



MEMBERS' ETHICS AND PARLIAMENTARY PRIVILEGES COMMITTEE

REPORT ON A CODE OF ETHICAL STANDARDS FOR MEMBERS OF THE QUEENSLAND LEGISLATIVE ASSEMBLY

REPORT NO. 44

CHAIRMAN'S FOREWORD

It gives me great pleasure to present, on behalf of the Members' Ethics and Parliamentary Privileges Committee, the committee's final *Report on a Code of Ethical Standards for members of the Queensland Legislative Assembly* and the accompanying proposed *Code of Ethical Standards* developed by the committee.

The proposed *Code of Ethical Standards* is a comprehensive, educative framework to ensure that the elected representatives of this State are aware of, understand, and are able to resolve ethical dilemmas when they arise.

The proposed *Code of Ethical Standards* is the most comprehensive and useful document of its kind developed by and for elected representatives anywhere in Australia. Together with other complimentary mechanisms, such as the Register of Members' and Related Persons Interests, it makes individual members of the Queensland Parliament the most accountable in Australia.

Nowhere in Australia are members of Parliament more accountable than in Queensland. The Queensland register of interests is the most stringent in Australia and recommendations in this report relating to ad hoc disclosure will only enhance that accountability. The proposed *Code of Ethical Standards* provides the educative framework within which the register of interests and other mechanisms and obligations on members (detailed and explained in the proposed Code) operate.

The focal point of the proposed *Code of Ethical Standards* is the Statement of Fundamental Principles.

The six fundamental principles draw together the various concepts underpinning the duties of and obligations on members of Parliament, to assist members to better understand their representative role and responsibilities. These six fundamental principles are: integrity of the Parliament; primacy of the public interest; independence of action; appropriate use of information; transparency and scrutiny; and appropriate use of entitlements.

The fundamental principles are required to be endorsed and adopted by the Legislative Assembly. The committee will be obliged to update the *Code of Ethical Standards* on a continuing basis, to ensure that it is at all times relevant.

It is appropriate that I acknowledge the work of the previous committee. I also wish to record my appreciation to all members of the present committee for their commitment to the work of the committee. Finally, on behalf of the current committee and the previous committee, I would like to thank all the secretariat staff for their assistance and dedication.

John Mickel MLA
Chairman

5 September 2000

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1. BACKGROUND

1.1 The committee's mandate

The Members' Ethics and Parliamentary Privileges Committee ("the MEPPC" or "the committee") is established by the *Parliamentary Committees Act 1995* (Qld) ("the Committees Act"). Under s 16 of the Committees Act, the MEPPC has responsibility for recommending to the Queensland Parliament a code of conduct for members of the Legislative Assembly.

In recommending a code of conduct for members, the committee is obliged under the Committees Act to have regard to:

- the ethics principles and obligations as set out in the *Public Sector Ethics Act 1994*; and
- the desirability of consistency between standards in the members' code of conduct and the ethics principles and obligations, to the extent the principles and obligations are relevant to members and their function.¹

The committee also has responsibility under the Committees Act for recommending a procedure for handling complaints about a member not complying with the code (for example, who can make a complaint).

The committee notes that, with the adoption of the proposed code,² its responsibilities under the Committees Act relating to recommending a code are discharged. The committee has thus recommended appropriate amendments to the Committees Act to better reflect the committee's ongoing functions and responsibilities devolving from the code's adoption.

1.2 Inquiry by the 48th Parliament

The MEPPC of the 48th Parliament ("the previous committee") undertook a comprehensive inquiry into a code of conduct. The previous committee's detailed report on the matter, together with a draft *Code of Ethical Conduct for Members of the Queensland Legislative Assembly* ("the draft code"), was tabled in

the Legislative Assembly on 19 May 1998.³ The previous committee tabled the draft code to enable a period of consultation and debate prior to the presentation of a final recommendation to the Legislative Assembly.

1.3 Overview of the previous committee's draft code

The previous committee's draft code consisted of three main parts:

- an aspirational *Statement of Ethical Principles* and a *Statement of Commitment* (aimed at clarifying the principles which underpin a member's unique parliamentary role);
- the enforceable *Obligations and Requirements of Members* (a consolidation of the specific obligations on members regarding their behaviour, duties and relationships including the members' interests requirements and the citizen's right of reply); and
- a *Procedure for Complaints* (a summary of the complaints which might arise about a member's conduct, the categories of complaint into which specified behaviour would fall, the enforcement mechanism for each category of complaint, and the consequences of non-compliance with the *Obligations and Requirements of Members*).

The draft code was based on a combination of parliamentary and general law, and on the rules and practices of the Legislative Assembly which have developed over time. No new specific obligations were imposed on members under the draft code.⁴

1.4 Public comment on the previous committee's draft code

Following its appointment in July 1998, the MEPPC of the 49th Parliament met on 5 August 1998 and resolved to continue with the code of conduct inquiry.

¹ *Parliamentary Committees Act 1995* (Qld), s 16(2).

² The committee has opted to call its proposed code a *Code of Ethical Standards* as better reflecting, in a positive manner, its purpose and content.

³ Members' Ethics and Parliamentary Privileges Committee, Report No. 21 – Part A: *Report on a draft code of conduct for members of the Queensland Legislative Assembly* and Report No. 21 – Part B: *Draft code of ethical conduct for members of the Queensland Legislative Assembly*, May 1998.

⁴ MEPPC, Report No. 21 – Part A, Note 3 at 78-81.

The committee advertised seeking public comment on the previous committee's draft code and wrote to all members of the Legislative Assembly seeking their input. Persons and organisations with special expertise or a specific interest in the field of ethical standards were also invited to make submissions. An eight week consultation period was allowed with submissions closing on 27 November 1998.

Twelve written submissions were received and considered by the committee (see Appendix 1). The committee takes this opportunity to place on record its appreciation to all those who made submissions.

The majority of submissions supported both the form and content of the previous committee's draft code.

1.5 Auditor-General's comment on this committee's proposed code

At a meeting between the Auditor-General and the MEPPC on 10 November 1999 concerning issues raised in Audit Report No. 1 of 1999-2000,⁵ the Auditor-General offered to assist the committee with its inquiry by considering the proposed code and draft report. The committee subsequently resolved to accept the Auditor-General's offer and on 8 June 2000 forwarded the relevant drafts for consideration.

In his letter dated 20 June 2000 commenting on the drafts,⁶ the Auditor-General stated that he was "... *supportive of the on-going improvements to the overall framework for ensuring transparency in the ethical conduct of Queensland Parliamentarians as promoted by the committee's reports and the proposed Code of Ethical Standards*". The Auditor-General also commented that he firmly believed that "... *the Committee's initiative and resultant Reports represent an important step in enhancing public trust and confidence in the institution of Parliament*".

