



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Members' Interests Committee

First Report of the 11th Assembly
including

Format of Members Statement of Registrable Interests and
Procedures for Inspection of the Register of Members' Interests

May 2009

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Legislative Assembly of
the Northern Territory
May 2009

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Members' Interests Committee

Office of the Clerk
Legislative Assembly of the Northern Territory
Parliament House
Darwin NT 0800
Telephone: (08) 8946 1450
Email: ian.mcneill@nt.gov.au
URL: <http://www.nt.gov.au/lant/parliament/committees/so/>

Members of the Committee as at May 2009

Dr Chris Burns MLA - Chairman
The Honourable Jane Aagaard MLA
Mr Matt Conlan MLA
Mr Michael Gunner MLA
Mr Peter Styles MLA

Committee Secretariat

Mr Ian McNeill, Secretary
Ms Jane Gunner, Research/Administrative Officer

Table of Contents

Members of the Committee as at May 2009	i
Committee Secretariat	i
Membership of the committee at the time of tabling of the Report:	1
Recommendations	2
Consideration of Format of Members Statement of Registrable Interests, Notification of Alterations and Explanatory Notes on the Statement of Registrable Interests	3
Introduction	3
Recommendation.....	4
Procedure for Inspection of the Register of Members' Interests	5
Introduction	5
Recommendation.....	5
Appendix A: Statement of Registrable Interests Form	6
Appendix B: Notification of Alteration of Interests Form.....	21
Appendix C: Explanatory Notes	22
Appendix D: Procedure for Inspection of Register of Members' Interests.....	30

Membership of the committee at the time of tabling of the Report:

Dr Chris Burns MLA

Appointed 10 February 2009
Australian Labor Party
Member for Johnston: First elected 18 August 2001
Leader of Government Business
Minister for Business
Minister for Tourism
Minister for Trade
Minister for Asian Relations
Minister for Defence Support
Other Committees: Standing Orders

The Honourable Jane Aagaard MLA

Appointed 9 September 2008
Australian Labor Party
Member for Nightcliff: First elected 18 August 2001
Speaker of the Legislative Assembly
Other Committees: Standing Orders, House, Legal and Constitutional Affairs

Mr Matthew Conlan MLA

Appointed 9 September 2008
Country Liberal Party
Member for Greatorex: First elected 28 July 2007
Other Committees: Standing Orders

Mr Michael Gunner MLA

Appointed 9 September 2008
Australian Labor Party
Member for Fannie Bay: First elected 9 August 2008
Government Whip
Other Committees: Standing Orders, Public Accounts, Legal and Constitutional Affairs, Subordinate Legislation and Publications, Environment and Sustainable Development

Mr Peter Styles MLA

Appointed 9 September 2008
Country Liberal Party
Member for Sanderson: First elected: 9 August 2008
Other Committees: Standing Orders, Environment and Sustainable Development

Recommendations

The Members' Interests Committee recommends:

1. The Statement of Registrable Interests Form, the Notification of Alteration of Interests since Dissolution or date of election Form and the Explanatory Notes as provided to Members of the Legislative Assembly and contained in this report be adopted.
2. The Procedures for Inspection of the Register of Members' Interests as contained in the Report be adopted and be made an Order of Continuing Effect.

Consideration of Format of Members Statement of Registrable Interests, Notification of Alterations and Explanatory Notes on the Statement of Registrable Interests

Introduction

On 12 February 2009 the Legislative Assembly passed the following Resolution.

1. This Assembly, pursuant to section 3 of the *Legislative Assembly (Disclosure of Interests) Act 2008*, assign the Standing Orders Committee to act as the Committee of Members Interests for the purposes of this Act.
4. The Committee of Members' Interests determine the conditions and details of –
 - the format of the Members Statement of Registrable Interests; and
 - specify the required information for a Members registrable interest.
3. The Committee determine the conditions and details for inspection of such register of Members' interests in accordance with section 5 of the Act.
4. The *Legislative Assembly (Disclosure of Interests) Act 2008* be commenced within one calendar month of the Assembly agreeing to the format and guidelines for inspection of the Register of Members' Interests recommended by the Committee of Members Interests.

