in the manner agreed, or if the matter could be construed to be in the public interest.

3.4.2 Contempt of Parliament and Chapter 3--Part 2 of the Parliament of Queensland Act 2001

Conduct which causes a conflict of interest may be punished as a contempt

The House of Commons has long held various forms of conduct by members which may cause a conflict of interest, or a perception of a conflict of interest, to be contempts. These include:

- corruption in the execution of a member's duty, such as: accepting a bribe to influence a member's conduct in the House; accepting remuneration to advocate a cause in the House ("acting as a paid advocate"); or accepting money to disclose the confidential business of the House;
- advocating in the House matters in which they have previously been involved professionally; or
- accepting professional services connected with the business of the House. That is, members may not accept professional fees or undertake service on a matter before the House, whether or not the member is actually promoting the matter in the House.

The above matters could also be held to be a contempt of the Legislative Assembly.

The Legislative Assembly may punish attempted bribery under the Parliament of Queensland Act

Section 37 of the *Parliament of Queensland Act* also provides that the Legislative Assembly may punish contempts committed by a member or other person. (See Appendix 2.) The offering of a bribe to, or attempting to bribe, a member is one example of such a contempt.

Acts which may not constitute an offence under the Criminal Code may be punished by the House as a contempt

The contempt of bribery is wider than a criminal offence of bribery (s 59 of the *Criminal Code*). Therefore, whilst a member who accepts a bribe to do something which does not necessarily affect their conduct in the House (such as to lobby a Minister) is not guilty of an offence under the *Criminal Code*, they may nonetheless be guilty of a contempt of Parliament.

3.5 Authorised use of allowances

Members must ensure that the administrative rules or requirements which apply, from time to time, to any entitlement or allowance they receive via the Parliamentary Service or by virtue of the Speaker’s discretion are observed.

Members shall use entitlements and allowances appropriately

3.5.1 *Members’ Entitlements Handbook and Members’ Office Support Handbook*

The *Members’ Entitlements Handbook* and *Members’ Office Support Handbook* outline the allowances and entitlements of members and provide for the manner in which such allowances and entitlements may be claimed.

Entitlements and allowances are subject to guidelines

Whilst the Clerk of the Parliament is the Accountable Officer for the Legislative Assembly, and as such is responsible for the financial administration of the Parliament, it is the **personal responsibility** of each member to:

Members are personally accountable for entitlements and allowances

- familiarise themselves with the *Members’ Entitlements Handbook* and *Members’ Office Support Handbook* and the requirements set out in the handbooks;
- lodge any claim or acquittal prescribed for an allowance or benefit; and
- ensure that any claim or acquittal lodged contains the necessary detail and is accurate in all respects.

Whilst a member may wish to delegate the compiling of claims or acquittals to persons (such as their electorate officer), their **personal responsibility** for ensuring that such claims and acquittals are appropriate and accurate cannot be delegated.

Members have a personal duty to ensure the accuracy of claims

3.5.2 *Other guidelines*

The Speaker, or the Clerk of the Parliament (as the Accountable Officer for the Legislative Assembly) may from time to time issue guidelines and determinations to clarify or assist members in interpreting their allowances and entitlements—such as, for example, the Speaker’s determinations of July 2000 regarding mobile phones and January 2002 regarding frequent flyers. Members should ensure that they adhere to such guidelines and determinations.

The Speaker or the Clerk of the Parliament may issue additional clarifying guidelines and determinations

3.5.3 Assistance

The Speaker and the Clerk of the Parliament provide advice to members

If members have any doubts about the application of the handbooks or any guidelines they should seek assistance from the Speaker or the Clerk of the Parliament (or their delegates).

3.5.4 Consequences of a breach of the handbooks or guidelines

Members may be required to reimburse monies

A failure to comply with the handbooks or any guidelines may require the member to reimburse any expenditure not falling within the handbooks.

Dishonest use or claim of an entitlement or allowance is an offence punishable under the *Criminal Code*

The dishonest use of an allowance or other entitlement, or a dishonest claim or acquittal, is a breach of the criminal law. Section 408C of the *Criminal Code* provides that a person who dishonestly applies to their own use or to the use of any person, property belonging to another is guilty of the crime of fraud. The term “property” includes credit, service and any benefit or advantage. Therefore, it is an offence for a member to dishonestly use or claim an allowance

3.5.5 Role of other authorities

Criminal offences

Under s 92(4) of the *Parliament of Queensland Act* conduct by members which involves the commission, or claimed or suspected commission of a criminal offence would be investigated by the appropriate authority—for example, the Crime and Misconduct Commission or the Queensland Police Service.

3.6 Appropriate use of information

3.6.1 *The Corporations and Securities Legislation and insider trading*

In the course of their duties members may gain information which is not generally available to the public and which has some financial value. In particular, members on “government committees” and members who are also Ministers may become aware of decisions made, or about to be made, by the government which are not in the public domain and which will, therefore, have some commercial value. The use by a member of such information may be an offence under the *Corporations Act 2001* (Cth).

Restrictions apply to insider trading

Section 1043A of the *Corporations Act* provides that it is an offence for a person with “inside information” to trade in securities that will be affected by that information.

Insider trading is an offence under the *Corporations Act*

3.6.2 *Committee proceedings and contempt*

Standing Order 209 provides:

209. Reference to proceedings and disclosure of evidence and documents

(1) *No member shall in the House refer to any proceedings of a committee, until the committee has reported those proceedings to the House or otherwise published the proceedings.*

Reference to a committee’s proceedings

(2) *The evidence taken by a committee or sub-committee and documents presented to it, and proceedings and reports of it, which have not been reported to the House, shall not, unless authorised by the House or a committee, be disclosed or published to any person other than a member or officer of the committee.*

The unauthorised disclosure of a committee’s evidence and documents is a contempt

(3) *Despite (2), a committee may resolve to:*

(a) *publish press releases, discussion papers or other documents or preliminary findings to any inquiry; or*

Authorised release of committee documents, evidence and proceedings

(b) *divulge any evidence, documents, proceedings or report on a confidential basis to any person or persons for comment for the purpose of assisting the committee in its inquiry or for any administrative purpose associated with the inquiry.*

Definition of committee “proceedings”

- (4) *For this standing order, proceedings include:*
- (a) *evidence taken by the committee by way of in camera hearings;*
 - (b) *written or oral submissions presented to the committee;*
 - (c) *written briefing papers and other documents prepared for the committee by its Research Director;*
 - (d) *draft reports by the committee;*
 - (e) *correspondence between the committee and witnesses, departments and Ministers; and*
 - (f) *private deliberations of the committee and the records of those proceedings.*

There are restrictions on the use of in camera evidence

- (5) *A member who wishes to refer to in camera evidence or unpublished committee documents of a committee in a dissenting report shall advise the committee of the evidence or documents concerned, and all reasonable effort shall be made by the committee to reach agreement on the disclosure of the evidence or documents for that purpose.*

Premature disclosure is a contempt

It has long been held that the unauthorised premature release of committee proceedings (such as a draft report) is a contempt of Parliament.

3.6.3 *The Parliamentary Crime and Misconduct Committee*

There are additional restrictions on disclosure by members of the PCMC

Apart from the standing orders, s 66 of the *Crime and Misconduct Act 2001* (Qld) provides that any member of the Parliamentary Crime and Misconduct Committee who discloses information that has come to the attention of the member because of their membership of the committee, which is not otherwise authorised for disclosure by the act or the commission, commits an offence.

3.7 Conduct of members in the House

The *Standing Rules and Orders of the Legislative Assembly* govern conduct in the Parliament. Members are to conduct themselves in an appropriate and orderly manner in the Parliament and comply with any lawful direction by the Speaker or the House. Members should also be diligent in exercising the freedoms given to them by virtue of their office, so as to avoid allegations of abuse of privilege.

Members' conduct in the Parliament is governed by the standing orders

3.7.1 Orderly conduct and the role of the Speaker

The Speaker of the Legislative Assembly is the representative of the Assembly in its powers, proceedings and dignity, and presides over the sittings of the House. Members should be conscious of the effect their conduct within the parliamentary precinct may have on the standing of the Parliament in the wider community

The Speaker maintains order in the Parliament

Standing Order 252 provides that the Speaker may warn a member about their conduct in the House. The Speaker may order a member who continues to be grossly disorderly to withdraw from the House. A member ordered to withdraw under SO 252 must leave the Legislative Assembly Chamber and must remain out of the Chamber for that day's sitting.