As noted by the Auditor-General, the drafts considered and addressed⁷ (either through clarification or in

⁵ See part 3.1 below.

⁶ The Auditor-General noted that "... Many of the issues raised in these Reports and the Code are areas for the sole consideration and discretion of the Legislative Assembly of Queensland through your Committee. Accordingly my comments are limited to the practical application of the principles and requirements espoused in your reports in terms of aspects relevant to my audit mandate".

⁷ Although the committee did not adopt all recommendations to the extent recommended by the Auditor-General.

proposals for action including any relevant amendment to the Standing Orders etc) the issues associated with the ethical behaviour and disclosure declarations of members' interests which the Auditor-General had raised in discussions with the committee on 10 November and/or in his Audit Report. Two changes to the drafts were proposed by the Auditor-General. These were accepted by the committee and have been incorporated in the tabled documents.

The committee would like to record its appreciation to the Auditor-General for his input to the *Code of Ethical Standards* and for his comments on the draft report.

1.6 Format and structure of this report

This report is the culmination of the committee's inquiry and incorporates this committee's recommended *Code of Ethical Standards* for members of the Queensland Legislative Assembly ("the code of ethical standards" or "the code"). The report is presented in two documents. This document is the committee's report on its inquiry and contains background to the previous committee's draft code, comment on submissions and other evidence received by the committee, and the committee's final recommendations. The second related document contains the committee's recommended *Code of Ethical Standards* for members of the Queensland Legislative Assembly.

2. DEVELOPMENT OF A CODE OF ETHICAL STANDARDS OVER TIME

The committee believes that a code of ethical standards should be an evolving, "living" document able to be refined as necessary to provide for circumstances which arise from time to time. This viewpoint has been reinforced by developments which have led to a number of enhancements to the draft code that was tabled in May 1998.

The committee's viewpoint is also supported by the Auditor-General, who stated in his letter commenting on the drafts, "*I full endorse the committee's view that a Code of Ethical Standards needs to be an evolving document and updated from time to time to take account of prevailing circumstances*".

3. RECENT DEVELOPMENTS

Major developments over the past eighteen months which have had a bearing on the content of the proposed code of ethical standards, and on the committee's time frame for finalising its inquiry, are summarised below.

3.1 Interactive Gambling Licence matter, Audit Report No. 1 of 1999-2000,⁸ and MEPPC Report No. 43

In July 1999, the Queensland Auditor-General commenced an audit in relation to certain matters associated with the issue of an interactive gambling licence to GOCORP Limited.⁹ On 27 July 1999, the Premier and the Treasurer wrote jointly to the Auditor-General seeking the Auditor-General's advice "... in relation to several matters concerning the awarding of an interactive gambling licence by the Office of Gaming Regulation" (QOGR). In his response to the Premier and Treasurer dated 27 July 1999, the Auditor-General advised that "... a financial audit was currently in progress at QOGR, that preliminary inquiries into the matters referred to [the Auditor-General] would be made, and that [the Auditor-General] would be in a position to advise of [his] intended course of action by 29 July 1999". The Auditor-General wrote again to the Premier on 29 July 1999 advising that "... as the auditor for the Parliament [he] would, in the public interest, undertake an audit of certain matters associated with the issue of an interactive gambling licence". The Auditor-General also advised the Premier that his audit "... would not necessarily be limited to the matters raised in [the Premier's] request, and that the results of the audit would be reported to Parliament".¹⁰

The matter the subject of the audit related to the activities of a then member of the Legislative Assembly and a former member of the Legislative Assembly, who had an active interest in a venture about which they had

been involved in making representations to other members and public officials prior to and during the licence application assessment process.¹¹

The Auditor-General's report to Parliament on the matter¹² ("the Auditor-General's report") was tabled on 30 September 1999 and raised a number of issues concerning the registration and disclosure of members' interests which fell within the MEPPC's area of responsibilities.

The MEPPC met with the Auditor-General (Mr Len Scanlan) and the Assistant Auditor-General (Mr Eric Muir) on 10 November 1999 to discuss issues arising from the Auditor-General's report. The committee's formal response to those issues is contained in the committee's Report No. 43.¹³

In brief, the committee concluded that the majority of the issues raised by the Auditor-General had already been addressed, or were currently being addressed, either by the revised members' interests resolution which was adopted by the Queensland Parliament on 25 May 1999 (see part 3.2.4 below) or by measures foreshadowed in the proposed *Code of Ethical Standards* for members of the Queensland Legislative Assembly. During the discussions, the Auditor-General indicated his support for the draft *Statement of Ethical Principles* proposed by the previous MEPPC and agreed that the current and proposed measures generally provide appropriate guidance for members to assist them to make consistent judgments about conflict of interest matters.¹⁴

Three matters considered in Report No. 43 which have particular significance for the members' *Code of Ethical Standards* warrant further discussion and recommendation. They relate to:

- the disclosure by members in the Register of Members' Interests of any significant shareholdings members hold in public companies;
- oral declaration in the House, by members, of their pecuniary interests in respect of any

⁸ Queensland Auditor-General, *Audit of Certain Matters Associated with the Issue of an Interactive Gambling Licence*, Audit Report No. 1 of 1999-2000 ('Auditor-General's Report'), tabled on 30 September 1999.

⁹ A number of the issues arising from this audit are discussed more fully in part 5.5 and 5.6 of this report, and in MEPPC Report No. 43 titled *Report on certain issues relating to the registration and disclosure of Members' interests—Response to matters raised by the Auditor-General in Audit Report No. 1 of 1999-2000*, tabled with this report.

¹⁰ Auditor-General's Report, op. cit., at 3, 9.

¹¹ Auditor-General's Report, op. cit., at 14, 74, 75-78.

¹² *ibid.*

¹³ MEPPC, Report No. 43, op. cit.

¹⁴ Transcript, MEPPC Meeting 10 November 1999 ('MEPPC meeting') at 7.

question being debated or voted on in the Parliament; and

- formal declaration by members of their pecuniary interests in a matter on which they make representations to members, Ministers or public officials.

These matters are discussed in part 5 Key Issues.

3.2 Legislative amendments and administrative /procedural changes

There have also been a number of legislative amendments and administrative/procedural changes since the draft code was tabled, which directly impact upon members, and consequently on the *Code of Ethical Standards*. The committee has updated the draft code to reflect the following administrative/procedural changes.

3.2.1. Interactive Gambling (Player Protection) Act 1998

On 17 August 1999, the Parliament amended the *Interactive Gambling (Player Protection) Act* to provide for regulations which may prohibit members of Parliament and their families from having a beneficial interest in companies holding an interactive gambling licence.¹⁵ The amendment was directly related to the Interactive Gambling Licence matter the subject of the Auditor-General's report discussed above.