Members of the Committee, at its meeting on 17 February 2009, were provided with the following documents for consideration:

- Draft Statement of Registrable Interests Form (Appendix A);
- Draft Notification of Alteration of Interests Form (Appendix B), and
- Explanatory Notes which specify the required information for a Member's Statement of Registrable Interests (Appendix C).

Committee members agreed that the documents be provided to all Members of the Assembly for comment prior to the next Members' Interests Committee meeting.

No submissions were received from Members.

The Committee at its meeting on 25 March 2009 agreed that the Registrable Interests Form, the Notification of Alteration of Interests Form and the Explanatory Notes as submitted be adopted and included in the Report to the Assembly.

Recommendation

The Statement of Registrable Interests Form, the Notification of Alteration of Interests since Dissolution or date of election Form and the Explanatory Notes as provided to Members of the Legislative Assembly and contained in this report be adopted.

Procedure for Inspection of the Register of Members' Interests

Introduction

The Members' Interests Committee is required to determine the conditions for inspection of the Register of Members' Interests pursuant to section 5 of *Legislative Assembly (Disclosure of Interests) Act 2008* -

5 Register of interests

- (1) The Clerk must keep a register of interests disclosed under this Act.
- (2) The register is to be kept as directed by the Committee of Members' Interests.
- (3) The register is to be available for inspection under reasonable conditions to be laid down by the Committee of Members' Interests from time to time.
- (4) In determining conditions for inspection, the Committee of Members' Interests must give effect to the principle that the information recorded in the register should be generally available to the public unless there is good reason to restrict its availability.

The Committee at its meeting on 17 February 2009 considered procedures for the inspection of the Register and in particular of Members of the Assembly being notified when their Register had been inspected.

Committee members noted that during consideration of publication of Register of Interests forms during the 10th Assembly it was agreed that Register forms would not be tabled or published.

The Committee at its meeting on 25 March 2009 considered the proposed Procedure for Inspection of the Register (Appendix D) and agreed that this procedure be adopted and included in the Report to the Assembly.

Recommendation

The Procedures for Inspection of the Register of Members' Interests as contained in the Report be adopted and be made an Order of Continuing Effect.

Appendix A: Statement of Registrable Interests Form



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Legislative Assembly (Disclosure of Interests) Act

STATEMENT OF REGISTRABLE INTERESTS

At date of election (or prorogation)

Notes:

- (1) It is suggested that the accompanying Explanatory Notes be read before the return is completed.
- (2) Registration of members' interests
 - (a) Within 28 days after making and subscribing an oath or affirmation as a member, the member must give the Clerk a statement specifying:
 - (i) the member's registrable interests; and
 - (ii) the registrable interests, of which the member is aware, of each related person of the member.
 - (b) The statement must include interests held at the date of the member's election (or re-election) and alterations of interests that occurred between that date and the date of completing the statement.
 - (c) A member must give notice to the Clerk of any alteration to the member's registrable interests, or those of a related person of the member, within 28 days after the member becomes aware of the alteration.
 - (d) A statement of registrable interests, or a notice about an alteration to registrable interests, must:
 - (i) be in a form determined by the Committee of Members' Interests; and
 - (ii) specify the required information for each registrable interest.
- (3) Transitional provision for commencement of this Act
 - (a) For each member, the Clerk must transfer to the register information given, under the *Legislative Assembly (Register of Members' Interests) Act*, after 30 June 2008 by the member.
 - (b) Within 1 month after the commencement, the Clerk must give to each member written notice about the information transferred to the register.
 - (c) Within 2 months after the commencement, each member must give to the Clerk:
 - (i) a statement of registrable interests or a notice about an alteration to registrable interests, that complies with section 4(4), relating to the member's registrable interests and the registrable interests of which the member is aware for each related person of the member; or
 - (ii) a written notice stating no alteration is required to the member's registrable interests or the registrable interests of which the member is aware for each related person of the member.