The Speaker may order a member to withdraw from the House for disorderly conduct

Standing Order 254 provides that members who persist, after warning, in the offence of disregarding the authority of the Speaker, or in abusing the rules of the House by persistently and wilfully obstructing the business of the House, or otherwise, may be named by the Speaker. If the offence has been committed in the House, the Speaker shall put a question to the House (which is to be decided without debate, amendment or adjournment) that such member(s) be excluded from the service of the House for up to 14 calendar days. Any members refusing to comply with such order shall be suspended from the House for 30 calendar days.

The House may exclude a member for disorderly conduct

Standing Order 255 provides that when a member is suspended under SO 254 they are excluded from the parliamentary precinct (including the Chamber, all rooms and areas within Parliament House, the Parliamentary Annexe and the grounds).

Consequences of suspension

Under standing orders, a member may still vote in the House

Standing Order 253 enables the Speaker to order a member to withdraw from the Chamber for the day, but the member may still participate in any vote in the House.

The House may suspend or expel a member

The House also has an inherent power to suspend or expel members who are grossly and continually disorderly.

Speaker's directions

Members shall comply with the Speaker's directions.

3.7.2 Freedom of speech

Freedom of speech is enshrined in the *Bill of Rights*

Article 9 of the *Bill of Rights 1688* (UK) which applies to the Queensland Parliament, enshrines the most important provision relating to parliamentary privilege—freedom of speech and debates of the Parliament. The article provides that speeches, debates or other proceedings in Parliament cannot be impeached or questioned in any court or place out of Parliament.

The House may inquire into a member's statements in the House

One of the effects of Article 9 is to ensure that words spoken in the Parliament cannot be used as the basis for legal proceedings. Therefore, for example, a person cannot use words spoken in Parliament as a basis for defamation proceedings. However, the article does not provide complete immunity to members for what they say in the House. This is because the House itself can inquire into a member's statements in the House.

The House may order correction and punish deliberate misleading

In particular, the House has always possessed the power to order a member to correct any statements made if those statements are inaccurate, or to punish for any deliberate misleading of the House.

Statements outside the House are not covered by absolute privilege

Members do not have absolute privilege for statements, which may be defamatory, that are made outside the House.

3.7.2.1 *Citizen's right of reply*

Under standing orders of the Legislative Assembly, the Queensland Parliament affords citizens a right of reply to privileged statements: SOs 279 to 283.⁴ The procedure provides that persons or corporations who are the subject of adverse comment in Parliament that affects their reputations are able to seek a right of reply. The right of reply relates to statements made by members under parliamentary privilege in the Legislative Assembly which refer to a person or corporation either by name, or in such a way as to allow them to be readily identified and which, had they been made outside Parliament, could reasonably be considered actionable in a court of law. (A copy of the full procedures governing the citizen's right of reply is contained in Appendix 3.)

Citizens may seek redress for adverse statements made about them in the Parliament by members

3.7.2.2 *Naming children in questions and tabled documents*

Standing orders place restrictions on members naming at-risk children in questions without or on notice and in documents they table: SO 117 and SO 35, respectively. Members should ensure that any question concerning a child subject to the *Child Protection Act 1999* (Qld) or the *Juvenile Justice Act 1992* (Qld) is asked in a non-identifying manner—for example, by replacing any identifying features likely to lead to the identification of the child with a cipher such as “[name withheld]”.

Restrictions apply to naming at-risk children in questions without or on notice and in tabled documents

A member shall provide the Clerk of the Parliament with the “key” to the full identifying features relating to the question or document. Any member of the Assembly who so requests shall be granted access by the Clerk to the “key” relating to the question or document.

⁴ The citizen's right of reply was first adopted by resolution of the Legislative Assembly on 18 October 1995, reintroduced on 11 October 1996. Standing orders effective from 31 August 2004 replace the resolution.

3.7.2.3 *Deliberately misleading the House*

Members shall not deliberately mislead the House

Any member who deliberately misleads the House is in contempt of the House.

There are two elements to the contempt of deliberately misleading the House

There are two elements to be established where it is alleged that a member has committed the contempt of deliberately misleading the House:

- firstly, the statement must, in fact, have been misleading; and
- secondly, it must be established that the member making the statement knew **at the time** the statement was made that it was incorrect and that, in making it, the member **intended** to mislead the House.

Misleading is a wider concept than incorrect statements

It is emphasised that misleading is a wider concept than making incorrect statements. A totally factually correct statement can still be misleading.

Members shall correct the record in the House as soon as it is apparent a statement may be misleading

Members may sometimes make incorrect or misleading statements in the House without actually intending to mislead the House. Recklessness by a member resulting in incorrect or misleading statements to the House is in itself a serious matter. Members have a duty to correct the official record in the House as soon as it becomes apparent that their statements were incorrect or could be misleading.

3.7.2.4 Sub judice rule

Standing Order 233 provides:

233. Sub judice rule

(1) In general, members should exercise care to avoid saying inside the House that which would be regarded as contempt of court outside the House and could jeopardise court proceedings.

(2) Members should not refer to in the House matters awaiting or under adjudication in all courts exercising a criminal jurisdiction (including in motions, debate or questions) from the moment the charge is made against the relevant person. This Standing Order shall cease to have effect when the verdict and sentence have been announced or judgment given, but shall again have effect should a Court of Criminal Appeal order a new trial.

(3) Members should not refer in the House to civil cases in courts of law where a jury is to be empanelled (including in motions, debate or questions) within the period of four (4) weeks preceding the date fixed for trial. (Not from the time a writ is issued.)

(4) The sub judice rule does not apply to civil proceedings other than those referred to in (3).

(5) The sub judice rule does not apply to the proceedings of royal commissions and similar commissions and tribunals.

(6) The sub judice rule does not apply to in camera committee proceedings. However, committees should ensure that any evidence taken in camera is not published until after the criminal or civil proceedings are finalised, unless the committee believes that there is an overwhelming public interest in the release of the evidence.

(7) The sub judice rule is always subject to the right of the House to consider and legislate on any matter.

The House restricts its own debates and proceedings through the application of the sub judice rule

3.7.2.5 Use of the Legislative Assembly crest, emblems and other insignia

On 30 May 2000, the Speaker issued guidelines for the use of the Legislative Assembly crest and other insignia. The crest must not be used for overtly political purposes, including political advertising or for any other purpose which may have the effect of bringing the House into odium, contempt or ridicule, or which may compromise the integrity of the Parliament. (See Appendix 4.)

Guidelines provide for the appropriate use of the Legislative Assembly crest

On 9 February 2009, Speaker Reynolds issued amendments to the guidelines for the use of the Legislative Assembly crest and other insignia to further clarify the rules regarding use of the Parliamentary Crest on political publications. The amendments specify that the crest must not be used on materials or publications which are created and published for overtly political purposes or which contain political advertising. The guidelines were also updated to clarify that in determining whether the use of the crest is in accordance with these guidelines, the source of the funding for a publication is irrelevant (See Appendix 4.)

Debate in the Chamber is governed by the standing orders

3.7.3 *Rules of debate generally*

The rules of debate in the House are set out in Chapters 35 and 36 of the *Standing Rules and Orders of the Legislative Assembly*.

- A member may only speak from their own place and must first address the Speaker. If more than one member rises to speak, only the member called upon by the Speaker shall speak. The House may decide that a member be heard or not further heard on an issue: SO 247.
- A member may not speak to a question after it has been put by the Speaker and a vote taken: SO 230.
- Unless otherwise provided, a member may only be heard on a question before the House, to ask or answer a question, or on a question of order or a matter suddenly arising: SO 229.
- Under sessional order 1 of the 51st Parliament, adopted on 18 June 2004, a member, by leave of the House, may make a personal explanation although there is no question before the House.
- A member is not permitted to interrupt another member who is speaking, except as provided under standing orders—for example, to raise a point of order or a matter concerning the powers, rights and immunities of the House suddenly arising: SO 251.
- A member shall not refer to matters irrelevant to the subjects of the debate or engage in tedious repetition during debates: SO 236.
- A member is not to impute improper motives or make any personal reflections against another member and shall not use unbecoming or offensive words in reference to another member of the House: SO 234.
- A member who is required to make an apology or retraction in the House shall make an unreserved and unqualified apology or retraction: SO 235.

Conduct in the Chamber is governed by the standing orders

Chapter 36 of the *Standing Rules and Orders of the Legislative Assembly* provide certain other rules and protocols for the orderly conduct of members in the House. These rules are based on common decency and respect for the Chair. (See SOs 244 to 251.)

3.8 General qualifications and disqualifications and the requirements of the electoral laws

Members, who are at some time also candidates for election, are to comply with the specific responsibilities placed on candidates for election under the electoral laws of the State.