3.2.2. Public Sector Ethics Act 1994

The Legislative Assembly amended the *Public Sector Ethics Act* ("the Ethics Act") on 11 November 1999 to provide for the establishment of the position of Queensland Integrity Commissioner. The Integrity Commissioner has responsibility for advising "designated persons" (including Ministers, Parliamentary Secretaries and Chief Executives of government departments) about conflicts of interest. The Integrity Commissioner also has responsibility for advising the Premier, if the Premier asks, on issues concerning ethics and integrity, and has a role in contributing to understanding in the wider community of public sector integrity standards.

The Integrity Commissioner also has responsibility for advising members of Parliament nominated to parliamentary committees by the government. This issue is discussed further in part 5.12.

3.2.3. Legislative Assembly Act 1867 and Officials in Parliament Act 1896

On 28 April 1999, the Parliament passed the Parliamentary Members (Office of Profit) Amendment Bill which amended the *Legislative Assembly Act* and the *Officials in Parliament Act* to clarify what had been a source of difficulty relating to members of the Legislative Assembly and offices of profit under the Crown. Members may now hold an office of profit under the Crown provided that they irrevocably waive for all legal purposes their entitlement to any fee or reward. The fee or other reward does not include reasonable expenses actually incurred by the member for accommodation, meals, domestic air travel, taxi fares or public transport charges, and motor vehicle hire.

3.2.4. Members' interests resolution

The previous MEPPC conducted an extensive review of the Registers of Members' and Related Persons' Interests in 1996, and tabled its report on the matter in October 1996.¹⁶ That committee recommended a number of measures aimed at strengthening the disclosure requirements of members and their related persons, particularly with regard to indirect shareholdings. The majority of the recommendations were adopted by resolution of the Parliament on 25 May 1999, effective 1 July 1999.

The additional declaration requirements adopted by the Queensland Parliament in the revised resolution make Queensland parliamentarians probably the most accountable in Australia.

Subsequent to a further amendment to the resolution governing Members' and Related Persons' Registers of Interests on 17 August 1999, the Auditor-General is now able to have access to the related persons' register. This is another example of recent developments and, as noted by the Auditor-General, a positive step in increasing public confidence in the transparency of this process.

¹⁵ Interactive Gambling (Player Protection) Act 1999, s 263 and Schedule 3.

¹⁶ MEPPC, Report No. 2, Report on the *Review of the Register of Members' Interests of the Legislative Assembly*, October 1996.

3.2.5. *Members' Entitlements Handbook and Members' Office Support Handbook*

In mid 1998, the Select Committee on Parliamentary Entitlements undertook an in-depth review of members' entitlements and resources. At that time, the use of officially provided resources by members was regulated by the *Members' Salaries and Allowances Handbook*.¹⁷ The handbook detailed parliamentary entitlements arising from the *Parliamentary Members' Salaries Act 1988* and the *Parliamentary Contributory Superannuation Act 1970*. It also covered entitlements which members receive via the Parliamentary Service or by virtue of the Speaker's discretion.

The select committee's recommendations included a number of new guidelines aimed solely at increasing accountability.¹⁸ The select committee also recommended two new handbooks—the *Members' Entitlements Handbook* and the *Members' Office Support Handbook*¹⁹ to replace the original *Members' Salaries and Allowances Handbook*.

The two new handbooks outline the allowances and entitlements of members and provide for the manner in which such allowances and entitlements may be claimed. Determinations to set reasonable limits on services and support provided (where express limits are not set) may also be made from time to time by the Clerk of the Parliament after consultation with the Speaker.²⁰

The committee believes that the *Members' Entitlements Handbook* and the *Members' Office Support Handbook* are the appropriate forums to regulate the use of such resources.

¹⁷ In its report titled *Gocorp Interactive Gambling Licence: Report on an Advice by RW Gotterson QC*, September 1999, the Criminal Justice Commission raised the issue of the use of resources by MLAs, stating at 46: *It is my view that the use of official electorate resources is a matter for Parliament to regulate and is something that the MEPPC should consider specifically including in any Code of Conduct.*

¹⁸ Select Committee on Parliamentary Entitlements, *A report on parliamentary entitlements*, October 1998, at 4-6.

¹⁹ The handbooks were gazetted on 18 December 1998, 5 February 1999 and 12 February 1999.

²⁰ *Members' Office Support Handbook*, 18 December 1998, at 3.

3.3 Standing Rules and Orders of the Legislative Assembly

The *Obligations and Requirements of Members of the Legislative Assembly*, which formed part of the previous committee's draft code of conduct, included those Standing Orders which govern members' conduct in the chamber.

In addition to the Standing Orders, there are many other rules and requirements relating to members. These include the members' interests resolution, the citizen's right of reply resolution, parliamentary privilege and procedural fairness. The committee believes that there is a need to address the style and language of the current Standing Orders and resolutions to render them more user-friendly.

The committee also believes that it would be of assistance to members and the community if all the components noted above were accessible in a single document. In fact, the committee has previously recommended that a procedure for raising matters of privilege be included in the Standing Orders.²¹ It is the committee's view that the *Standing Rules and Orders of the Queensland Legislative Assembly* is the most appropriate document for all the orders relating to the conduct of members in the House.

4. COMMITTEE'S PROPOSED CODE OF ETHICAL STANDARDS AND UNDERLYING RATIONALE

The purpose of a parliamentary code of conduct was considered in some depth by the committee. In summary, the committee concluded that the overriding purpose of a code is:

- to assist members understand their role and the nature of their office;
- to provide an educative tool in order to guide members in managing conflicts of interest and resolve dilemmas by clarifying the expectations on members; and
- to provide an overview of members' obligations by drawing together the various

²¹ MEPPC, Report No. 36, *Report on procedures for raising and considering matters of privilege or contempt and the definition of contempt*, September 1999.

resolutions and orders which relate to the conduct of members in a document which would be workable and useful to members and the community.

The committee has recommended a *Code of Ethical Standards* comprising:

- a Statement of Fundamental Principles (designed to assist members to better understand their role and draw together the various concepts underpinning the duties and obligations of a member of Parliament);
- the obligations on members (designed not only as an overview of the orders which apply regarding the conduct of members, but also as an important educative tool); and
- a complaints procedure which consolidates many of the procedures that are already in place and those previously recommended by the committee. (The Committees Act appears to envisage one complaints procedure, however, the committee has recommended a multi-procedure approach as being more appropriate at this stage in the process of developing a code.)²²

5. KEY ISSUES

In addition to the developments outlined in Part 3 above, the MEPPC considered the following key issues.