Note

After this process is completed, section 4(3) will apply to an alteration relating to the register.

- (d) In this section:

commencement means commencement of this section.

register means the register mentioned in section 5.

NAME OF MEMBER: _____

ELECTORATE: _____

DATE OF ELECTION/PROROGATION: _____

Shareholding in a public or private company (including a holding company)	
	Name of Company
Member	
Spouse or de facto partner	
Dependent children	

Interest as trustee or beneficiary in a family or business trust (but not an interest as a trustee in a trust in which the Member, or a related person to a Member, is a beneficiary).			
	Name of Trust	Nature of Operation	Nature of interest
Member			
Spouse or de facto partner			
Dependent children			

Interest as owner of real estate		
	Location (suburb or area only)	Purpose for which it is owned
Member		
Spouse or de facto partner		
Dependent children		

Registered company directorship	
	Name of the company
Member	
Spouse or de facto partner	
Dependent children	

Interest in partnership			
	Name of Partnership	Nature of interest	Activities of partnership
Member			
Spouse or de facto partner			
Dependent children			

Liability		
	Nature of Liability	Creditor
Member		
Spouse or de facto partner		
Dependent children		

Bonds, debentures or similar investments	
	Nature of the investment
Member	
Spouse or de facto partner	
Dependent children	

Saving or Investment Account		
	Nature of the account	Name of Bank or Institution
Member		
Spouse or de facto partner		
Dependent children		

Another asset (excluding household and personal effects) valued at over \$7500	
	Nature of each asset
Member	
Spouse or de facto partner	
Dependent children	

<p>Gifts received since the date of the Member’s election and exceeding \$750 in value if received from official sources or \$300 in value if received from other sources (but a gift received by a Member or a related person from a family member or personal friend in a purely personal capacity is not a registrable interest unless the Member judges that an appearance of conflict of interest may be seen to exist).</p>			
	Nature of gift	Date received	Person from whom gift received
Member			
Spouse or de facto partner			
Dependent children			

Sponsored travel or hospitality received since the date of the Member's election and exceeding \$300 in value			
	Nature of travel or hospitality	Date	Name of sponsor
Member			
Spouse or de facto partner			
Dependent children			

Membership of an organisation where conflict of interest with a Member's public duties could foreseeably arise or be seen to arise	
	Name of organisation
Member	
Spouse or de facto partner	
Dependent children	

Any other interest where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise	
	Nature of the interest
Member	
Spouse or de facto partner	
Dependent children	

Appendix B: Notification of Alteration of Interests Form



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

NOTIFICATION OF ALTERATION(S) OF INTERESTS SINCE
PROROGATION OR DATE OF ELECTION

Name _____

Electorate _____

The following alteration(s) of interests have occurred since

ADDITION

Item	Details
.....
.....

DELETION

Item	Details
.....
.....

Signature Date.....

Appendix C: Explanatory Notes

LEGISLATIVE ASSEMBLY (DISCLOSURE OF INTERESTS) ACT

STATEMENT OF REGISTRABLE INTERESTS

EXPLANATORY NOTES

General

This purpose of the Statement of Registrable Interests form is to place on the public record Members' Interests which may conflict, or may be seen to conflict, with their public duty. Matters which Members are required to register are set out in the *Legislative Assembly (Disclosure of Interests) Act*.

- **No form can cover all possible circumstances and Members should consequently bear in mind the purpose and spirit of the return in deciding which matters should be registered.**

The Statement of Registrable Interests to be provided by a Member shall include:

- (i) In the case of Member who was not a Member of the Legislative Assembly in the immediately preceding Assembly, interests held at the date of his or her election and any alteration of interests which has occurred between that date and in the date of completion of the statement, and
- (ii) In the case of a Member who was a Member in the immediately preceding Assembly, interests held at the date of prorogation of the Assembly and any alteration of interests which has occurred between that date and the date of completion of the statement.