3.8.1 *Qualification and disqualification of members*

Currently, in accordance with s 64(1) of the *Parliament of Queensland Act*, in order to be eligible to be a candidate and be elected as a member, a person must be:

- an adult Australian citizen living in Queensland; and
- enrolled on an electoral roll for an electoral district; and
- not a disqualified person under s 64(2) or (3) of the act.

Candidates must conform with the requirements of the *Parliament of Queensland Act*

Currently, in accordance with s 64(2) of the *Parliament of Queensland Act*, a person is a disqualified person if, **amongst other reasons:**

- they are an undischarged bankrupt;
- they have executed a deed of arrangement as a debtor under the *Bankruptcy Act 1966* (Cth) or a corresponding law and the terms of the deed have not been fully complied with;
- their creditors have accepted a composition under the *Bankruptcy Act 1966* or a corresponding law and a final payment has not been made;
- they are in prison or subject to a periodic detention order;
- they have within 2 years before the day of nomination been convicted of and sentenced to more than 1 year's imprisonment;
- they have been convicted within 7 years before the day of nomination of an offence against ss 59 or 60 of the *Criminal Code*;
- they have been convicted and not pardoned of treason, sedition or sabotage;
- they have been convicted within 10 years before the day of nomination of a disqualifying electoral offence.

Candidates may be disqualified under the *Parliament of Queensland Act*

Under s 68 of the *Parliament of Queensland Act*, persons who are elected as members of the Legislative Assembly and who hold the following appointments cannot take their seat until they stop holding the membership or appointment:

- a member of the Commonwealth Parliament or another State Parliament;
- a mayor or a councillor of a local government of another State; or
- a holder of a paid public appointment other than a paid State appointment.

Members may be disqualified under the *Parliament of Queensland Act*

A member is currently disqualified under Chapter 4, Part 4 of the *Parliament of Queensland Act* if they, **amongst other things**:

- are absent from Parliament for more than 21 consecutive sitting days without the Assembly's permission;
- fail to take their seat within 21 sitting days of election;
- take an oath or make a declaration or acknowledgment of allegiance, obedience or adherence to, or become an agent of, a foreign state or power;
- stop being enrolled on the electoral roll;
- stop being an Australian citizen;
- become a member of the Commonwealth Parliament or another State Parliament;
- accept a paid public appointment, other than a paid State appointment;
- are elected or appointed as mayor or a councillor of a local government;
- are convicted of certain offences set out in s 72(1)(i) of the act;
- become a bankrupt under the *Bankruptcy Act 1966*, or a corresponding law of another jurisdiction;
- have executed a deed of arrangement as debtor under the *Bankruptcy Act 1966* or a corresponding law and breach the terms of the deed, or the member's creditors accept a composition under the act, and the member breaches the terms of the deed.

A member's seat is also declared vacant if anything else happens that causes the member's seat to be vacant under another law.

A crime is one type of criminal offence. The other criminal offences are misdemeanours and simple offences. Crimes and misdemeanours are indictable offences. An offence will usually state whether a breach of it is a crime or misdemeanour. An offence not otherwise designated is a simple offence. (See s 3 of the *Criminal Code*.)

Some offences are stated to be crimes

3.8.2 *Absence and leave of members*

If a member is absent, or intends to be absent, from the Legislative Assembly for more than 12 consecutive sitting days, the member shall notify the Speaker in writing of their absence or intended absence. The notification must state the length of the absence. Upon receipt of written notification by a member in accordance with Standing Orders, the Speaker shall, on the next sitting day, report the member's absence, or intended absence, to the House. (See SO 263A)

The House may, by motion without notice, grant a member a leave of notice from attending the Legislative Assembly for 21 consecutive sitting days or more. The motion must state the length of leave of absence. A member shall be excused from attending sittings of the House, or any committee, so long as they have a leave of absence in accordance with Standing Orders. A leave of absence shall cease if the member attends a sitting of the House or any committee before the expiry of the period of leave. (See SO 263B)

3.8.3 *The conduct of elections*

A range of conduct by candidates for election is prohibited by the *Electoral Act 1992* (Qld) and the *Criminal Code* and significant penalties can apply.

Conduct prohibited by the *Electoral Act*

Examples of conduct which is prohibited include:

Certain conduct prohibited

- forging or uttering electoral papers (*Criminal Code*, s 98D);
- wilfully inserting false or fictitious names or addresses on the electoral roll (*Electoral Act*, s 151);
- distributing unauthorised how-to-vote- cards, or permitting or authorising someone else to do so (*Electoral Act*, s 161A);
- causing political material to be displayed in or around electoral booths (*Electoral Act*, s 169);
- bribery (*Criminal Code*, s 98C);
- giving false/misleading information (*Criminal Code*, s 98B);
- failure to declare financial contribution from another registered political party in relation to the production of how-

to-vote cards (*Electoral Act*, s 161B);

- providing money for illegal payments (*Criminal Code*, s 98F);
- voting if not entitled (for example, procuring someone to vote who, to the procuring person's knowledge, is not entitled to vote) (*Criminal Code*, s 98G);
- improperly influencing an electoral commissioner (*Electoral Act*, s 157);
- influencing voting—by intimidation or violence (*Criminal Code*, s 98E);
- interfering with another person's voting rights or duties under the act (*Electoral Act*, s 158).

In addition to significant penalties, certain breaches under the *Electoral Act* (a “disqualifying electoral offence”) will result in a person being disqualified from being nominated as a candidate for election and elected as a member (*Parliament of Queensland Act*, s 64).

**Breaches may
result in
disqualification**

3.8.4 Electoral funding and financial disclosure

Gifts shall be disclosed under the Electoral Act

Expenditure on an election campaign shall be disclosed

There are penalties for breaches of the disclosure requirements

Part 7 of the *Electoral Act* provides for electoral funding and financial disclosure. The Schedule to the Act adopts the funding disclosure requirements of the *Commonwealth Electoral Act 1918*. The disclosure requirements include the obligation on the agent for each candidate in an election or by-election to provide a return detailing any gifts received, the value of gifts and the numbers of persons who provided that gift during the disclosure period for the election. A return must also be provided detailing who provided gifts over a prescribed limit, and any expenditure on election campaigning. There are penalties for not providing the returns and for providing false or misleading information in the returns.

3.8.5 Code of Conduct for Election Candidates

Code of Conduct for Election Candidates

On 9 September 2003, the Legislative Assembly endorsed a Code of Conduct for Election Candidates (see Appendix 5), which applies to all candidates for State elections (independents and candidates endorsed by parties). The Code is voluntary, with the exception of paragraph (e)⁵ but candidates who do not follow it will risk disfavour in the electorate.

3.9 Oath or affirmation of allegiance and office

Members must take an oath or affirmation of allegiance and office

A member is required under s22 of the *Constitution of Queensland* to take both an oath or affirmation of allegiance and an oath or affirmation of office. The oath of office is in the following terms: *I will well and truly serve the people of Queensland and faithfully perform the duties and responsibilities of a member of the Legislative Assembly to the best of my ability and according to law.*

3.10 Electorate office staff

The Speaker, the Clerk of the Parliament and Human Resource Management section provide advice to members regarding the employment of electorate office staff

The Parliamentary Service employs electorate office staff on the recommendation of members. Parliamentary Service policies and procedures outline the requirements of employers/supervisors in regard to human resource issues, including employment discrimination, sexual harassment, workplace harassment and workplace health and safety. The Speaker, the Clerk of the Parliament and the Human Resource Management section are available to assist members with any questions regarding the application of relevant policies, guidelines and legislation in these areas.

⁵ That is: avoid conduct which is contrary to state or Commonwealth law including but not limited to: racial and religious vilification offences under the *Anti-Discrimination Act 1991*; official misconduct under the *Crime and Misconduct Act 2001*; *Criminal Code* offences; and *Electoral Act 1992* offences. Legislative Assembly (Queensland), *Votes and Proceedings*, No. 128, 9 September 2003, p 1188.

4. COMPLAINTS PROCEDURE⁶

4.1 Procedures for raising and considering complaints

The standing orders govern raising and considering complaints

The *Standing Rules and Orders of the Legislative Assembly* set out the procedure for raising and considering complaints about matters, including allegations of contempt. Chapter 40 of the standing orders provides as follows:

A matter may be raised by a member in the House

267. A matter suddenly arising

A matter suddenly arising may be raised by a member at any time in the House under SO 248.

A matter may be raised by a parliamentary committee

268. Committee reports and Speaker's initiative

(1) A committee of the House may report that a matter involving its proceedings has arisen and recommend that the matter be referred to the ethics committee [the Members' Ethics and Parliamentary Privileges Committee], in which case the matter stands referred to the committee.