5.1 Statement of commitment

The previous committee noted that the current *Oath of Allegiance* taken by members of the Legislative Assembly contains no reference to the people or good government of Queensland.²³ This situation is not unique to Queensland. For example, the Oath taken by members of the United Kingdom House of Commons contains no pledge of duty towards the people.²⁴

It was recommended by the previous committee that upon taking the *Oath of Allegiance*, but before taking their seat in the Legislative Assembly, members also

subscribe to a *Statement of Commitment*. The majority of submissions received on the draft code did not specifically address this issue.

This committee analysed the *Statement of Commitment* recommended by the previous MEPPC and the current *Oath of Allegiance* taken by members. After careful consideration, the committee concluded that it would be impractical and unwieldy for members to both take an *Oath of Allegiance* and also subscribe to a *Statement of Commitment* at the time of taking their seat in the Legislative Assembly.

However, the committee does believe that it is desirable and appropriate for members upon taking office to make a personal commitment to the people and good government of Queensland. This could be effected by amending the *Oath of Allegiance* (required by s 4 of the *Constitution Act 1867-1988*) rather than by subscribing to an additional *Statement of Commitment*.

The committee notes that a review of the Queensland Constitution is currently being undertaken, and believes that it would be appropriate for the *Oath of Allegiance* to be reviewed as part of that overall review process. The committee would like to emphasise that in recommending a review of the *Oath of Allegiance*, it is not suggesting that allegiance to the Sovereign be reviewed. That is a matter for wider constitutional debate and an issue that has recently been rejected at referendum. Rather, the committee considers that the Oath should be reviewed within current constitutional arrangements and the Oath merely expanded to take into account the aspirational matters contained in the previous committee's *Statement of Commitment*. The committee has recommended that this matter be considered during the current review of the Queensland Constitution.

5.2 Fundamental principles and obligations

The previous MEPPC considered that the principles and obligations of the Ethics Act were not the most appropriate principles and obligations upon which to base a parliamentary code. The previous MEPPC concluded that those principles and obligations underpinning the representative role of a parliamentarian were a more appropriate basis on which to develop a code for members. Generally, submissions

²² See part 5.8 and 5.9 below.

²³ MEPPC, Report No. 21 – Part A, op. cit., at 84.

²⁴ House of Commons, *The Parliamentary Oath*, Library Research Paper 00/17, February 2000, at 3.

on the draft code had little difficulty with the previous committee's approach.²⁵

This committee noted the language used in the Committees Act—that is, that the MEPPC is required to “have regard to” the ethics principles and obligations set out in the Ethics Act, and the desirability of consistency between standards in the code and the ethics principles and obligations.²⁶

By using such language in the Committees Act, the Parliament clearly recognised that the issue required careful examination. It also recognised that the committee may recommend that it was not appropriate to adopt the principles and obligations of the Ethics Act in a parliamentary code. After careful deliberation, the committee concluded that there is no statutory requirement for the codes for public officers and members of Parliament to conform.

The *Statement of Ethical Principles* recommended by the previous committee was considered at some length by the committee.

The committee firmly believes that the purpose of a Statement of Principles is to assist members to better understand their role as a member of Parliament. In other words, a Statement of Principles is an educative document, largely aspirational in nature. It is intended not only to provide a reference point and rationale (a framework) for the rules which are imposed on members, but also as an indication to members of how to resolve ethical dilemmas where there are no orders relating to a specific set of circumstances. For example, an aspirational statement can provide guidance to members about issues such as the primacy of a member's public duty over their private interests.²⁷

The committee believes that the following fundamental principles provide the appropriate framework for members to understand their role as a member of Parliament and their responsibilities to the people of Queensland.

²⁵ Only the Criminal Justice Commission suggested that the committee give further consideration to having the code's ethical principles more closely reflect the principles contained in the Ethics Act. Criminal Justice Commission submission at 2.

²⁶ *Parliamentary Committees Act 1995* (Qld), s 16.(2)(a) and (b).

²⁷ The primacy of public duty was an issue which was discussed in detail with the Auditor-General. MEPPC meeting, op. cit., at 5-6.

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.

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

The committee has included a *Statement of Fundamental Principles* in the above terms in its recommended *Code of Ethical Standards* for members.

5.3 Candidates for election

One submission on the draft code²⁸ suggested that the *Electoral Act 1992* (“the Electoral Act”) should be amended to provide for notification to all candidates for election to the Queensland Parliament as to the existence of the code, and how candidates could obtain it.²⁹

The committee believes that there is a need for candidates to be aware of the *Code of Ethical Standards* for members, particularly as the members’ interests resolution requires newly elected members to declare their registrable interests as at the date of election.³⁰ The committee believes, however, that the Electoral Act need not be amended to achieve this. It may be that the Electoral Commission Queensland could be requested to distribute the code to candidates when candidates nominate for election.

5.4 Register of Members’ Interests

The level of disclosure of members’ shareholdings in the Registers of Members’ and Related Persons’ Interests arose in connection with the Interactive Gambling Licence matter (see part 3.1 above). In his report on the matter, the Auditor-General canvassed whether the level of disclosure should be extended to enhance the associated accountability and transparency.

In discussions with the MEPPC, the Auditor-General noted that the fact that a member holds shares in a particular company gives no indication as to the extent of shareholding or interest in that particular activity.³¹ The Auditor-General considered that this may become an issue should a matter come before Parliament on

²⁸ From Dr Noel Preston.

²⁹ Preston submission at 4.

³⁰ Part 2, section 5(1)(a) and (b) of the members’ interests resolution adopted by the Queensland Legislative Assembly on 25 May 1999.

³¹ MEPPC meeting, op. cit., at 1.

which the member chose to debate vigorously for or against, or where a member potentially stood to gain substantially in relation to the shareholding.³²

The committee noted that members are already required to declare their shareholdings, including whether or not those shareholdings constitute a controlling interest in a particular company. The committee noted that to go further and impose a requirement to identify the extent of interest may actually be counterproductive.³³

5.5 Oral disclosures by members in the House

The issue of oral declarations by members during debate and/or voting also arose in connection with the Interactive Gambling Licence matter. In that case, two former members made no oral declarations (nor indeed were they required to) regarding an interest each had in a matter, as the interest was not a “direct pecuniary interest”.³⁴ The Auditor-General noted in discussions with the committee that it would have been preferable if the interests of these members in the matter had been declared by the members.³⁵

In considering this matter, the committee noted that Standing Order 158³⁶ currently provides:

No Member to vote if pecuniarily interested

No Member shall be entitled to vote in any division upon a question (not being a matter of public policy) in which he or she has a direct pecuniary interest not held in common with the rest of the subjects of the Crown. 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 committee also noted that the previous MEPPC proposed that Standing Order 158 be supported by a new additional standing order—Standing Order 158A. This would have required members to make an oral declaration during debate of any **relevant** interest they had in a matter rather than only in respect of any **direct pecuniary**

³² *ibid.*, at 4.

