Office of the Clerk of the House of Representatives

Te Tari o te Manahautū o te Whare Māngai

Register of Pecuniary Interests of Members of Parliament

Explanatory notes – 2009/10

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Introduction

In August 2005 the House amended its Standing Orders to provide a system for members of Parliament to register their pecuniary interests, in other words the assets, debts and gifts they may each have accumulated or received. The purpose of the measure is in line with a number of other steps of public accountability and transparency and furnishes a protection against arguments that a possible conflict might arise between a member's public duty and private interests. If certain things are made known and registered, the question of any conflict of interest can be minimised. The scheme is set out in Standing Order 159 and Appendix B of the *Standing Orders of the House of Representatives*. It is a register designed to protect members in the event of scrutiny, rather than being a recital of wealth and indebtedness. It is also a declaration of the kinds of interests and not their individual value or specific location.

The Registrar of Pecuniary Interests of Members of Parliament is Dame Margaret Bazley DNZM, Hon DLit, a former departmental Chief Executive, who was appointed pursuant to clause 12 of Appendix B of the *Standing Orders of the House of Representatives*.

Purpose of this booklet

This booklet provides an explanation of the registration requirements. The full text of the requirements in Standing Orders is reproduced in this booklet in the annex. The guidance below should be read in conjunction with the annex.

These notes and other advice given by the registrar are to assist members to complete their return for the register of pecuniary interests. The guidance in these notes is specific to the requirements for the register and should not be applied to any other situation. For example, the advice is not relevant to the requirements set out in the Cabinet Manual for Ministers to declare their interests, and Ministers should seek guidance on that from the Cabinet Office.

While it is the registrar's role to give advice on the requirements of the Standing Orders, it remains your responsibility to identify and declare your interests. You are the best judge of your personal circumstances. The registrar cannot give you detailed advice about your personal interests, for example, about any commercial or trust-related arrangements that you may have. The registrar's advice is confined to assisting you to interpret Standing Orders. You can, of course, engage your own legal or other professional advisor to give you advice about your specific circumstances.

Confidentiality of your information

Standing Orders require the registrar to keep confidential all returns and information relating to individual members. However, the registrar is required to send a copy of all returns to the Auditor-General, and may also be required to release information relating to individual members to either the Auditor-General or the Privileges Committee if either of them undertakes a review or inquiry into a matter relating to the register of pecuniary interests.

All information held by the registrar relating to individual members is destroyed at the end of each parliamentary term, unless the Auditor-General requires it to be retained for the purposes of a review or inquiry.

The registrar will not disclose information about a member's return to any other member.

How do you make a return?

There is a series of forms on which returns must be provided. These are available via the "Party and Member Support" link on the intranet (http://ourhouse.parliament.nz/en-NZ/Intranet/MemEnt/Interests). When you open the forms, save them into your own system for editing.

Please enter your details in typescript. You can then print your return, review it, and sign the printed copy. Your return must be submitted in paper copy with an original signature on the covering form. Each form must be completed, even if it is to register a nil return. If you are having any difficulty with the forms, please call Elizabeth Woolcott (extension 9909) or Daniel Gilfillan (extension 9443).

If you save the electronic copy of your return you will have an electronic record as the basis for your next return due in 2011.

Where should your return be sent?

Completed and signed returns should be sent to—

Registrar of Pecuniary Interests of Members of Parliament
Office of the Clerk of the House of Representatives
Room G.041
Parliament House.

When is a return required?

You must submit your return by the last day of February each year. As the last day of February in 2010 is a Sunday, you may submit your return on the next working day (**Monday 1 March**). The effective date of the return is 31 January, so in practice you must complete and submit your return between 31 January and 1 March 2010.

Your return will not be accepted if it is received or dated before the effective date of 31 January. You will be asked to complete it for the full period required, and to resubmit it.

What if your interests change after the date of the return or you find that you have made an error?

There is no provision in Standing Orders for you to register any change in your interests after 31 January each year (or any other date required for an initial return) until the next return is required. However, it is possible that you may discover at some time after the year's returns have been published that you have inadvertently omitted

an interest that should have been declared, or incorrectly declared some information. If so, you should contact the registrar immediately to discuss the situation. It may be possible for an amendment to your return to be published, but this will be considered on a case by case basis. It remains your responsibility to ensure that a complete return is submitted by the annual deadline (the last day of February).

The requirements for an oral declaration in Standing Orders 160 to 162 will apply to any interests that have not been registered.