A matter may be referred by the Speaker

(2) The Speaker may draw the attention of the House to a matter and recommend that the matter be referred to the ethics committee, in which case the matter stands referred to the committee.

269. Procedure for other matters

(1) In circumstances other than outlined in SO 267 and SO 268, the procedure in this Standing Order shall be followed.

A matter may be raised by a member in writing with the Speaker

(2) A member should write to the Speaker at the earliest opportunity stating the matter and requesting that the matter be referred to the ethics committee.

(3) A member must formulate as precisely as possible the matter, and where a contempt is alleged, enough particulars so as to give any person against whom it is made a full opportunity to respond to the allegation.

⁶ Procedures for raising and considering complaints were first adopted by resolution of the Legislative Assembly on 8 August 2001. Standing orders effective from 31 August 2004 replace the 8 August 2001 procedures.

(4) In considering whether the matter should be referred to the committee, the Speaker shall take account of the degree of importance of the matter which has been raised and whether an adequate apology or explanation has been made in respect of the matter. No matter should be referred to the ethics committee if the matter is technical or trivial and does not warrant the further attention of the House.

(5) The Speaker in considering the matter may request further information from the complainant.

(6) The Speaker is to inform the House either:

(a) that the matter stands referred to the ethics committee; or

(b) that no matter arises or that it is technical, trivial or vexatious and the Speaker is not going to refer the matter to the ethics committee.

(7) If the Speaker makes a determination in accordance with 6(b) and informs the House, a member may immediately move that the matter be referred to the ethics committee.

(8) If a motion is moved in accordance with (7), the Speaker must put the question immediately without amendment or debate.

The Speaker shall inform the House whether or not a matter is involved

A member may move that a matter be referred to the MEPPC

270. Procedures of the ethics committee

(1) *Where a complaint is referred to it, the committee:*

The MEPPC may summarily dispose of any matter

(a) *may summarily dispose of the matter if it believes it is trivial, technical or vexatious or does not warrant further attention by the committee; or*

The MEPPC shall request a written explanation of any allegations

(b) *shall, if the matter is not disposed of under (a), request any person the subject of complaint in the matter to provide a written explanation of any allegations contained in the complaint; and*

(c) *shall, if the person the subject of complaint disputes the allegation:*

(i) *give the person the opportunity to be heard; and*

(ii) *give any persons that the person nominates the opportunity to be heard; and*

(d) *may obtain information from such other persons, and make such inquiries, as it thinks fit.*

The MEPPC shall prima facie take evidence in private

(2) *The ethics committee shall hear any evidence in a private hearing, unless the ethics committee determines that it is in the public interest to hold the hearing in public.*

Witnesses heard on oath or affirmation

(3) *Witnesses shall be heard by the ethics committee on oath or affirmation.*

The MEPPC must report to the House

(4) *The ethics committee must make a report to the House in respect of any matter referred to it, if any person concerned:*

(a) *disputes the allegation the subject of the complaint in the matter—on completion of its consideration of the complaint;*

(b) *confirms the allegation the subject of the complaint—on receiving notice to that effect;*

(c) *does not, within a reasonable period, respond to a request given to them under paragraph (1)(b)—on the expiration of the period.*

(5) *The ethics committee must, with the report, recommend the action that should be taken.*

The MEPPC must recommend a course of action to the House

(6) *The ethics committee must not, in any report, make a finding that is adverse to any person unless it has given the person:*

(a) *full particulars of the complaint; and*

(b) *the opportunity to be heard in relation to the complaint.*

271. Restriction on debating matter in the House

A matter referred to the ethics committee must not be debated in the House until such time as the ethics committee has reported on the matter if, in the opinion of the Speaker, such debate could prejudice the matter.

A matter before the MEPPC shall not be debated in the House until reported on

272. Impartiality and conflicts of interest

(1) *Any member of the ethics committee who is directly concerned in a matter referred to the ethics committee or who has made any statements in the House revealing a prior judgement in the matter shall not be involved in any consideration of that matter.*

MEPPC members may not consider a matter with which they are directly concerned

(2) *The Speaker shall appoint another member to replace a member who has stood down in accordance with (1) and shall notify the ethics committee in writing.*

Speaker shall appoint a substitute member where an MEPPC member stands aside

(3) *A member who is stood down is replaced for the duration of that inquiry*

(4) *Before appointing a replacement member, the Speaker may consult with the Leader of the House and the Leader of [the] Opposition regarding the member to be appointed.*

Speaker may consult regarding appointment of a substitute member

(5) *The appointment in (2) is effective from when the appointment in writing is communicated to the ethics committee.*

273. *Other offences disclosed*

Possible criminal offences may be referred to the DPP, QPS, CMC or other relevant body

Where a matter that is referred to the ethics committee discloses a possible criminal offence, or it appears to be a matter more appropriately investigated by another agency, the ethics committee may refer the matter to the Director of Public Prosecutions, the Queensland Police Service, the Crime and Misconduct Commission or other appropriate agency.

4.2 Contempt

Definition of “contempt”

Contempt of the Assembly means a breach or disobedience of the powers, rights or immunities, or a contempt, of the Assembly or its members or committees.

Essential elements of a contempt

Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with—

- (a) the free exercise by the Assembly or a committee of its authority or functions; or
- (b) the free performance by a member of the member’s duties as a member.

4.3 Examples of contempts

Examples of contempts

The standing orders (Part 10, Chapter 39—SO 266) provide 22 examples of contempt, as set out below.

Without limiting the generality of 4.2 above, the House may treat as a contempt any of the following—

- (1) *breaching or interfering with any of the powers, rights and immunities of the House;*
- (2) *deliberately misleading the House or a committee (by way of submission, statement, evidence or petition);*
- (3) *serving legal process or causing legal process to be served within the precincts of Parliament, without the authority of the House or the Speaker;*

- (4) *removing, without authority, any documents or records belonging to the House;*
- (5) *falsifying or altering any documents or records belonging to the House;*
- (6) *as a member, receiving or soliciting a bribe to influence the member's conduct in respect of proceedings in the House or a committee;*
- (7) *as a member, accepting fees for professional services rendered by the member in connection with proceedings in the House or a committee;*
- (8) *offering or attempting to bribe a member to influence the member's conduct in respect of proceedings in the House or a committee;*
- (9) *assaulting, threatening or intimidating a member or an officer of the House acting in the discharge of the member's or the officer's duty;*
- (10) *obstructing or molesting a member or an officer of the House in the discharge of the member's or the officer's duty;*
- (11) *misconducting oneself in the presence of the House or a committee;*
- (12) *divulging the proceedings or the report of a committee or a subcommittee contrary to Standing Orders;*
- (13) *publishing a false or misleading account of proceedings before the House or a committee;*
- (14) *failing to attend before the House or a committee after being summoned to do so by the House or the committee;*
- (15) *intimidating, preventing or hindering a witness from giving evidence or giving evidence in full to the House or a committee;*
- (16) *refusing to answer a question or provide information required by the House or a committee except as permitted by the House's rules or statute;*

- (17) *assaulting, threatening or disadvantaging a member on account of the member's conduct in the House or a committee;*
- (18) *assaulting, threatening or disadvantaging a person on account of evidence given by that person to the House or a committee;*
- (19) *assaulting, obstructing or insulting a member coming to or going from the House or a Committee proceeding;*
- (20) *sending to a member a threatening letter on account of the member's conduct in the House or a committee;*
- (21) *sending a challenge to fight a member; and*
- (22) *wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House or a committee.*
- (23) *except by a substantive motion of censure, commenting or reflecting on the decisions or actions of the Chair, whether relating to actions inside the House or the character of the Chair in general.*

Under the *Parliament of Queensland Act* the publication of a parliamentary record in contravention of a condition imposed by the Assembly is also a contempt: s 58.

4.4 Limits on charges of contempt

Standing Order 275 provides:

275. *Limits on charges of contempt*

- (1) *Any charge of contempt in the House shall be dealt with in accordance with Chapters 40 and 41.*
- (2) *No allegation or charge of contempt is to be considered by the House until such time as the matter has been referred to the [ethics] committee and dealt with in accordance with Chapters 40 and 41. (See Part 4.1 above and Appendix 2.)*

4.5 Procedure for raising and considering matters relating to the pecuniary and other interests of members and persons related to members

The relevant procedures are detailed in Schedule 2 to the standing orders. (See Appendix 1.)

4.6 Procedure for raising and considering submissions for a citizen's right of reply

The relevant procedures are detailed in Chapter 42 of the standing orders. (See Appendix 3.)

