Mr R Doyle  
Clerk of the Parliament  
Parliament House  
CDE Box M29

Dear Mr Doyle

Tabling of Response to the Members' Ethics and Parliamentary Privileges Committee's Report No. 44 on a Code of Ethical Standards for Members of the Legislative Assembly


The Honourable the Premier has requested that the Government Response to the report on a Code of Ethical Standards for Members of the Legislative (attached) be tabled in the Legislative Assembly.

Would you please arrange for the attached Government Response to be tabled at your earliest convenience.

Thankyou for your assistance in relation to this matter. Should you have any queries please contact Ms Megan Bayntun, Principal Policy Officer, Executive Services on ext. 45613.

Yours faithfully

Matthew Skoien  
Director  
Executive Services

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Government Response to the
Members' Ethics and Parliamentary Privileges Committee (MEPPC)

Report No. 44, September 2000

Report on a Code of Ethical Standards for Members of the Queensland
Legislative Assembly

The Committee's Recommendations

Recommendation 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.

The Government supports the recommendations in Reports No. 7 and 36 in relation to
sub judice convention and contempt. The Government recognises the Committee's
affirmation that the sub judice convention is always subject to the right of the House
to consider and legislate on any matter. On the issue of contempt, the Government
recognises that the Committee recommends procedures which primarily codify
current practice for raising complaints of breach of privilege or contempt. The
Committee's recommended definition of contempt is included in the Parliament of
Queensland Bill.

Recommendation 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 members' 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.
The Government supports this recommendation as a refinement of the previous standing order dealing with pecuniary interests. The Government's support recognises that members are required to declare interests of which they are aware, and that a member's right to vote in the House, a fundamental principle of representative democracy, is not removed.

**Recommendation 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).*

The Government supports this recommendation.

**Recommendation 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 continuance 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 continuance 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.
The proposed inclusion of section 94, relating to consultation with committees, is similar to the Queensland Constitutional Review Commission's proposal to introduce "parliamentary entrenchment" into the Queensland Constitution, whereby the Legal, Constitution and Administrative Review Committee (LCARC) would be required to consider and report on any Bill to amend the Constitution. The Government considers that this particular amendment should be deferred until LCARC has reported on the issue of constitutional reform (including parliamentary entrenchment) so that they might be considered together.

The Government supports the balance of the amendments which have been incorporated in the draft Parliament of Queensland Bill.

**Recommendation 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.*

The Government endorses the inclusion of measures that clarify the declarations of pecuniary interests by members.

The Government recognises that there may be evidentiary issues in the application of this proposed standing order, but sees greater overall benefit in implementing the recommendation than modifying or rejecting it. It is noted that the proposed Standing Order is similar to a 1974 resolution of the House of Commons.

The Government endorses this recommendation recognising that the proposed standing order places an obligation and responsibility on members, but not on any other public officer or person to seek or record any declaration by a member.

**Recommendation 6**

*That the recommendations made by the Members' Ethics and Parliamentary Privileges Committee in its Report No. 26 and the Legal, Constitution and Administrative Review Committee in its Report No. 24, concerning the powers, rights and immunities of the Legislative Assembly and contained in this draft Parliament of Queensland Bill, be implemented as soon as possible.*

The Government endorses this recommendation. Amendments have been incorporated in the Parliament of Queensland Bill.

**Recommendation 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.*
The Government endorses the Committee's recommendation, but considers that any amended wording would be best determined by the House itself.

**Recommendation 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.

The Government endorses the Committee's recommendation and supports action that will improve members' understanding of the Code of Ethical Standards.

**Recommendation 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 judice convention in MEPPC Report No. 7; and the Register of Members' and Related Persons' Interest resolution, being incorporated into Standing Orders.

The Government endorses the Committee's recommendation that the standing orders be reviewed, and that the matters referred to in Reports No. 7, 36 and the Register of Members' and Related Persons' Interest resolution be considered by the Standing Orders Committee.