What period does the return cover?

If your last return of pecuniary interests was as at 31 January 2009

The information supplied in your return falls into two types of pecuniary interest: interests which you have as at the effective date of the return (31 January 2010), and relevant activities that you have undertaken in the 12 months before the effective date.

The first type of interest is set out in clause 4 (Forms 1 to 9). This is a 'snapshot' of your interests at the effective date, and includes items such as your pecuniary interests in property or shares on that date. These items will need to be registered each year if those interests still exist. If you had a pecuniary interest of this type at some point during the year, but no longer had it as at 31 January 2010 (for example, you had sold shares), then there is no requirement to declare that interest.

The second type of interest is set out in clause 7 (Forms 10 to 13). You must supply information here covering the previous 12 months.

If you became a member of Parliament after 31 January 2009 but before 1 July 2009

If you became a member of Parliament between 1 February 2009 and 1 July 2009, you will have made an initial return of your pecuniary interests. You are now required to make your first annual return, covering the period from the day after the effective date of your initial return until 31 January 2010. You will be advised of the specific period that applies to you, or you can contact Elizabeth Woolcott (extension 9909) for assistance.

The information supplied in your return falls into two types of pecuniary interest: interests which you have as at the effective date of the return (31 January 2010), and relevant activities that you have undertaken between making your initial return in 2009 and 31 January 2010.

The first type of interest is set out in clause 4 (Forms 1 to 9). These are a 'snapshot' of your interests at the effective date, and include items such as your pecuniary interests in property or shares on that date. These items will need to be registered each year if those interests still exist. If you had a pecuniary interest of this type at some point since you became a member of Parliament, but no longer had it as at 31 January 2010 (for example, you had sold shares), then there is no requirement to declare that interest.

The second type of interest is set out in clause 7 (Forms 10 to 13). You must supply information here covering the period since your initial return until 31 January 2010.

If this is your first return of pecuniary interests

If you became a member of Parliament after 1 July 2009 this will be your first return of pecuniary interests.

The information supplied in your return falls into two types of pecuniary interest: interests which you have as at the effective date of the return (31 January 2010), and relevant activities that you have undertaken between the date that your election was notified in the *Gazette* and 31 January 2010.

The first type of interest is set out in clause 4 (Forms 1 to 9). These are a 'snapshot' of your interests at the effective date, and include items such as your pecuniary interests in property or shares on that date. These items will need to be registered each year if those interests still exist.

The second type of interest is set out in clause 7 (Forms 10 to 13). You must supply information here covering the period from the date that your election was notified until 31 January 2010.

What is the difference between registration of pecuniary interests and an oral declaration of financial interests?

While this booklet covers the requirements set out in Appendix B of the Standing Orders, you should also be aware of further obligations set out in Standing Orders 160 to 162. While those obligations do not apply to anything you have registered pursuant to Appendix B set out in this booklet, they are broader in scope and application. You may have financial interests that are not covered by the requirements for the register but do need to be declared orally to the House or a committee before you participate in debate relating to that interest. This might include an interest you have acquired but is not due for registration until several months later, or it may relate to an interest of a family member. If in any doubt, you should consider making an oral declaration to the House or a committee before participating in consideration of a related item of business, regardless of any written registration.

What is your responsibility when completing your return?

Standing Orders state that it is your responsibility to ensure that you fulfil the obligations set out in Appendix B. While the registrar will offer you all assistance, it is not the registrar's responsibility to ensure that you complete your return on time or to check the accuracy of your return.

You must make an honest attempt to register all of the pecuniary interests that you hold. You are obliged to turn your mind to the interests you have. The onus is on you to

determine and declare relevant pecuniary interests[1]. The effect of the 2008 Privileges Committee report is that arrangements whereby members avoid knowledge of transactions to their benefit are not sustainable. Wilful blindness will not excuse an incomplete declaration of pecuniary interest. However where a member genuinely does not appreciate they have an interest that should have been declared then they may be excused from making an incomplete or misleading declaration.

If, having taken advice from the registrar, you are in any doubt as to whether you should declare an interest or transaction, you should declare it.

What is required in a return?

The exact wording of the requirements for returns is set out in Appendix B of the *Standing Orders of the House of Representatives*. They relate to assets, debts and gifts; pecuniary interests (such as business interests, real estate, debtors, and creditors); and benefits such as gifts or travel expenses. In some cases, there is a specified minimum value that can be reached before an interest needs to be registered. Each type of interest is set out below, with some explanation.