Restrictions on the consideration of an alleged contempt

5. RESOLVING CONFLICTS OF INTEREST

From time to time conflicts of interest arise which are unavoidable.

Any conflict of interest is to be resolved in the public interest

In keeping with the spirit of the *Code of Ethical Standards*, and the standing orders (and Schedule 2 and the standing orders establishing the members' interests registers) conflicts of interest are to be resolved in the public interest.

Members are able to obtain confidential and impartial advice concerning parliamentary practice and procedure and the register of interests from the Clerk of the Parliament and regarding the register of interests in an anonymous manner from the Members' Ethics and Parliamentary Privileges Committee.

The Speaker also provides members with advice concerning the use of some parliamentary resources.

5.1 Members' interests

The Clerk provides advice to all members about their obligations

As the Registrar of Members' Interests, the Clerk of the Parliament, an independent officer of the Parliament, has a pivotal role in providing advice to all members as to their obligations under the members' interests requirements.

The MEPPC advises members about conflicts of interest

The Members' Ethics and Parliamentary Privileges Committee also has a role in relation to Schedule 2 and the standing orders establishing the members' interest registers, and may be requested for an interpretation of the requirements and advice to members in relation to conflict of interest matters.

The MEPPC provides briefings and guidelines

The committee has a role in providing briefings to newly-elected members on the members' interests requirements, and may also issue guidelines regarding Schedule 2 for the benefit of all members.

5.2 Use of resources

The Speaker and the Clerk advise members about the use of resources

If members have any doubts about the application of the handbooks or any guidelines they should seek assistance from the Speaker, the Clerk of the Parliament or their delegates who are available to assist members in interpreting their allowances and entitlements.

**EXTRACT FROM THE *STANDING RULES AND ORDERS OF THE
LEGISLATIVE ASSEMBLY***

SCHEDULE 2—REGISTERS OF INTERESTS⁷

Purpose

The purpose of the Register of Members' Interests is to place on the public record any pecuniary or other relevant interests of a member which may give rise to a conflict of interest or a perception of a conflict of interest between a member's private interests and the public interest. The register seeks to provide information which might be thought by others to affect a member's public duties, or to influence their speeches or votes in the Legislative Assembly.

Preamble

1. It is vital that in a representative democracy the public have confidence in the integrity of their elected representatives.
2. It is also vital that elected representatives be continually reminded that they exercise a public trust which should not be subject to any private interest.
3. It is also in the interests of elected representatives that they be able to demonstrate that at all times they have made scrupulous disclosure of their private interests.
4. The Legislative Assembly requires its members to demonstrate a commitment to maintain the highest possible standard of propriety and to avoid, or where required to disclose, register or declare, any potential conflict of interest.
5. The Register of Members' Interests and Register of Related Persons' Interests are mechanisms to encourage and foster transparency, accountability and openness.
6. The Register of Members' Interests is a continually evolving primary record of members' registrable interests as submitted by members under the Standing Orders.
7. The tabled Register of Members' Interests gives public notification of members' registrable interests as at the date of publication.
8. The following provisions are the minimum registration required by members and are not intended to be an exhaustive list of all possible financial arrangements which are required, in the spirit of the Standing Orders, to be registered.

⁷ As amended 30 March 2006 (effective from 30 June 2006). Queensland, Legislative Assembly, *Votes and Proceedings* No. 101 – Thursday, 30 March 2006, at 984-990.

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PART 1 – PRELIMINARY

Definitions

1. In this Schedule, unless the contrary intention appears—

“**calendar month**” means a period commencing at the beginning of a day of one of the 12 months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the end of the next month;

“**child**”, in relation to a member, includes an adopted child, a step-child or an ex-nuptial child of the member;

“**Clerk**” means the Clerk of the Parliament;

“**committee**” means the Members’ Ethics and Parliamentary Privileges Committee;

“**company**” means a company, whether a private company or a public company;

“**debenture**” includes debenture stock, bonds, notes and any other document evidencing or acknowledging indebtedness of a company in respect of money that is deposited with or lent to the company;

“**de facto partner**”, in relation to a member, has the same meaning as s.32DA of the *Acts Interpretation Act 1954*;

“**gift**” means—

- (a) the transfer of money, property or other benefit—
 - (i) without recompense; or
 - (ii) for a consideration substantially less than full consideration; or
- (b) a loan of money or property made on a permanent, or an indefinite, basis;

but does not include upgraded travel provided by an airline;

“**joint venture**” means an undertaking carried on by 2 or more persons in common otherwise than as partners;

“**Member**” means a member of the Legislative Assembly;

“**month**” means a calendar month;

“**nominee company**” means a company whose principal business is the business of holding marketable securities as a trustee or nominee;

“**officer**”, in relation to a company, means—

- (a) director or secretary of the company; or
- (b) any other person who is concerned, or takes part, in the management of the company;

“partnership” includes a joint venture;

“private company” means a proprietary company, whether incorporated in Queensland or elsewhere;

“private superannuation fund” means a superannuation fund which meets the definition of a self-managed superannuation fund (SMSF) under the *Superannuation Industry (Supervision) Act 1993* (Cth);

“public company” means a company, other than a private company, whether incorporated in Queensland or elsewhere;

“Register” means—

- (a) the Register of Members’ Interests; or
- (b) the Register of Related Persons’ Interests;

“Registrar” means the Registrar of Members’ Interests;

“related person”, in relation to a member, means—

- (a) the spouse of the member;
- (b) a child of the member who is wholly or substantially dependent on the member; or
- (c) any other person—
 - (i) who is wholly or substantially dependent on the member; and
 - (ii) whose affairs are so closely connected with the affairs of the member that a benefit derived by the person, or a substantial part of it, could pass to the member;

“share” means—

- (a) a share in the share capital of a company;
- (b) stock;
- (c) a convertible note; or
- (d) an option;

“sitting day”, in relation to the Parliament, means a day on which the Parliament meets;

“sponsored travel or accommodation” means any travel undertaken including accommodation incidental to the travel, or any accommodation benefit received, by the member or a related person in respect of which a contribution (whether in cash or kind) to the cost of the travel (including incidental accommodation) or the accommodation is made by a person other than the member or a related person but does not include:

- travel or accommodation received in an official capacity
- upgraded travel provided by an airline, or upgraded accommodation
- meals or sporting or cultural entertainment
- a benefit received from a family member or family friend where the contribution made by the sponsor is received in a purely personal capacity, and there is no connection or possible conflict of interest between the member’s duties and the interest of the sponsor;

“spouse”, in relation to a member, includes a de facto partner of a member;

“statement of interests” means—

- (a) a statement of interests (member); or
- (b) a statement of interests (related persons);

“statement of interests (member)” means the statement of a member’s interests required to be given by the member to the Registrar under clause 5;

“statement of interests (related persons)” means the statement of the interests of a member’s related persons required to be given by the member to the Registrar under clause 5;

“trade or professional organisation” means a body (whether incorporated or unincorporated) of—

- (a) employers or employees; or
- (b) persons engaged in a profession, trade or other occupation;

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

“year” means period of 12 months commencing on 1 January.

Interpretation – terms relating to companies

- 2.(1) A person is taken to have a controlling interest in shares in a company if the person is able—
 - (a) to dispose of, or to exercise control over the disposal of, the shares; or
 - (b) where the shares are voting shares – to exercise, or to control the exercise of, any voting powers attached to the shares.
- (2) The question whether a company is a subsidiary of another company is to be determined in the same manner as the question whether a corporation is a subsidiary of another corporation is determined for the purposes of the Corporations Law of Queensland.
- (3) A reference in this schedule to the holding company of another company is a reference to a company of which that other company is a subsidiary.

Interpretation – forms

- 3.(1) In this schedule, a reference to a form by number is a reference to the form so numbered in Part 6.
- (2) Strict compliance with a form in Part 6 is not necessary and substantial compliance, or such compliance as the circumstances of a particular case allow, is sufficient.

Registrar

- 4.(1) There is to be a Registrar of Members’ Interests.
- (2) The Clerk is to be the Registrar.

PART 2 – STATEMENTS OF INTERESTS

Giving of statements

- 5.(1)** In accordance with the Standing Rules and Orders of the Legislative Assembly and resolutions adopted by the Legislative Assembly from time to time and in a form determined by the Committee, each member shall within one month of making and subscribing an oath or affirmation as a member, provide to the Registrar a statement of—
- (a) the member's Registrable Interests as at the date of the election;
 - (b) the Registrable Interests, as at the date of the election, of which the member is aware of related persons.
- (2)** A member must notify the Registrar in writing of any change in the details contained in the last statement of interests given by the member within one month of becoming aware of the change.
- (3)** Each member shall within one month of the 30th day of June in each subsequent year during the life of that Parliament, provide to the Registrar a confirmation of correct particulars.
- (4)** A member is required to include in a statement of interests details relating to the interest of a related person only if the member is aware of the interest.
- (5)** A member is not required to give, in any year—
- (a) more than one statement of interests (member); or
 - (b) more than one statement of interests (related persons); or
 - (c) more than one confirmation of correct particulars.