Note the need to include under all headings interests to the extent to which the Member is aware of them of the Member's spouse (including *de facto* partner) and any children who are wholly or mainly dependent on the Member for support.

For the purposes of the registration requirements "dependent children" means dependent children under 16 years of age or dependent full-time students under 25 years of age.

- When interests are held jointly with a spouse or dependent children the interests need be included only as Interests of the Member with an appropriate notation such as "jointly owned with spouse".

Where interests could be included under more than one heading, it is suggested they need be included only under the most specific heading unless two aspects need to be disclosed (e.g. real estate, plus a mortgage liability on the real estate).

1. Shareholding in public and private companies (including holding companies) indicating the name of the company or companies.

- Notify any relevant interest in any shares (as defined in the *Corporations Law*) including equitable as well as legal interests, whether held directly or indirectly, which enables a Member, the Member's spouse or dependent children to exercise control over the right to vote or dispose of those shares. This includes shares held by a family or business trust, a nominee company or a partnership where a Member, the Member's spouse or dependent children (or two or more of the Member, the Member's spouse, or a dependent child or dependent children acting together) are able to exercise control over the right to vote or dispose of those shares.
- (The Committee has determined that) it is not necessary to notify shareholdings held as an executor or trustee of a deceased estate where the Member, the Member's spouse or dependent children are not beneficiaries of that estate.
- Where interests are held in a private holding company (i.e. a proprietary company formed for the purpose of investing a subsidiary companies) all such subsidiary companies, and any subsidiary companies held by those subsidiary companies, should be named.
- Where shareholdings held amount to a controlling interest in a company it is necessary to register any shareholdings held by that company in another company or other companies.

2. Family and business trusts in which the Member, the Member's spouse or a child who is wholly or mainly dependent on the Member for support, is a trustee (but not including a trustee of an estate where no beneficial interest is held by the Member, the Member's spouse or dependent children), indicating the name of the trust, the nature of its operation and the beneficiary of the trust.

- **Note** that both beneficial interests and trustee responsibilities (except as trustee of a deceased estate where neither the Member, the Member's spouse nor dependent children are beneficiaries of the estate) should be specified.
- In respect of shareholdings held by a family or business trust or nominee company, see the note under "1. shareholdings," etc.

3. Real estate, including the location (suburb or area only) and the purpose for which it is owned.

- “Location”—There is no need to specify street address—general location (e.g. suburb, or area, and Territory or State) is adequate.
- “Purpose for which owned”—Specify whether property is used as a residence, as a holiday home, as a farm, or is held for investment or other business purposes.
- (The Committee has determined that) it is not necessary to notify legal title to real estate held as an executor or trustee of a deceased estate where the Member, the Member’s spouse or dependent children are not beneficiaries of that estate.
- (The Committee has also determined that) in the case of the purchase or disposal of real estate, the date of settlement is to be considered the date of alteration of interests and notification should be made within 28 days of that date.

4. Registered directorships of companies.

- Indicate the name of the Company (and the activities of the company.)

5. Partnerships indicating the nature of the interests and the activities of the partnership.

- Under “Nature of the Interests” specify level of current involvement in partnership (e.g. “financial (sleeping partner), consultant”, etc.).
- Specify the purpose or operations of the partnership (e.g. investment, consultancy, etc.).
- In respect of the shareholdings held by a partnership, see the note under “1. Shareholdings,”etc.

6. Liability indicating the nature of the liability and the creditor concerned.

- Include all liabilities (e.g. mortgages, hire-purchase arrangements, personal loans and overdrafts).
- Liabilities incurred on a department store account need not be disclosed.
- Liabilities incurred on a credit card need not be disclosed unless the credit card has been used to obtain a cash advance in excess of \$5000 and the advance is outstanding for a period in excess of 60 days.