At no stage are you required to state the actual value or extent of any interest. You simply need to register its existence.

Wherever there are monetary amounts specified in Appendix B of the Standing Orders, the figure is inclusive of goods and services tax (GST).

If any interest is held jointly with another person or persons, you should indicate the interest. You can list it as jointly owned but you do not need to name the other owner(s).

Company directorships and controlling interests (Form 1)

4(1)(a) the name of each company of which the member is a director or holds or controls more than 5 percent of the voting rights and a description of the main business activities of each of those companies

This is intended to include companies of which you may be a director or significant shareholder.

You must record the main business activities of the company.

Do not include companies that are owned by a trust or superannuation scheme that you have separately declared in clause 4(1)(d) or 4(1)(g) (Form 4 or Form 7).

[1] *Report of the Privileges Committee on a Question of privilege relating to compliance with a member's obligations under the Standing Orders dealing with pecuniary interests,* September 2008 (I.17D), p.20.

Other companies and business entities (Form 2)

4(1)(b) the name of every other company or business entity in which the member has a pecuniary interest and a description of the main business activities of each of those companies or entities

A business entity is described in clause 1(1) as 'any body or organisation, whether incorporated or unincorporated, that carries on any profession, trade, manufacture, or undertaking for pecuniary profit, and includes a business activity carried on by a sole proprietor'. This includes ownership of shares, bonds, and debentures.

You do not need to repeat any items already registered in 4(1)(a) above (Form 1).

If you hold a pecuniary interest in a company or business (entity A) that itself has a pecuniary interest in another company or business (entity B) you do not need to indicate an interest in entity B.

Having a contract with a company does not in itself create a pecuniary interest in that company which has to be declared.

You do not need to include pecuniary interests in a company or other business entity held by your spouse or other close family member.

Employment (Form 3)

4(1)(c) if the member is employed, the name of each employer of the member and a description of the main business activities of each of those employers

This does not include your position as a member of Parliament. It applies only to ongoing employment rather than activities to be registered pursuant to clause 7(1)(d) (Form 13).

Beneficial interests in trusts (Form 4)

4(1)(d) the name of each trust in which the member has a beneficial interest

You are required to list trusts in which you have a beneficial interest. You will need to include interests in any Māori incorporations that are established as trusts.

What is a trust?

A trust is an equitable[2] obligation under which a person (trustee) having control of property (trust property) is bound to deal with that property for the benefit of other persons (beneficiaries)[3], any of whom may enforce the obligation. If they are alive at the time, the person who provides the trust property and creates the trust is called the settlor and the document containing the terms of the trust is called the trust deed[4]. A trust that is created under a will is called a testamentary trust.

[2] Equity is a body of rules and procedures that developed separately from the common law and arose where a party who could get no remedy in the common law courts would apply to the Chancellor as the "keeper of the King's conscience" for equitable relief.
[3] A trustee may also be a beneficiary under a trust.
[4] Hinde & Hinde, *New Zealand Law Dictionary*, 3rd ed.

What is a beneficial interest in a trust?

A *"beneficial interest"* in a trust is an enforceable, proprietary interest in the trust property. Examples of a proprietary interest include ownership, and a right to possession or occupation.

If you are a beneficiary of a trust, it is likely that you have a beneficial interest in that trust. There will be a beneficial interest irrespective of whether you have received a benefit under the trust or the benefit will happen at some point in the future.

The exception is where the trustee has a discretion as to which of the beneficiaries will receive a benefit from the trust, known as a discretionary trust. In this situation a beneficiary named in a trust[5] will have a mere expectation or hope in respect of that trust and not a beneficial interest.

If you are a named beneficiary in a trust to which the exception does not apply, you must declare the name of that trust in your pecuniary interest return under clause 4(1)(d) (Form 4).

Transactions involving the trust

Some transactions involving a trust must be declared under other provisions of Appendix B of the Standing Orders. These include the provisions for declaring gifts (clause 7(1)(b) (Form 11)), discharge of debts (clause 7(1)(c) (Form12)) and debtors of the member (clause 4(1)(h) (Form 8)).