³³ MEPPC Report No. 43, op. cit. at 7.

³⁴ Standing Order 158.

³⁵ MEPPC meeting, Note 14 at 7.

³⁶ Standing Order 158 is complemented in respect of declarations in parliamentary committee proceedings by Standing Order 203 which states: *Conflict of Interest. 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.*

interest they had. The proposed Standing Order 158A provided:

Declaration of interest in debate and other proceedings

*158A That, notwithstanding the lodgment by a Member of a statement of the Member's registrable interests and the registrable interests of which the Member is aware (a) of the Member's spouse; and (b) of any children who are wholly or mainly dependent on the Member for support; and (c) other dependent persons and the incorporation of that statement in a Register of Members' Interests, a Member shall declare any **relevant** interest:*

- (a) at the beginning of his or her speech if the Member participates in debate in the House, Committee of the whole Legislative Assembly, or a Committee of the Legislative Assembly; or*
- (b) as soon as practicable after a division is called for in the Legislative Assembly, Committee of the whole Legislative Assembly, or a Committee of the Legislative Assembly, if the Member proposes to vote in that division;*

and the 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, but it shall not be necessary for a Member to declare an interest when directing a question seeking information in accordance with Standing Order 67A or 68. [Emphasis added]

The previous committee's recommendation was not adopted. The government's response indicated a preference to amend Standing Order 158 based on House of Representatives Standing Order 196. The amendment adopted by the Assembly on 25 May 1999 clarified to some extent the elements of a 'direct pecuniary interest'.

The Auditor-General suggested³⁷ (and this committee agrees) that interests other than 'direct' pecuniary interests also have the potential for a perception of a conflict of interest to arise. Oral declarations by members of their interests in a matter should therefore not necessarily be limited only to 'direct' pecuniary interests.

³⁷ MEPPC meeting, op. cit., at 11.

The committee believes that a new Standing Order requiring members to orally declare any pecuniary interest in a matter on which they intend to speak or vote (whether or not it is a matter of public policy), if the pecuniary interest they had in the matter is greater than the interest held in common with subjects of the Crown or members of the House generally. This Standing Order would guard against the perception of a conflict of interest and has been recommended accordingly.

5.6 Formal disclosure by members during representation activities

The issue of the formal disclosure by members of any financial and commercial interests they have in a matter on which they are making representations to persons such as other members, Ministers and public officials also arose in connection with the Interactive Gambling Licence matter. In that case, there was a general awareness of one of the (then) member's interests in the subject upon which he was making representations. The member's financial interests were less well known, although the Minister and officials involved were aware of the member's financial involvement.³⁸

In his report on the matter, the Auditor-General suggested that members should declare in correspondence or in minutes of meetings any interest they may have in a matter about which they are making representations.³⁹ The Auditor-General considered the declaration of such interests only in the Register of Members' Interests to be insufficient.⁴⁰

In its formal response to the Auditor-General's report,⁴¹ the MEPPC noted the 1974 resolution of the House of Commons which requires members of the House of Commons to disclose "... *any relevant pecuniary interest or benefit of whatever nature ...* " in any "... *transactions or communications which a Member may have with other members or with Ministers or servants of the Crown*".

The committee sees merit in an order in those general terms and has recommended that the Legislative Assembly adopt a similar provision. The committee notes, however, that Parliament is not able to extend its powers by resolution and has concerns that under

³⁸ Auditor-General's Report, op. cit., at 78.

³⁹ *ibid.*, at 79.

⁴⁰ MEPPC meeting, op. cit., at 9.

⁴¹ MEPPC, Report No. 43.

existing law, the enforcement of such an order is problematic.

The orders of the House relating to the members' interests resolution can be justified on the basis of its relationship to "proceedings in Parliament".⁴² However, it has been held that correspondence between a member and a Minister and other officials in government concerning members' constituency duties are not "proceedings in Parliament".⁴³ By logical extension, it would appear that similar correspondence between a member and a Minister and others in government concerning the member's own personal or commercial/business interests are also not "proceedings in Parliament". The committee believes, therefore, that in order to remove any doubt on the issue, there should be some statutory basis for this type of order. The committee has recommended that this be reviewed as part of the consolidation of the Queensland Constitution recently finalised by the LCARC⁴⁴ but awaiting the Government's formal response.

5.7 Enforcement and operation of the code

5.7.1. Role of the MEPPC

Under the Committees Act, the MEPPC has responsibility for recommending to the Legislative Assembly a procedure for handling complaints about a member not complying with the *Code of Ethical Standards* adopted by the Assembly. The previous committee recommended a complaints handling procedure in its Report No. 21 – Part B.⁴⁵

Many of the measures recommended by that committee already apply to members. The committee has recommended only two new obligations (see above) although it has recommended some changes to some obligations currently imposed. The current duties and obligations on members are currently fragmented throughout a number of different documents and legislation, and as a result are largely unknown in the broader community, and are difficult to access.

⁴² See MEPPC Issues Paper No. 3 titled, *Parliamentary Privilege in Queensland*, July 1997, at 4.

⁴³ Canvassed by the MEPPC in Issues Paper No. 3, op. cit., at 6-7.

⁴⁴ LCARC, Report No. 24, July 2000 *Review of the Queensland Constitutional Review Commission's recommendations relating to a consolidation of the Queensland Constitution*.

⁴⁵ MEPPC, Report No. 21 – Part B, op. cit., at 17-23.

Further, many of the matters detailed in the Obligations on members in part 3⁴⁶ of the *Code of Ethical Standards* are not necessarily the responsibility of the MEPPC to enforce—for example, provisions relating to offences against the Electoral Act or *Criminal Code*.

Under s 16(3) of the Committees Act, complaints against a member not complying with the code may only be considered by the Legislative Assembly or the MEPPC. It is obvious that s 16(3) was drafted so as to preserve the privileges of the Legislative Assembly to regulate its own proceedings. It may have also been drafted with the intention that the committee would recommend a "rules based code", rather than one relying on current obligations. The committee gave careful consideration to this issue and concluded that the enforcement of the code for non-criminal matters should remain with the Parliament.

Self regulation is consistent with other professions⁴⁷ which maintain standards of conduct among their members, and deal with breaches of the professions' ethical rules, through their disciplinary committees.

Significant consequences can result from sanctions imposed on a member by the Parliament, and those sanctions can often be more severe than those which would be imposed by an outside body.

5.7.2. Role of the Criminal Justice Commission

As noted above, the Committees Act provides that complaints about a member not complying with the code may be considered only by the Legislative Assembly or the committee. Under s 16(4) of the Act, conduct by members which constitutes a criminal offence would be investigated by the appropriate authority—for example, the Criminal Justice Commission ("the CJC") or the Queensland Police Service.