7. **The nature of any bonds, debentures and like investments.**
 - “Investments” means all investments including placement of monies, which attract interest or other benefits.
8. **Saving or investment accounts, indicating their nature and the name of the bank or other institutions concerned.**
 - Ordinary, non-interest-bearing cheque accounts should not be included, but savings accounts and investment accounts should be included.
9. **The nature of any other assets (excluding household and personal effects) each valued at over \$7500.**
 - List all personal possessions of value other than ordinary household or personal effects.
 - Motor vehicles for personal use need not be included.
 - Collections need not be included.
 - Items which might be listed under more specific headings (e.g. investments, gifts received, etc.) need not be included here.
 - Private life assurance policies should be included but Parliamentary superannuation entitlements under a State or the Commonwealth scheme need not be included.
 - As a general rule of thumb, items of under \$7500 value may not require inclusion under this heading unless they are of nature which might be sensitive to implications of conflict of interest.
10. **The nature of any other substantial sources of income.**
 - The Member’s own salary and allowances as a Member of Parliament need not be included.
 - Include a spouse’s income from employment or a business undertaking and any income by the Member, the Member’s spouse or dependent children from investments, annuity arrangements, pensions or under governmental assistance schemes (but not including family allowances). There is no need to show the actual amount received. A simple reference to ‘income from investments set out above’ is sufficient for investment income.
 - **Note** that no minimum income is specified as notifiable and Members will need to use their discretion in this regard. As a general rule of thumb, income over \$1000 per annum might be notifiable but smaller amounts from sources which might, in the judgement of the Member, involve sensitivity or be capable of misconstruction should be included.

- 11. Gifts requiring registration are those valued at more than \$750 received from official sources, or at more than \$300 where received from other than official sources 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.**
- **Note** that gifts received by Members and their families from family members or personal friends in a purely personal capacity need not be disclosed unless the Member judges an appearance of a conflict of interest may be seen to exist.
- 12. Any sponsored travel or hospitality received where the value of the sponsored travel or hospitality exceeds \$300.**
- "Sponsored travel" means any free or concessional travel undertaken by the Member, the Member's spouse or dependent children sponsored wholly or partly by any person, organisation, business or interest group or foreign Government or its representative. It does not include the travel entitlements received by a Member, the Member's spouse or dependant children under any determination by the Remuneration Tribunal or Administrative Arrangements nor travel undertaken as a member of an official Parliamentary delegation. The nature for which the travel was undertaken should be shown.
 - Travel undertaken by a Member, the Member's spouse or dependent children using frequent flyer points accrued through travel at official expense should be notified. In addition, the receipt of upgraded travel provided by an airline to a Member, the Member's spouse or dependent children should be notified.
 - "Hospitality" refers to free or concessional accommodation provided to the Member, the Member's spouse or dependent children wholly or partly by any person, organisation, business or interest group or foreign Government or its representative. It includes the provision of free or concessional meals provided as part of an accommodation arrangement but does not include hospitality provided in a purely social way by friends or colleagues.
 - Entertainment received from concerned constituents and interest groups legitimately exercising their powers of political persuasion, explanation, or argument on the merits of an issue to further a particular cause or concern need not be included. There is also no need to include entertainment received in common with significant numbers of other Members or person such as a reception or dinner hosted by a High Commissioner or Ambassador.
 - In all cases in deciding whether travel or hospitality should be included in a return, a Member should exercise his or her

judgement having regard to any appearance of conflict of interest that may arise.

13. Membership of any organisation where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise.

- It is only necessary to disclose the membership of an organisation where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise.
- Generally it would be expected that membership of a local community, sporting or charitable organisation would not pose or be seen to pose a potential conflict of interest.