Organisations and trusts seeking Government funding (Form 5)

4(1)(e) if the member is a member of the governing body of an organisation or a trustee of a trust that receives, or has applied to receive, Government funding, the name of that organisation or trust and a description of the main activities of that organisation or trust, unless the organisation or trust is a Government department, a Crown entity, or a State enterprise

The term, 'Government funding', includes funds received from the Crown and Crown entities such as are described in the Crown Entities Act 2004. These include, for example, the Health Sponsorship Council (a Crown agent), Sport and Recreation New Zealand (a Crown agent), the New Zealand Lotteries Commission (an autonomous Crown entity), and Television New Zealand Limited (a Crown entity company). It also includes funding received from State enterprises described in the State-Owned Enterprises Act 1986, such as New Zealand Post Limited.

You are required to declare an interest if you are a member of the governing body of an organisation seeking government funding. If you are patron of such an organisation, it is a matter for your judgement whether you should declare it. You can add a note to your return that you are patron only, if you wish.

[5] This includes persons named by class, eg all children of x.

Real property (Form 6)

4(1)(f) the location of each parcel of real property in which the member has a pecuniary interest, unless the member has no beneficial interest in the real property

This applies to land, buildings, and apartments, including unit titles, leasehold interests and cross-leases. It also applies to interests in Māori land.

In describing the location of a property, you do not need to specify the street or road address. The general location, such as the suburb, town, or rural area is sufficient. For blocks of Maori land which are difficult to identify, the regional area is sufficient. For example "several blocks of land on the West Coast and in North Canterbury".

If you are the joint owner of any real property, you should include it and note that it is jointly owned. You do not need to name the other owner(s).

If you hold legal title to a property as an executor or trustee (including a deceased estate), you need to mention it only if you have a beneficial interest in that property.

If property is held in a trust, you are still required to declare it if you have a beneficial interest in that property.

You will have a beneficial interest in trust property if you are a beneficiary under the trust that owns the property. However, if the trustees of the trust have a discretion as to which of the beneficiaries will receive a benefit under the trust, it is a discretionary trust and you will not have a beneficial interest in it. For more information on what is a beneficial interest in a trust, refer to the explanation under Form 4.

You should note that a beneficial interest in real property owned by a trust includes a right to possession or occupation.

It is your responsibility to determine whether or not you have a beneficial interest in trust property. The registrar is unable to give you advice on the status of an individual trust and whether or not a particular property is required to be declared. If you are unsure, you can engage your own legal or other professional advisor to give you that advice.

Superannuation schemes (Form 7)

4(1)(g) the name of each registered superannuation scheme in which the member has a pecuniary interest

This refers to schemes registered under the Superannuation Schemes Act 1989 and any referred to in Section 19H of the Government Superannuation Fund Act 1956.

Ensure that you record the correct name of any superannuation scheme in which you have an interest.

Include any scheme to which a portion of your salary as a member of Parliament is paid. These will be as follows:

- Members who have held office continuously since prior to 30 June 1992 are very likely to be contributors to the Government Superannuation Fund (Parliamentary Scheme) and should show this as their scheme.

- Members who were elected after 1 July 1992 are able to contribute to any registered superannuation scheme(s) and should show the name(s) of any company or scheme(s) to which they contribute.

Members elected after 1 July 1992 may also have an interest in the Government Superannuation Fund (General Scheme), if they had been employed in a position covered by the Fund provisions prior to that date – if so, they should show this as one of their schemes.

Superannuation schemes do not include life insurance.

Debtors (Form 8)

4(1)(h) the name of each debtor of the member who owes more than $50,000 to the member and a description of each of the debts that are owed to the member by those debtors

Record debts of more than $50,000 that are owed to you.

You must declare the interest rate for this debt if it is less than the rate described in clause 4(3), Appendix B of Standing Orders. At the time of publication that rate is 6.41%. You will receive advice of the relevant rate as at 31 January 2010, the effective date of your return, and you can also check it at www.ird/fbt/categories/low-interest-loans/fbt-lowinterestloans-prescribedrates.html.

You do not need to indicate the amount of the debt, only its existence.

You do not have to disclose a relationship property settlement.

You should not mention a debt owed to you by your spouse, domestic partner, parent, child, step-child, foster-child, or grandchild.

You should not refer to short-term debts associated with the supply of goods and services where payment is required within 90 days.

You will need to include bank deposits if they are over $50,000.

A trust may be a debtor to you

Where you are responsible for setting up a trust and have transferred your property into the trust, the trust may be a debtor to you to the value of the property. Where any such debt owed by the trust to you exceeds $50,000, it must be declared on this form.

Examples of debtors that must be declared

The XYZ Family Trust owes you the sum of $304,000 as the balance of the amount owing for settlement of a $360,000 property on the trust in 2006.