The committee notes the CJC's existing role in considering the conduct of members where that conduct constitutes a criminal offence. The committee respects that role and believes that, provided that the CJC preserves procedural fairness, that role is appropriate.

⁴⁶ Overview of Obligations.

⁴⁷ For example, the legal and medical professions, and the media.

5.8 Procedures for dealing with breaches of privilege and contempt

The committee is concerned to ensure that the *Code of Ethical Standards* is not used unscrupulously, or for reasons of political expediency. The committee is also concerned that its own procedures for dealing with breaches and complaints pay due regard to procedural fairness.

The committee examined in some detail the draft procedures recommended by the previous committee and have made a number of significant amendments.

Firstly, the committee has included a restriction on prosecuting in the House any complaint concerning an alleged breach of privilege which is under inquiry by the MEPPC. The committee is aware that there may be the potential for a matter which has been referred to the MEPPC to be used in a partisan way in the House before the committee has reported on it. The amendment proposed by the committee will decrease the risk of this occurring. The committee believes that the fact that complaints cannot be prosecuted in the House once referred to the committee will serve as a deterrent against raising frivolous complaints about the conduct of members.

A restriction on prosecuting in the House a matter which is before the committee is, to some extent, a limitation on the free speech of members. The committee considered, however, that the issue is similar to the sub judice principle which already applies in the Queensland Parliament subject to the Speaker's discretion.⁴⁸ The committee is confident that its proposal will limit the potential for the *Code of Ethical Standards* to be used for political purposes without unduly affecting members' rights.

Secondly, the committee believes that frivolous and trivial matters, which do not warrant the attention of the House, should not be referred to the committee (and therefore not be brought before the House). The Speaker has a vital filtering role in respect of requests for matters to be referred to the committee, and the current practice (whereby the Speaker in the first instance determines whether or not there is a *prima*

⁴⁸ Under the sub judice principle, members accept a self imposed restriction on their free speech in respect of matters which are before the criminal courts so as not to prejudice proceedings in that forum.

facie matter of privilege to answer) is endorsed by this committee.

In considering a question of privilege, it is appropriate that the Speaker be able to request further information which may assist the Speaker make a determination. However, the committee believes that it would be inappropriate for the Speaker and the Chairman of the MEPPC to confer directly on any specific privileges complaint prior to that matter being referred to the committee. The committee has amended the procedures accordingly.

Finally, the committee has made it clear in its recommended procedures that any MEPPC committee member who is directly concerned in a privileges complaint referred to the committee, should not be involved in the consideration of that matter.⁴⁹ Neither should a committee member, who has made any statements in the House revealing prior judgment in a privileges complaint before the committee, be involved in its consideration. Of course, any member so excluded would have the option of nominating a replacement to the committee for the duration of that inquiry.

The complaints handling procedures recommended by the committee are based primarily on current law and parliamentary practice and are integral to the *Code of Ethical Standards*.⁵⁰

5.9 Monitoring and amending the code

No formal recommendation was included in the previous committee's report concerning a procedure whereby the code, after its adoption by the Parliament, may be amended. Nor was the matter directly addressed in submissions on the draft code.

This committee believes that an effective code must retain its workability in new and changing circumstances. A mechanism by which the code may be updated or modified as appropriate is therefore essential. After consideration, the committee believes that the MEPPC is the most appropriate body to

⁴⁹ By convention, a member generally stands aside from the committee if they have raised the matter of privilege.

⁵⁰ The committee believes that ultimately it would be preferable to have one generic complaints procedure to deal with all components of the code. However, this is a matter which is outside the scope of the current inquiry and a matter which could be addressed in the comprehensive review of the Standing Orders.

monitor the implementation of the code, with a view to recommending any amendments deemed necessary.

As mentioned in part 5.7.1 above, the MEPPC is vested under the Committees Act with responsibility for enforcing the code. To prevent any confusion, the MEPPC should also be formally vested with responsibility for monitoring the code and initiating any proposal to amend the code.⁵¹ Parliament would, of course, retain an absolute right to adopt, or not adopt, the committee's proposals for change. The committee has recommended amendments to the Committees Act to reflect these responsibilities.

5.10 Ethics education and written guidelines for members

The previous committee believed that a code should provide assistance to members in dealing with conflict of interest situations. That committee viewed ethics education as one means of providing such assistance and envisaged a range of support materials relating to the code (such as pamphlets, case studies, information booklets, manuals and written guidelines) being made available to members.

This committee considered a number of options and believes that a segment on the *Code of Ethical Standards* should be included in the voluntary induction program for newly-elected members.

These ongoing responsibilities have been foreshadowed in recommended amendments to the Committees Act.

5.11 Role of the Clerk

The committee considered the measures which currently exist whereby members can obtain confidential and impartial advice concerning conflicts of interest from the Clerk of the Parliament, an independent officer of the Parliament. As the Registrar of Members' Interests, the Clerk provides members with advice as to their obligations under the members' interests requirements. The Clerk also provides impartial and confidential advice to members on a range of matters relating to their resources, entitlements of office, etc, and some advice as to the qualification and disqualification provisions affecting members.

⁵¹ This should include the members' interests resolution, citizen's right of reply resolution and procedures for dealing with breaches of parliamentary privilege.

The committee understands that the established arrangements are appropriate and there is no evidence they are not working well.

5.12 The appointment of a Queensland Integrity Commissioner

On 26 May 1999, the Premier introduced the Public Sector Ethics Amendment Bill 1999, which amended the *Public Sector Ethics Act 1994* (Qld) by providing for the appointment of a part-time Integrity Commissioner. The Bill was passed on 11 November 1999 and received Assent on 18 November 1999. The MEPPC noted that the Bill was introduced without formal consultation with the committee. It would be advantageous if the MEPPC could be formally consulted in relation to any legislation that affects matters that fall within the committee's responsibilities as far as the conduct of members and parliamentary privilege are concerned. The committee has recommended an appropriate amendment to the Committees Act to facilitate such consultation.

At a meeting with the Premier on 24 November 1999, and in subsequent correspondence, the MEPPC raised a number of concerns in relation to the apparent overlap of responsibilities between the Integrity Commissioner and the committee, and the potential for conflict regarding advice of the Commissioner on one hand and the MEPPC and the Clerk of the Parliament on the other. The committee's concerns centred on the fact that the role of the Integrity Commissioner could be construed as being to advise members (other than ministers and parliamentary secretaries), amongst other things, in respect of ethical standards set by the Parliament for its members.