Form of statements and notice of change of details

- 6.(1)** A statement of interests (member)—
- (a) must be in accordance with clause 7 (Form 1); and
 - (b) is to relate only to interests held by the member—
 - (i) alone; and
 - (ii) jointly or in common with a related person.
- (2)** A statement of interests (related persons)—
- (a) must be in accordance with clause 7 (Form 2); and
 - (b) is to relate only to interests held by related persons otherwise than jointly or in common with the member.

- (3) A notice of change of details contained in a statement of interests must be in accordance with clause 5 (Form 3).
- (4) A confirmation of correct particulars must be in accordance with clause 5 (Form 4).
- (5) The Committee may, by resolution, alter any forms for use under this schedule, and such forms are to be tabled in the Legislative Assembly by the Chairperson of the Committee within five sitting days.

Registration of interests

- 7.(1) Nothing in this schedule shall require a member to specify: the number or monetary value of shares; the monetary value of investments or beneficial interests; the full street address of property; the financial amount of liabilities, donations or other income; the account number of, or financial amounts held in, savings or investment accounts; or the monetary value of assets, sponsored travel or accommodation, or gifts.
- (2) A statement of interests required to be given by a member must contain the following details—
 - (a) in respect of any company in which the member or a related person is a shareholder or has a controlling interest in shares—
 - (i) the name of the company;
 - (ii) where the shareholding or interest constitutes a controlling interest in the company – the shareholdings of the company in any other company;
 - (iii) where the shareholding or interest is held in a private company, the investments or beneficial interests of the company; and
 - (iv) where the shareholding or interest is held in a private company that is the holding company of another company—
 - (A) the investments or beneficial interests of the holding company;
 - (B) the name of any company that is a subsidiary of the holding company;
 - (C) the name of any company that is a subsidiary of any company that is the holding company’s subsidiary; and
 - (D) the investments or beneficial interests of those subsidiary companies;
 - (b) in respect of any company of which the member or a related person is an officer—
 - (i) the name of the company;
 - (ii) the nature of the office held; and
 - (iii) the nature of the activities of the company;

- (c) in respect of any family or business trust or nominee company in which the member or a related person holds a beneficial interest—
 - (i) the name or a description of the trust, or the name of the company, as the case requires;
 - (ii) the nature of the activities of the trust or company;
 - (iii) the nature of the interest; and
 - (iv) the investments or beneficial interest of the trust;
- (d) in respect of any family or business trust in which the member or a related person is a trustee—
 - (i) the name or a description of the trust; and
 - (ii) the nature of the activities of the trust;
- (e) in respect of any private superannuation fund in which the member or a related person is a trustee or director—
 - (i) the name or a description of the fund;
 - (ii) the nature of the activities of the fund;
 - (iii) the investments or beneficial interests of the fund (of which the member is aware);
- (f) in respect of any partnership in which the member or a related person has an interest—
 - (i) the name or a description of the partnership;
 - (ii) the nature of the activities of the partnership; and
 - (iii) the nature of the interest;
- (g) in respect of any real estate in which the member or a related person has an interest—
 - (i) the location of the relevant property (by reference to suburb or locality);
 - (ii) the approximate size of the property;
 - (iii) the purpose for which the property is, and is intended to be, used; and
 - (iv) the nature of the interest;
- (h) in respect of any liability (excluding department store and credit card accounts) of the member or a related person or a trust of which a member or a related person is a beneficiary or a private company of which a member or a related person is a shareholder—
 - (i) the nature of the liability; and
 - (ii) the name of the creditor concerned;

unless—

- (A) the liability arises from the supply of goods or services supplied in the ordinary course of any occupation of the member or business of the trust or private company in which the member or related person has an interest which is not related to the member's duties as a member of the Legislative Assembly; or
- (B) the liability is for an amount of \$10,000 or less;

- (i) any debenture, managed fund or similar investments held by the member or a related person;
- (j) in respect of any savings or investment account of the member or a related person held with a bank, building society, credit union or other institution—
 - (i) the nature of the account; and
 - (ii) the name of the institution concerned;
- (k) the source and nature of any gifts valued at more than \$500 from one source, or where two or more gifts are made from one source during the return period exceed, in aggregate, \$500 provided that a gift received by a member, the member's spouse or dependent children from family members or personal friends in a purely personal capacity need not be registered unless the member judges that an appearance of conflict of interest may be seen to exist;
- (l) in respect of any sponsored travel or accommodation received by the member or a related person—
 - (i) the source of the contribution concerned; and
 - (ii) the nature and purpose of the travel;
- (m) the source of any other income over \$500 per annum received by—
 - (i) the member or a related person; or
 - (ii) a private company, or a trust, in which the member or a related person holds an interest;

or of any other income under \$500, where the source of that income raises, appears to raise, or could foreseeably raise, a conflict between the member's private interest and their duty as a member;
- (n) the nature of any other asset of the member or a related person the value of which exceeds \$5000, other than—
 - (i) household and personal effects;
 - (ii) motor vehicles used only or mainly for personal use; and
 - (iii) industry, public offer and employer superannuation entitlements;
- (o) the name of any political party, trade or professional organisation of which the member or related person is a member, or the name of any other organisation of which the member is an officeholder or any organisation of which the member is a financial contributor donating \$500 or more in any single calendar year to that organisation;
- (p) any other interest (whether or not of a pecuniary nature) of the member or a related person—
 - (i) of which the member is aware; and
 - (ii) that raises, appears to raise, or could foreseeably raise, a conflict between the member's private interest and their duty as a member.

- (3) A Minister or other Office Holder (recognised by s.112 of the *Parliament of Queensland Act 2001*) is not required to include in a statement of interests details of interests that are imposed upon them in their capacity as Minister or Office Holder.

Examples—

1. Shares held by a Minister in a statutory or company government owned corporation on behalf of the State under the *Government Owned Corporations Act 1993* are not required to be registered.
2. The fact that the Premier, Speaker and Leader of the Opposition are trustees in the Parliamentary Contributory Superannuation Fund under the *Parliamentary Contributory Superannuation Act 1970*, is not required to be registered.

Questions concerning statements, and explanatory notes

- 8.(1) If a question relating to whether a matter should or should not be included in a statement of interests is raised by a member with the Registrar, the Registrar must—
- (a) subject to the terms of any Standing Order or resolution of the Legislative Assembly affecting the matter – attempt to resolve the matter without referring it to the Committee; and
 - (b) if the matter is not so resolved – refer the matter to the Committee.
- (2) A reference of a matter to the Committee—
- (a) must be made in general terms; and
 - (b) except with the consent of the member, must not disclose the name of the member.
- (3) The Committee must—
- (a) consider any matter referred to it; and
 - (b) if the name of the member has been disclosed to it – give the member the opportunity to be heard;
- after which it must decide whether the matter should or should not be included by the member in the statement of interests concerned.
- (4) The Registrar must immediately notify the member of the decision of the Committee.
- (5) If the member informs the Committee in writing that they do not agree with the decision of the Committee, the Committee must—
- (a) make a report to the Legislative Assembly; and
 - (b) with the report, recommend the action that should be taken in relation to the matter.
- (6) A report under subclause (5)—
- (a) must be made in general terms; and
 - (b) must not disclose the name of the member.
- (7) The Committee, both on its own initiative or upon the request of the Registrar, may produce and publish explanatory notes to further explain the requirements of this schedule and the information to be included in the Registers.

PART 3 – REGISTERS

Keeping of Registers

- 9.(1)** The Registrar must keep, in such forms as the Registrar considers appropriate—
- (a) a Register of Members’ Interests; and
 - (b) a Register of Related Persons’ Interests.
- (2)** As soon as practicable after receiving a statement of interests from a member, the Registrar must—
- (a) in the case of a statement of interests (member) – enter in the Register of Members’ Interests the relevant details contained in the statement; and
 - (b) in the case of a statement of interests (related persons) – enter in the Register of Related Persons’ Interests the relevant details contained in the statement.
- (3)** As soon as practicable after receiving a notice of change of details under subclause 5(2), the Registrar must make such alteration to the details entered in the relevant Register as is necessary to reflect the change.