You pay $60,000 per annum into Family Trust A for maintenance and improvements to the trust property (the family home), and the payment is considered a debt owed by the Trust.

Creditors (Form 9)

4(1)(i) the name of each creditor of the member to whom the member owes more than $50,000 and a description of each of the debts that are owed by the member to those creditors

Record any debt that you owe that is more than $50,000.

The word "debt" has distinct legal and general meanings. In public use it may include a moral obligation to pay or an expectation of payment. The legal meaning of debt is narrower and is limited to fixed sums for which the right to payment exists. The right will be enforceable through legal proceedings. Appendix B uses debt in the legal sense. It deals with debts arising from contract or judgement of the courts. Members do not need to declare moral debts.

You must declare the interest rate for this debt if it is less than the rate described in clause 4(3), Appendix B of Standing Orders. At the time of publication that rate is 6.41%. You will receive advice of the relevant rate as at 31 January 2010, the effective date of your return, and you can also check it at www.ird/fbt/categories/low-interest-loans/fbt-lowinterestloans-prescribedrates.html

You do not need to indicate the amount of the debt, only its existence.

Debts owed include mortgages (including home loans and bank loans), hire-purchase and lease monies, personal loans, and overdrafts.

You do not have to disclose a relationship property settlement.

You should not identify short-term debts associated with the supply of goods and services where payment is required within 90 days.

Overseas travel costs (Form 10)

7(1)(a) for each country (other than New Zealand) that the member travelled to

- *(i) the name of the country, and*
- *(ii) the purpose of travelling to the country, and*
- *(iii) the name of each person who contributed (in whole or in part) to the costs of the travel to and from the country, and*
- *(iv) the name of each person who contributed (in whole or in part) to the accommodation costs incurred by the member while in the country*

You do not need to include overseas travel in this section if the costs were incurred by yourself, a family member, the Crown, or by a foreign government as part of an official parliamentary visit overseas. 'Official parliamentary visit' means one that is part of the annually approved official travel programme administered by the Office of the Clerk. The Office can clarify if a particular visit falls into this category. On such

visits, host governments sometimes cover internal costs. These do not need to be registered.

Travel outside the official travel programme, such as educational visits sponsored or partially sponsored by other governments or organisations, is subject to the registration requirement.

The obligation to register includes upgrades from one class to another provided by an airline, for instance.

Gifts (Form 11)

7(1)(b) a description of each gift (including hospitality and donations in cash or kind but excluding any donation made to cover expenses in an electoral campaign) received by the member that has an estimated market value in New Zealand of more than $500 and the name of the donor of each of those gifts (if known or reasonably ascertainable by the member)

What is a gift?

A gift is something given to, or for the benefit of a member. This includes gifts received while travelling on official ministerial or parliamentary business, whether or not you retain possession of them.

Gifts are not limited to tangible objects. Corporate hospitality is also a gift to be registered if its market value is over $500, as are educational courses where another person has paid your course fees.

Some activities, such as helicopter flights, may be a gift depending on the context in which they occur. If they are undertaken as part of your duties as a member they are not a gift and do not have to be declared. If they are a type of hospitality and are not directly related to your duties, then they should be declared.

You should include a professional registration certificate, such as the New Zealand Law Society practising certificate, if it is gifted to you by a third party.

The membership of airline lounges is commonly gifted to members by the airlines. The annual membership of these is borderline in terms of the $500 threshold. Members have made varying decisions about whether to include these as gifts and in past years, for the sake of consistency, the registrar has not included them in the Summary of Returns. These annual memberships do not, therefore, have to be declared.

A payment to a third party in respect of a member's debt (legal or moral) may be a gift, because it benefits the member. To establish whether there is a gift to a member in the case of third party donations it is useful to consider:

- Whether there is a benefit to the member, or whether a reasonable constituent would perceive a benefit to the member
- If the donor intended the member to benefit from the gift
- Whether the third party recipient treated it as a gift to them.

Estimating the value of a gift

It can be difficult to estimate the value of a gift, whether it is a tangible object or something in the nature of hospitality. It is your responsibility to make your best estimate. If you are unsure, you should follow the approach indicated by the Privileges Committee: "If in doubt, declare it".

Should you declare electoral expenses?

Donations that are given to meet electoral campaign expenses do not need to be declared. This is because the Electoral Act 1993 requires such donations to be declared by constituency candidates within 70 days after polling day. The expenses involved in pursuing an election petition are not required to be declared under electoral law but donations to meet such expenses that exceed $500 should be declared in the register of pecuniary interest.