In advising members, the Integrity Commissioner will necessarily be required to interpret standards set by Parliament. There is, therefore, potential for the interpretations given by the Integrity Commissioner to be at variance with interpretations given by the Clerk, the MEPPC and the House itself, particularly given the fact that the Integrity Commissioner is unlikely to be aware of the history, practice and procedure of such rules.

The committee was also concerned that the Integrity Commissioner is an extra-parliamentary officer— independent from but in a real sense appointed by the executive—advising members of Parliament in respect

of the application of the Parliament's *Code of Ethical Standards*.

In his detailed written response to the committee's concerns, the Premier advised the committee that the Integrity Commissioner may provide advice only on a **conflict of interest**, as defined, and is not empowered to give advice on the application of Standing Orders or the *Code of Ethical Standards* in relation to any matter. The Premier also advised that s 31(3) of the Ethics Act provides that the Integrity Commissioner may refuse to give advice in certain prescribed circumstances. The Premier stressed that this measure "... was provided so as to enable the Integrity Commissioner to avoid conflict with e.g. the Speaker, or the MEPPC, for example in dealing with a situation in which an actual and significant conflict of interest involving an MLA comes to notice".

The committee appreciates the detailed consideration given by the Premier to the concerns raised and will monitor the new arrangement and report to the House accordingly.

5.13 Ministerial responses to MEPPC recommendations

Under s 24 of the Committees Act, the Minister with portfolio responsibility for an issue which is the subject of a committee report is required to provide a response to the Legislative Assembly within three months of the report being tabled. That response must set out any recommendations to be adopted, and the way and time within which this will be carried out. The response must also detail any recommendations not to be adopted and the reasons for not adopting them.

It has become apparent to the MEPPC that there are ongoing difficulties with responses to this committee's reports, and in particular with actioning the committee's recommendations. This concern was highlighted in a number of submissions on the draft code. Attention was drawn to the delay in responding to the previous committee's report on the review of members' interests⁵² and the delay in adopting the previous committee's recommendations.⁵³

⁵² MEPPC, Report No. 2, op. cit.

⁵³ A new members' interests resolution, which implemented the majority of the previous committee's recommendations, was adopted by the Legislative Assembly on 25 May 1999.

Unfortunately, many of the MEPPC's recommendations do not fall within the portfolio responsibility of any particular Minister. As a result, there is some potential for ministerial responses to this committee's reports to be inadvertently overlooked, not be actioned, or remain in limbo for lengthy periods.

It is the committee's view that the Premier or a Minister nominated by the Premier, should both respond to the committee's recommendations and take those matters to the House. The committee has accordingly recommended appropriate amendments to the Committees Act.

6. RECOMMENDATIONS

The committee recommends the following steps in adopting a *Code of Ethical Standards* for members of the Queensland Legislative Assembly:

- 1. That the Premier present, for the Legislative Assembly's approval, responses to recommendations contained in Members' Ethics and Parliamentary Privileges Committee Reports No. 7 and 36.**
- 2. That the Premier present, for the Legislative Assembly's approval, the following new standing order:**

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, 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, Committee of the whole Legislative Assembly, or a*

Committee of the Legislative Assembly; or

(b) *as soon as practicable after a division is called for on the matter in the Legislative Assembly, Committee of the whole Legislative Assembly, or a Committee of the Legislative Assembly, 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.*

3. That the Premier present, for the Legislative Assembly's approval, the *Statement of Fundamental Principles (Part 2 of the Code of Ethical Standards for members of the Queensland Legislative Assembly)*.

4. That the following amendments (shaded) be made to the proposed Parliament of Queensland Bill recommended by the Legal, Constitutional and Administrative Review Committee in its Report No. 24 as part of the adoption of the proposed Parliament of Queensland Bill:

Standing rules and orders may be made [CA s 8]

11.(1) The Assembly may prepare and adopt standing rules and orders that appear to the Assembly best adapted to conduct its business and proceedings and regulate the ethical conduct of its members.

(2) Without limiting subsection (1), the standing rules and orders may provide for the following—

(a) the orderly conduct of the Assembly;

(b) the way the Assembly must be presided over in the absence of the Speaker;

(c) the way its powers, rights and immunities may be exercised and upheld;

(d) the way notices of Bills, resolutions and other business intended to be submitted to the Assembly at any session may be published for general information;

(e) publication of the proceedings of the Assembly and its committees, whether the Assembly is sitting, adjourned, prorogued or dissolved;

(f) the proper passing, entitling and numbering of the Bills to be introduced into and passed by the Assembly;

(g) the proper presentation of Bills to the Governor for royal assent;

(h) the continuing and ad hoc declaration of the interests of members and related persons.

(3) A standing rule or order becomes binding and of force on adoption by the Assembly or at another time decided by the Assembly.

Division 2 — Members' Ethics and Parliamentary Privileges Committee

Areas of responsibility of Members' Ethics and Parliamentary Privileges Committee [PCA s 14]

90. The Members' Ethics and Parliamentary Privileges Committee has the following areas of responsibility—

- the ethical conduct of members
- parliamentary powers, rights and immunities.

Ethical conduct—registration of interests [PCA s 15]

91. The committee's area of responsibility about the ethical conduct of members includes—

- (a) examining the arrangements, under orders of the Assembly, for compiling, keeping and allowing inspection of—
 - (i) a register of the interests of members; and
 - (ii) a register of the interests of persons related to a member; and
- (b) considering proposals made by members and other persons about the form and content of the registers and documents relevant to the registers, including statements of interests to be made by members; and
- (c) considering complaints referred to the committee about the failure to register particular interests; and
- (d) considering the classes of persons who should be treated as related to a member; and
- (e) considering any other issue about the registration of interests; and
- (f) publishing such explanatory information about the registration and declaration of interests as the committee believes desirable; and
- (g) discharging other such responsibilities relating to the declaration of interests as the Assembly orders.

Ethical conduct—Code of Ethical Standards [PCA s 16]

92.(1) The committee’s area of responsibility about the ethical conduct of members includes—

- (a) reviewing the Code of Ethical Standards for members (other than members in their capacity as Ministers), including the procedure for complaints about a member not complying with the Code of Ethical Standards adopted by the Assembly; and

- (b) reviewing any Act, Standing Rule or Order that regulates the ethical conduct of members of the Assembly, including any Act, Standing Rule or Order that concerns the continuing and ad hoc declaration of the interests of members and related persons; and
 - (c) publishing such explanatory information about the ethical conduct of members as the committee believes desirable; and
 - (d) considering complaints against particular members for failing to comply with the Code of Ethical Standards, reporting to the Assembly about complaints and recommending action by the Assembly; and
 - (e) discharging other such responsibilities relating to the ethical standards of members as the Assembly orders.
- (3)** A complaint about a member not complying with the Code of Ethical Standards for members may be considered only by the Assembly or the committee.
- (4)** Subsection (3) has effect despite any other law, but the subsection does not apply to a court, tribunal or other entity if the entity may, under a law, consider an issue and the issue that is considered involves the commission, or claimed or suspected commission, of a criminal offence.
- (5)** Subsection (4) does not limit or otherwise affect the powers, rights and immunities of the Assembly and its committees and members.