14. Any other Interests where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise.

- List any other interest which, in the opinion of the Member, holds the potential for a real or apparent conflict of interest with a Member's public duties to arise.

15. The nature of any other substantial sources of income.

- The Member's own salary and allowances as a Member of Parliament need not be included.
 - Include a spouse's income from employment or a business undertaking and any income by the Member, the Member's spouse or dependent children from investments, annuity arrangements, pensions or under governmental assistance schemes (but not including family allowances). There is no need to show the actual amount received. A simple reference to "income from investments set out above" is sufficient for investment income.
 - **Note** that no minimum income is specified as notifiable and Members will need to use their discretion in this regard. As a general rule of thumb, income over \$1000 per annum might be notifiable but smaller amounts from sources which might, in the judgement of the Member, involve sensitivity or be capable of misconstruction should be included.
-

**LAW REFORM (GENDER, SEXUALITY AND DE FACTO
RELATIONSHIPS) ACT 2003 NO. 1 OF 2004**

AMENDED THE DE FACTO RELATIONSHIPS ACT

By inserting the following new section -

"3A. De facto relationships

"(1) For this Act, 2 persons are in a de facto relationship if they are not married but have a marriage-like relationship.

"(2) To determine whether 2 persons are in a de facto relationship, all the circumstances of their relationship must be taken into account, including such of the following matters as are relevant in the circumstances of the particular case:

- (a) the duration of the relationship;
- (b) the nature and extent of common residence;
- (c) whether or not a sexual relationship exists;
- (d) the degree of financial dependence or interdependence, and any arrangements for financial support, between them;
- (e) the ownership, use and acquisition of property;
- (f) the degree of mutual commitment to a shared life;
- (g) the care and support of children;
- (h) the performance of household duties;
- (i) the reputation and public aspects of their relationship.

"(3) For subsection (2), the following matters are irrelevant:

- (a) the persons are different sexes or the same sex;
- (b) either of the persons is married to another person;
- (c) either of the persons is in another de facto relationship."

Interpretation Act

This definition covering de facto partner is reiterated as below and specifically at Section 19A(3)

19A Definitions of certain domestic relationships

(1) In any Act:

spouse, of a person, means:

- (a) a person to whom the person is validly married under the *Marriage Act 1961* of the Commonwealth; or
- (b) if the person is an Aboriginal or Torres Strait Islander – an Aboriginal or Torres Strait Islander to whom the person is married according to the customs and traditions of the particular community of Aboriginals or Torres Strait Islanders with which either person identifies.

(2) In any Act, **marriage**, **husband**, **wife**, **widow** and **widower** have the meanings that correspond with the meaning of **spouse**.

(3) In any Act, **de facto partner** and **de facto relationship** have the meanings in section 3(1) of the De Facto Relationships Act.

(4) In any Act:

stepchild, of a person, means a child who is:

- (a) if the person is married – a child of the person's spouse but not a child of the person; or
- (b) if the person is in a de facto relationship – a child of the person's de facto partner but not a child of the person.

(5) In any Act, a reference to a step-relative of a person is read as having the meaning that corresponds with the meaning of **stepchild**.

Appendix D: Procedure for Inspection of Register of Members' Interests

REGISTER OF STATEMENTS OF REGISTRABLE INTERESTS OF MEMBERS OF THE NORTHERN TERRITORY LEGISLATIVE ASSEMBLY

PROCEDURE FOR THE INSPECTION

- Viewing of the Register is by appointment during working hours.
- The contact number for appointments is (08) 89461422.
- The Register is located in the Office of the Clerk, Level 3, Parliament House, Darwin, Northern Territory.
- No photocopies may be made of any part of the Register, however, notes may be taken.
- An 'Inspection of Register' form will have to be completed prior to viewing each Member's Statement of Registrable Interests
- Members of the Assembly are able to view the 'Inspection of Register' form attached to their Statement of Registrable Interests to inspect who has viewed their Register.