Should you declare donations in kind?

Where a person provides specific services of value to you for no charge and that person would normally receive payment for those services, there is a donation in kind. The donation in kind must be declared in the register of pecuniary interest if the market value of the services exceeds $500.

This includes services such as work on your home. Where a complimentary service is ongoing from one year to the next, you should either register it each year if the annual market value exceeds $500 or clearly state the term of the gift. If you have stated the term to which it relates, it does not need to be registered again within that term.

Donations in kind can be distinguished from the work of volunteers for a member. Volunteers typically perform tasks without expectation of reward or payment for those tasks. Sometimes the distinction between voluntary work and donations in kind may not be clear. This should be looked at on a case by case basis.

Gifts involving trusts

A gift to a trust in which you have an interest in excess of $500 will not be *"a gift received by a member"* under clause 7(1)(b) as you and the trust are not one and the same.

However, a payment by a trust to you without adequate consideration will be a gift received by you and must be declared. This is so regardless of whether the gift is paid directly to you, or is paid to another party in discharge of a debt owed by you to that party (in which case clause 7(1)(c) would also apply).

Examples of gifts that should be declared

You receive the sum of $5,000 from a testamentary trust.

You receive a payment of $50,000 from your family trust following the sale of a property owned by the trust.

Discharged debts (Form 12)

7(1)(c) a description of all debts of more than $500 that were owing by the member that were discharged or paid (in whole or in part) by any other person and the names of each of those persons

This includes any debt of more than $500 that may have been paid on your behalf by another person or company.

Where a debt of more than $500 owed by you is paid or partially paid by a trust, this is a debt paid by another party. Such a payment will come within clause 7(1)(c) and must be declared.

Examples of debts that should be declared

Your solicitor's fees of $12,000 incurred in challenging a resource consent granted in your electorate are paid by Trust A.

Your builder is paid $1,500 by Trust B for repairs to your constituency office after a vandalism attack on the premises.

Payments for activities (Form 13)

7(1)(d) a description of each payment received by the member for activities in which the member is involved (other than the salary and allowances paid to that person under the Civil List Act 1979 and the Remuneration Authority Act 1977)

This does not include any employment already referred to under clause 4(1)(c) (Form 3). It includes directors' fees, fees for activities such as speaking engagements, and book royalties. It also includes monies derived from overseas.

What happens to the return?

Clause 14 requires the registrar to supply a copy of your return to the Controller and Auditor-General within 14 days of it being received. The Auditor-General is authorised, pursuant to clause 15, to review the returns and to inquire into whether members have complied with the requirements. A decision to inquire may be the result of a request for such an inquiry to occur or on the Auditor-General's own motion. An inquiry may result in a report to the House.

Once the returns have been received, summaries of the registered interests will be compiled into a booklet. While undertaking this process the registrar may apply some standardisation of terms to ensure consistency. The registrar will give you a copy of the summary of your return and you will have the opportunity to correct any error of transcription. The registrar will not disclose the contents of individual drafts to other persons but there is nothing to prevent members comparing draft summaries among themselves if they wish to do so.

The registrar is not required to undertake checks in relation to items registered.

Within 90 days of the due date for returns the registrar will publish the summaries in a booklet and make the booklet available on the website. A copy will be given to the

Speaker, who will present it to the House. The booklet will also be available for public viewing in the Bills Office.

Who can provide help?

If you need help understanding the requirements of Appendix B of the Standing Orders, you can contact the registrar, Dame Margaret Bazley, for assistance. She can be contacted via extension 6892. Alternatively you can contact Senior Parliamentary Officer, Elizabeth Woolcott, on extension 9909.

The registrar will make every effort to provide authoritative advice to assist you in completing your return. This advice will be provided to you in writing. However, Standing Orders state that it is your responsibility to ensure that you fulfil your obligations in relation to your pecuniary interests.

What if you do not comply with the registration requirements?

If you submit your return after the due date of 1 March 2010 it will not be accepted. You will be recorded in the Summary as having made a nil return.

The registrar is unable to accept returns submitted by fax or electronically. This is for your protection, to ensure that there is a single, authenticated version of your return. Your signature on the front page of the hard copy of your return authenticates it as having been approved by you.