Custody of Registers

- 10.** The Registrar is to have the custody of—
- (a) each Register;
 - (b) each statement of interests received by the Registrar under subclause 5(1);
 - (c) any notice of change of details received by the Registrar under subclause 5(2); and
 - (d) each confirmation of correct particulars received by the Registrar under subclause 5(3).

Tabling of Register of Members’ Interests

- 11.** As soon as practicable after—
- (a) the first sitting day of each Parliament; and
 - (b) the 30th day of June in each subsequent year during the life of that Parliament;
- the Speaker must table in the Legislative Assembly a copy of the Register of Members’ Interests.

Publishing of Register of Members’ Interests

- 12.** The Register tabled in accordance with clause 11 above shall be immediately published as a parliamentary paper.

Inspection of Registers

- 13.(1)** The Registrar must, at the request of a person, permit the person to inspect the Register of Members' Interests during normal business hours of the office of the Clerk.
- (2)** The Registrar must, on request, make the Register of Related Persons' Interests available to—
 - (a)** the Speaker;
 - (b)** the Premier;
 - (c)** any other Leader in the Legislative Assembly of a political party;
 - (d)** the Chairperson and members of the Members' Ethics and Parliamentary Privileges Committee;
 - (e)** the Crime and Misconduct Commission; and
 - (f)** the Auditor-General.

PART 4 – COMPLAINTS

Allegations by members

- 14.(1)** A member may make an allegation against another member that the other member has failed to comply with the requirements relating to the registration of a matter under this schedule.
- (2)** The allegation must be made, in writing, to the Registrar.
- (3)** The Registrar must—
 - (a)** refer the allegation to the Committee; and
 - (b)** give the details of the allegation to the member against whom the allegation is made.

Consideration of allegations

- 15.(1)** The Committee must consider each allegation referred to it and, for that purpose, may—
 - (a)** give each member concerned the opportunity to be heard; and
 - (b)** obtain information from such other persons, and make such inquiries, as it thinks fit;after which it may—

- (c) make a report to the Legislative Assembly; and
 - (d) with the report, recommend the action that should be taken in relation to the matter.
- (2) The Committee must not make a report unless—
- (a) it has given the member against whom the allegation has been made the opportunity—
 - (i) to be heard; and
 - (ii) to make written submissions; and
 - (b) it has given the persons that the member nominates the opportunity to be heard.

Complaints by public

- 16.(1)** A person may make a complaint alleging that a member has failed to comply with the requirements relating to the registration of a matter under this schedule.
- (2) The complaint must be made, in writing, to the Registrar.
 - (3) The Registrar must, before taking any further action in relation to the complaint, inform the complainant in writing that parliamentary privilege does not extend to any communication between the complainant and the Registrar.
 - (4) The Registrar may require the complainant to give to the Registrar—
 - (a) details of the complainant’s name and address;
 - (b) details, or further details, of the complaint; and
 - (c) copies of any documents or other material available to the complainant supporting the complaint.
 - (5) The Registrar may refuse to take any further action in relation to the complaint if the complainant refuses or fails to comply with a requirement under subclause (4).
 - (6) If the Registrar believes on reasonable grounds that there is evidence to support an allegation the subject of the complaint, the Registrar must—
 - (a) refer the matter to the Committee; and
 - (b) give the details of the complaint to the member concerned.

Consideration of complaints

- 17.(1)** Where a complaint is referred to it, the Committee—
- (a) may request the member concerned to provide an explanation of the allegation the subject of the complaint; and

- (b) must, if the member disputes the allegation—
 - (i) give the member the opportunity to be heard;
 - (ii) give the persons that the member nominates the opportunity to be heard; and
 - (iii) obtain information from such other persons, and make such inquiries, as it thinks fit.
- (2) The Committee must make a report to the Legislative Assembly in respect of the complaint—
 - (a) if the member concerned disputes the allegation the subject of the complaint – on completion of its consideration of the complaint;
 - (b) if the member confirms the allegation – on receiving notice to the effect; and
 - (c) if the member does not, within a reasonable period, respond to a request given to them under subclause (1)(a) – on the expiration of the period.
- (3) The Committee must, with the report, recommend the action that should be taken in relation to the matter.
- (4) The Committee must not, in the report, make a finding that is adverse to the member concerned unless it has given the member—
 - (a) full particulars of the complaint; and
 - (b) the opportunity to be heard in relation to the complaint.

PART 5 – ENFORCEMENT

Effect of failure to comply with requirements

- 18.** A member who knowingly—
- (a) fails to give a statement of interests to the Registrar under subclause 5(1);
 - (b) fails to notify the Registrar under subclause 5(2) of a change of details contained in a statement of interests;
 - (c) gives to the Registrar a statement of interests, or gives information to the Registrar or the Committee, that is false, incomplete or misleading in a material particular;
- is guilty of a contempt of the Parliament and may be dealt with accordingly.

PART 6 – FORMS

The following prescribed forms for the purpose of this schedule have been approved by the Legislative Assembly—

- Form 1 Statement of interests of a member
- Form 2 Statement of interests of a member’s related person/s
- Form 3 Change of details of member / member’s related person/s
- Form 4 Confirmation of correct particulars.

EXTRACT FROM THE PARLIAMENT OF QUEENSLAND ACT 2001
PART 2—CONTEMPTS, S 37

Examples of contempt:

1. Assaulting, obstructing or insulting a member:
 - (a) in the member's coming to or going from the Assembly or a meeting of a committee; or
 - (b) anywhere else because of the member's performance of his or her parliamentary duties.
2. Attempting to compel a member by force, insult or menace to take a particular position in relation to a proposition or matter pending, or expected to be brought, before the Assembly or a committee.
3. Sending a threat to a member because of the member's performance of his or her parliamentary duties.
4. Sending a challenge to fight a member.
5. The offering of a bribe to or attempting to bribe a member.
6. Creating or joining in any disturbance in the Assembly or before a committee or in the Assembly's or a committee's vicinity while it is sitting that may interrupt its proceedings.
7. Contravention of section 29(1), 30(1) and (4), 31(3), 32(2) and (6) or 33(2) and (8) [of the *Parliament of Queensland Act 2001*]. [See * below.]
8. Preventing or attempting to prevent a person from complying with section 29(1), 30(1) and (4), 31(3), 32(2) and (6) or 33(2) and (8).
9. Improperly influencing, or attempting to improperly influence, a person, in relation to any evidence to be given by the person to the Assembly or a committee.
10. Treating a person adversely and without lawful authority, or attempting to do so, because of evidence given by the person to the Assembly or a committee or because of a belief or suspicion about that evidence.

* Section 29 (Obligation to attend before the Assembly), 30 (Obligation to attend before an authorised committee), 31 (Examination under oath or affirmation), 32 (Obligation to respond and produce to the Assembly), 33 (Obligation to respond and produce to an authorised committee).

**EXTRACT FROM THE STANDING RULES AND ORDERS OF THE
LEGISLATIVE ASSEMBLY**

PART 10 POWERS, RIGHTS AND IMMUNITIES

CHAPTER 39 CONTEMPT

264. Definitions in part

In this part:

- (a) *the term “ethics committee” means the Members’ Ethics and Parliamentary Privileges Committee; and*
- (b) *the term “matter” means a matter concerning the powers, rights and immunities of the house and includes:*
 - (i) *any interference with or breach of the powers, rights and immunities of the House; or*
 - (ii) *an alleged contempt.*

265. Proceedings for contempt

Proceedings for contempt of the House except for matters of disobedience in the House, shall be brought only upon the adoption by the House of a report from the Members’ Ethics and Parliamentary Privileges Committee recommending that such proceedings be instituted.

266. Examples of contempt

[See paragraph 4.3 of this booklet.]

**CHAPTER 40 PROCEDURE FOR RAISING AND CONSIDERING
COMPLAINTS**

[See paragraph 4.1 of this booklet.]

CHAPTER 41 PROCEDURE ON CHARGE OF CONTEMPT IN THE HOUSE

274. Person charged with contempt to be summoned

- (1) *When the ethics committee reports to the House that a person has committed a contempt and recommends that the person be charged with that contempt by the House, a question shall be put, that such person be ordered to attend at the Bar of the House, at a specified date and time.*
- (2) *If the House passes the question in (1) in the affirmative, a copy of the order of the House, specifying the charge of contempt and requiring the attendance of the person, and certified by the Clerk, shall be served upon them either personally or by prepaid post letter addressed to them at their usual or last known place of residence in Queensland.*
- (3) *If at the date and time appointed the person charged attends according to the order, the Speaker shall inform them of the charge of contempt, and they shall be heard in their defence, either personally or by counsel, after which the House may adjudge them to be guilty of the charge of contempt or direct that they be discharged.*
- (4) *If the person charged does not attend, then, upon proof to the satisfaction of the House of due service of a copy of the order upon the person, the House may proceed to deal with the matter, despite their non-attendance.*

275. Limits on charges of contempt

- (1) *Any charge of contempt in the House shall be dealt with in accordance with Chapters 40 and 41.*
- (2) *No allegation or charge of contempt is to be considered by the House until such time as the matter has been referred to the committee and dealt with in accordance with Chapters 40 and 41.*

276. Member to withdraw while conduct under consideration

A member against whom a charge of contempt has been made, having been heard in their place, shall withdraw while the House considers the charge.