Parliamentary powers, rights and immunities [PCA s 17]

93. The committee's area of responsibility about parliamentary powers, rights and immunities includes the powers, rights and immunities of the Assembly and its committees and members.

Consultation with Committee [New]

94.(1) This section applies to a Bill for an Act, or a motion to amend or create a Standing Rule or Order that:

- (a) affects the powers, rights and immunities of the Assembly and its committees and members; or
- (b) affects the principles or obligations relating to the ethical conduct of members of the Assembly; or
- (c) affects the ethical conduct of members, including the continuing and ad hoc declaration of the interests of members and related persons.

(2) The member of the Assembly who is to be in charge of the passage of the Bill in the Assembly must consult with the committee prior to the Bill being introduced in the Assembly.

(3) The member of the Assembly who is to move the motion in the Assembly must consult with the committee prior to the motion being moved in the Legislative Assembly.

(4) The Assembly may by order dispense with the requirements of (2) and (3) above.

Ministerial response to committee report [PCA s 24]

107.(1) This section applies if a report of a committee, other than the Scrutiny of Legislation Committee, recommends the Government or a Minister should take particular action, or not take particular action, about an issue.

(2) The Minister who is responsible for the subject of the report must provide the Assembly with a response.

(3) The response must set out—

- (a) any recommendations to be adopted, and the way and time within which they will be carried out; and
- (b) any recommendations not to be adopted and the reasons for not adopting them.

(4) The Minister must table the response within 3 months after the report is tabled.

(5) If a Minister can not comply with subsection (4), the Minister must—

- (a) within 3 months after the report is tabled, table an interim response and the Minister's reasons for not complying within 3 months; and
- (b) within 6 months after the report is tabled, table the response.

(6) If the Assembly is not sitting, the Minister must give the response, or interim response and reasons, to the Clerk.

(7) The response, or interim response and reasons, is taken to have been tabled on the day they are received by the Clerk.

(8) The receipt of the response, or interim response and reasons, by the Clerk, and the day of the receipt, must be recorded in the Assembly's votes and proceedings for the next sitting day after the day of receipt.

(9) The response, or interim response and reasons, is a response, or interim response and reasons, tabled in the Assembly.

(10) Subsection (1) does not prevent a Minister providing a response to a recommendation in a report of the Scrutiny of Legislation Committee if it is practicable for the Minister to provide

the response having regard to the nature of the recommendation and the time when the report is made.

Example—

If the committee recommends that a Bill be amended because, in the committee's opinion, it does not have sufficient regard to fundamental legislative principles and the Bill has not been passed by the Assembly, it may be practicable for the Minister to provide a response.

- (11) Subsection (6) does not limit the Assembly's power by order to provide for the tabling of a response, or interim response and reasons, when the Assembly is not sitting.
 - (12) This section does not apply to an annual report of a committee.
 - (13) For the purposes of this section and reports by the Members' Ethics and Parliamentary Privileges Committee—
 - (a) a recommendation that "the Government or a Minister should take particular action, or not take particular action, about an issue", includes a recommendation that requires motions to be moved in the Assembly to facilitate the committee's recommendations; and
 - (b) the "Minister who is responsible for the issue the subject of the report" is the Premier or the Minister nominated by the Premier.
5. That the Premier, after legislative amendments detailed in 4 (above) are implemented, present, for the Legislative Assembly's approval, the following new order:

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 has in the subject matter of the representation or communication, if such pecuniary interest is greater than the interest held in common with subjects of the Crown or members of the House generally.

6. That the recommendations made by the Members' Ethics and Parliamentary Privileges Committee in its Report No. 26 and the Legal, Constitutional and Administrative Review Committee in its Report No. 24, concerning the powers, rights and immunities of the Legislative Assembly and contained in its draft Parliament of Queensland Bill, be implemented as soon as possible.
7. That the Oath of Allegiance taken by members of the Legislative Assembly be reviewed, within current constitutional arrangements, as part of the consolidation of the Queensland Constitution and that such review take into account the aspirational statements contained in the previous Members' Ethics and Parliamentary Privileges Committee's *Statement of Commitment*.
8. The current and future Members' Ethics and Parliamentary Privileges Committee be charged with responsibility for:
 - (a) preparing a booklet incorporating the *Code of Ethical Standards* within three weeks of the adoption of the code;
 - (b) investigating mechanisms by which the *Code of Ethical Standards* for members of the Queensland Legislative Assembly can be brought to the attention of all candidates nominating for election to the Queensland Parliament;
 - (c) including in the voluntary induction process for newly-elected members an ethics segment to be brought to the attention of newly-elected members following a general election or by-election; and
 - (d) monitoring the implementation, reviewing and reporting annually on the operation, of the *Code of Ethical Standards* for members of the Queensland Legislative Assembly.

9. That the Standing Orders Committee review the current *Standing Rules and Orders of the Legislative Assembly* and as part of that review consider placing all Standing Rules and Orders dealing with the conduct of members in one chapter or part. Further, that the Standing Orders Committee consider: the procedures for raising complaints of breach of privilege or contempt and the definition of contempt, contained in “Attachment A” to MEPPC Report No. 36; the recommended sub justice convention in MEPPC Report No. 7; and the Register of Members’ and Related Persons’ Interest resolution, being incorporated into Standing Orders.

John Mickel MLA
Chairman

5 September 2000

MEMBERSHIP – 49TH PARLIAMENT

Mr John Mickel MLA, Chairman
Mrs Joan Sheldon MLA, Deputy Chairman
Mrs Julie Attwood MLA
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Mr Phil Reeves MLA
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APPENDIX 1 – SUBMISSIONS RECEIVED ON THE PREVIOUS MEPPC’S DRAFT CODE

- Criminal Justice Commission
- Dr Michael Macklin
- Dr Noel Preston, Queensland University of Technology
- Mr Clem Campbell
- The Reformed Churches of Queensland (Mrs Rona Joyner)
- Festival of Life (Mrs Rona Joyner)
- The Bar Association of Queensland (Dr Michael White QC)
- Honourable Henry Palaszczuk MLA, Minister for Primary Industries
- Honourable Dean Wells MLA, Minister for Education
- Mr Peter Wellington MLA, Member for Nicklin
- Dr Paul Reynolds, The University of Queensland
- Ms Julie Dick SC, Parliamentary Criminal Justice Commissioner