If you knowingly fail to make a return by the due date or provide false or misleading information in a return, you may be in contempt of the House. This requires you to make an honest attempt to declare all your interests. If you are in any doubt in respect of an interest, you should declare it. Paragraphs (g) and (h) of Standing Order 401 make failure to comply a contempt. Such an allegation could be raised with the Speaker as a matter of privilege. The Speaker will then decide if a question of privilege is involved and may refer the matter to the Privileges Committee. The committee then investigates and reports to the House, possibly making findings and/or recommendations.

Ultimately, the House has the power to punish a member who has been found in contempt. A recommendation to the House from the Privileges Committee could include a punishment such as suspension from the House for a period.

Annex: Extracts from the *Standing Orders of the House of Representatives*

PECUNIARY INTERESTS

159 Pecuniary interests

(1) Members must make returns of pecuniary interests in accordance with the provisions of Part 1 of Appendix B.

(2) Returns of members' pecuniary interests are to be maintained in a register in accordance with the provisions of Part 2 of Appendix B.

DECLARATION OF FINANCIAL INTERESTS

160 Financial interests

(1) A financial interest is a direct financial benefit that might accrue to a member personally, or to any trust, company or other business entity in which the member holds an appreciable interest, as a result of the outcome of the House's consideration of a particular item of business.

(2) A financial interest—

(a) includes a financial interest held by a member's spouse or domestic partner or by any child of the member who is wholly or mainly dependent on the member for support, but

(b) does not include any interest held by a member or any other person as one of a class of persons who belong to a profession, vocation, or other calling or who hold public offices or an interest held in common with the public.

161 Declaration of financial interest

(1) A member must, before participating in the consideration of any item of business, declare any financial interest that the member has in that business.

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

. . . . .

401 Examples of contempts

Without limiting the generality of Standing Order 400, the House may treat as a contempt any of the following:

. . . . .

(f) as a member, failing to declare, before participating in the consideration of any item of business, any financial interest that the member has in that business:

(g) as a member, knowingly failing to make a return of pecuniary interests by the due date:

(h) as a member, knowingly providing false or misleading information in a return of pecuniary interests:

. . . . .

Appendix B

PECUNIARY INTERESTS

DEFINITIONS

1 Definitions

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

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

company means—

(a) a company registered under Part 2 of the Companies Act 1993:

(b) a body corporate that is incorporated outside New Zealand

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

employed—

(a) means employed under a contract of service, but

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

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

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

(a) the Crown:

(b) any Crown entity:

(c) any State enterprise

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

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

registrar—

(a) means the Deputy Clerk or a person appointed by the Clerk, with the agreement of the Speaker, to act as registrar, and

(b) includes every person who has been authorised by the registrar to act on his or her behalf under the Standing Orders

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

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

(2) Every amount specified in this Appendix is inclusive of goods and services tax (if any).

(3) Every reference in this Appendix to a person elected at an election includes a person elected as a consequence of a recount or an election petition relating to that election.

PART 1

2 Duty to make initial return of pecuniary interests

(1) Every member must make an initial return of pecuniary interests as at the day that is 90 days after the date that the member takes the oath or makes the affirmation required by section 11(1) of the Constitution Act 1986.

(2) Subclause (1) does not apply if,—

(a) in the case of a member who is elected at an election, polling day for the election is after 1 July in the year of the election, or

(b) in the case of a member who is declared to be elected under section 137 of the Electoral Act 1993, the date that the member's election is notified in the *Gazette* is after 1 July in the year that the member is declared to be elected.

(3) An initial return must be transmitted by the member to the registrar within 30 days of the effective date of the return.

3 Duty to make annual return of pecuniary interests

(1) Every member must make an annual return of pecuniary interests in each year as at 31 January.

(2) The annual return must be transmitted by the member to the registrar by the last day of February in each year in which an annual return must be made.

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

(1) Every return of pecuniary interests must contain the following information as at the effective date of the return:

(a) the name of each company of which the member is a director or holds or controls more than 5 percent of the voting rights and a description of the main business activities of each of those companies, and

(b) the name of every other company or business entity in which the member has a pecuniary interest and a description of the main business activities of each of those companies or entities, and

(c) if the member is employed, the name of each employer of the member and a description of the main business activities of each of those employers, and

(d) the name of each trust in which the member has a beneficial interest, except as disclosed under subclause (1)(g), and

(e) if the member is a member of the governing body of an organisation or a trustee of a trust that receives, or has applied to receive, Government funding, the name of that organisation or trust and a description of the main activities of that organisation or trust, unless the organisation or trust is a Government department, a Crown entity, or a State enterprise, and

(f) the location of each parcel of real property in which the member has a pecuniary interest, unless the member has no beneficial interest in the real property, and

(g) the name of each registered superannuation scheme in which the member has a pecuniary interest, and

(h) the name of each debtor of the member who owes more than $50,000 to the member and a description of each of the debts that are owed to the member by those debtors, and

(i) the name of each creditor of the member to whom the member owes more than $50,000 and a description of each of the debts that are owed by the member to those creditors.