277. Punishment of person adjudged guilty of contempt

- (1) *When the House has adjudged a person guilty of a charge of contempt, the House may adjudge them to pay a fine not exceeding two thousand dollars and require payment of that fine within a specified, reasonable period of time.*
- (2) *In the event of the person not paying the fine within the time set by the House, the House may order that the person be imprisoned in the custody of the Sergeant-at-Arms in such place as the House may direct, or in the custody of the Department of Corrective Services, until the fine has been paid, or until the end of the existing session, or for such shorter period as the House by the same or any subsequent order may direct.*

278. Warrant

- (1) *When the House in accordance with SO 277 orders a person to be imprisoned, the Speaker shall sign a warrant for the apprehension and imprisonment of the person and committing the person to the custody of the Sergeant-at-Arms, or as the House has resolved.*
- (2) *The warrant shall specify that the person has been found by the House to have committed a contempt of the House.*

**EXTRACT FROM THE STANDING RULES AND ORDERS OF THE
LEGISLATIVE ASSEMBLY**

CHAPTER 42—CITIZEN'S RIGHT OF REPLY

279. Reference to a person includes a corporation

- (1) *In this chapter a reference to a person includes a corporation.*
- (2) *A corporation making a submission under this chapter is required to make it under their common seal (if it has a common seal).*

280. Affected person may make a submission

- (1) *A person who has been referred to in the Legislative Assembly or a committee by name, or in such a way as to be readily identified may make a submission to the Speaker:*
 - (a) *claiming that the person has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that the person's privacy has been unreasonably invaded, by reason of that reference to the person or corporation; and*
 - (b) *requesting that the person be able to incorporate an appropriate response in Hansard or the relevant committee report.*
- (2) *The Speaker may refer the submission to the ethics committee if the Speaker is satisfied:*
 - (a) *that the subject of the submission is not so obviously trivial or the submission so frivolous, vexatious or offensive in character as to make it inappropriate that it be considered by the ethics committee; and*
 - (b) *that it is practicable for the ethics committee to consider the submission under this chapter.*
- (3) *A person shall ensure a submission is received by the Speaker within the term of the Parliament in which the person has been adversely referred.*

281. Submissions

- (1) *A submission under this chapter shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character.*
- (2) *A submission under this chapter shall not contain any matter the publication of which would have the effect of:*
 - (a) *unreasonably adversely affecting or injuring a person or corporation, or unreasonably invading a person's privacy, in the manner referred to in SO 280(1); or*

- (b) *unreasonably adding to or aggravating any such adverse effect, injury or invasion of privacy suffered by a person.*

282. Action by the ethics committee

- (1) *The ethics committee may decide not to consider a submission referred to it under this chapter if the committee considers that the subject of the submission is not sufficiently serious or the submission is frivolous, vexatious or offensive in character, and such a decision shall be reported to the House.*
- (2) *If the ethics committee decides to consider a submission under this chapter, the ethics committee may confer with the person who made the submission and any member who referred in the House to that person or corporation or where the submission relates to another committee's proceeding, the relevant committee.*
- (3) *In considering the submission under this chapter, the ethics committee shall deliberate in a private meeting.*
- (4) *The ethics committee shall not publish a submission referred to it under this chapter or its proceedings in relation to such a submission, but may present minutes of its proceedings and all or part of such submission to the House.*
- (5) *In considering a submission under this chapter and reporting to the House the ethics committee shall not consider or judge the truth of any statements made in the House or the submission.*
- (6) *If a person making a submission does not respond to a communication from the committee within three months, the committee may consider the matter to be closed.*
- (7) *Public servants seeking a right of reply must do so as private citizens.*
- (8) *Persons making their submission through a representative must personally sign the response.*

283. Recommendation and report by the ethics committee

In its report to the House on a submission under this chapter, the ethics committee may make either of the following recommendations and no other recommendations:

- (a) *that no further action be taken by the ethics committee or the House in relation to the submission; or*
- (b) *that a response by the person who made the submission, in terms specified in the report and agreed to by the person or corporation and the ethics committee, be incorporated in Hansard.*

**EXTRACT FROM THE LEGISLATIVE ASSEMBLY (QUEENSLAND) VOTES
AND PROCEEDINGS (NO. 91, 30 MAY 2000, PAGE 982)**

**GUIDELINES FOR THE USE OF THE LEGISLATIVE ASSEMBLY CREST,
EMBLEMS AND OTHER INSIGNIA**

- (1) The Legislative Assembly's crest, emblems and other insignia may be used for:
 - letterhead, business cards and other stationery by Members, committees and staff of the Parliamentary Service;
 - advertisements by Members relating to their constituency role, and by committees of the Parliament;
 - internet websites maintained by Members to aid in the discharge of their constituency role;
 - committee reports and papers, publications by the Parliamentary Library and other parliamentary publications; and
 - any other purpose approved by the Speaker.
- (2) The Legislative Assembly's crest, emblems and other insignia of the Parliament must not be used:
 - where there is a risk that their use might wrongly be regarded or represented as having the authority of the Legislative Assembly;
 - on materials or publications which are created and published for overtly political purposes or which contain political advertising (for example, a newsletter containing political advertising); or
 - for any other purpose which may have the effect of bringing the House into odium, contempt or ridicule, or which may compromise the integrity of the Parliament; and
- (3) In determining whether the use of the crest is in accordance with these guidelines, the source of the funding for a publication is irrelevant.

**EXTRACT FROM THE LEGISLATIVE ASSEMBLY (QUEENSLAND) VOTES
AND PROCEEDINGS (NO. 128, 9 SEPTEMBER 2003, PAGE 1187)**

CODE OF CONDUCT FOR ELECTION CANDIDATES

The purpose of the Code is:

- (a) *To maintain public confidence in the electoral process by promoting conditions conducive to the conduct of free and fair elections; and*
- (b) *To provide general guidance to candidates on what is fair and reasonable conduct in elections, thereby ensuring candidates know what is required of them.*

The code applies to all candidates for state elections (independents and candidates endorsed by parties).

A “candidate” is any person who is publicly identified as a candidate in a state election, either by the candidate’s party, or through the actions of the person in the case of independent candidates. The Code applies to candidates who are so publicly identified before they are formally nominated as a candidate under the Electoral Act 1992.

The Code binds candidates personally, and not their agents. Candidates are expected to make all reasonable efforts to ensure their campaign workers are aware of and observe the standards of conduct set by the Code, and of the public interest in free and fair elections.

How election candidates shall conduct themselves.

Candidates shall conduct themselves and their campaigns so as to maintain and strengthen the public’s trust and confidence in the democratic election process, and promote integrity in our electoral system.

Candidates conduct should be fair and reasonable. This requires that a candidate will:

- (a) *Act honestly in making representations about the candidate’s own claims for election, and their intention to represent the electorate.*
- (b) *Refrain from knowingly acting dishonestly in making representations about the claims of other candidates for election.*
- (c) *Avoid making public statements which the candidate knows, or ought to know, are untrue, about an opponent’s personal affairs.*
- (d) *Avoid making vexatious complaints to the Crime and Misconduct Commission against an opponent during a campaign.*
- (e) *Avoid conduct which is contrary to state or Commonwealth law including but not limited to:*

- *Racial and religious vilification offences under the Anti-Discrimination Act 1991;*
- *Official misconduct under the Crime and Misconduct Act 2001;*
- *Criminal Code offences; and*
- *Electoral Act 1992 offences.*

(f) Avoid conduct which would tend to compromise a free and fair election process.

(g) Avoid conflicts of interest arising from advocating election policies or proposals which would specifically deliver a private pecuniary benefit to the candidate and, if the candidate is not a Member of Parliament who has already lodged a pecuniary interests declaration on the Parliamentary Members' Register of Interests, furnish to the Electoral Commissioner a declaration of the candidate's pecuniary interests.

The Code is voluntary, with the exception of (e) above, but candidates who do not follow it will risk disfavour in the electorate because they have not followed the Code.