(2) For the purposes of subclause (1)(b), a member does not have a pecuniary interest in a company or business entity (entity A) merely because the member has a pecuniary interest in another company or business entity that has a pecuniary interest in entity A.

(3) The description of a debt under subclause (1)(h) and (i) must include disclosure of the rate of interest payable in relation to the debt if that rate of interest is less than the most recent rate of interest prescribed by regulations made under section ND 1F of the Income Tax Act 2004 (or any successor to that provision) as at the effective date of the return.

5 Relationship property settlements and debts owed by certain family members do not have to be disclosed

A member does not have to disclose—

(a) a relationship property settlement, whether the member is a debtor or creditor in respect of the settlement, or

(b) the name of any debtor of the member and a description of the debt owed by that debtor if the debtor is the member's spouse or domestic partner or any parent, child, step-child, foster-child, or grandchild of the member.

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

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

(a) within 90 days after the supply of the goods or services, or

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

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

(1) Every return must contain the following information for the period specified in clause 8:

(a) for each country (other than New Zealand) that the member travelled to,—

(i) the name of the country, and

(ii) the purpose of travelling to the country, and

(iii) the name of each person who contributed (in whole or in part) to the costs of the travel to and from the country, and

(iv) the name of each person who contributed (in whole or in part) to the accommodation costs incurred by the member while in the country, and

(b) a description of each gift received by the member that has an estimated market value in New Zealand of more than $500 and the name of the donor of each of those gifts (if known or reasonably ascertainable by the member), and

(c) a description of all debts of more than $500 that were owing by the member that were discharged or paid (in whole or in part) by any other person and the names of each of those persons, and

(d) a description of each payment received by the member for activities in which the member is involved (other than the salary and allowances paid to that person under the Civil List Act 1979 and the Remuneration Authority Act 1977), including the source of each payment.

(2) The information referred to in subclause (1)(a) does not have to be included in the return if the travel costs or accommodation costs (as the case may be) were paid by the following or any combination of the following:

(a) the member:

(b) the member's spouse or domestic partner:

(c) any parent, child, step-child, foster-child, or grandchild of the member:

(d) the Crown:

(e) any State government or international parliamentary organisation, if the primary purpose of the travel was in connection with an official parliamentary visit.

(3) For the purposes of subclause (1)(b), **gift**—

(a) includes hospitality and donations in cash or kind other than donations made to cover expenses in an electoral campaign:

(b) excludes gifts received from family members (that is, any of the following: the member's spouse or domestic partner or any parent, child, step-child, foster-child, or grandchild of the member).

8 Period covered by return

(1) The period for which the information specified in clause 7 must be provided is the 12-month period ending on the effective date of the return.

(2) However,—

(a) a member does not have to include any information specified in clause 7 that has been included in a previous return:

(b) if the member is elected at an election and the member was not also a member of Parliament immediately before that election and the return is the first return required to be made by the member after that election, the period for which the information specified in clause 7 must be provided is the period beginning on polling day for that election and ending on the effective date of that return:

(c) if an initial return is required to be made by a member elected at a general election who was also a member of Parliament immediately before that general election, the period for which the information specified in clause 7 must be provided is the period beginning on 1 February in the year in which the general election is held and ending on the effective date of that return:

(d) if the member is declared to be elected under section 137 of the Electoral Act 1993 and the return is the first return required to be made by the member after being elected, the period for which the information specified in clause 7 must be provided is the period beginning on the date that the member's election is notified in the *Gazette* and ending on the effective date of that return:

(e) if the previous return that the member had a duty to make was an initial return, the period for which the information specified in clause 7 must be provided is the period beginning on the day after the effective date of that initial return and ending on the effective date of the return that must be made.

(3) For the purposes of subclause (2)(b) and (d), the first return required to be made by a member may be either an initial return or an annual return.

9 Actual value, amount, or extent not required

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

10 Form of returns

Returns must be either—

(a) in a form specifically prescribed by the House, or

(b) in a form approved by the registrar.

PART 2

11 Register of Pecuniary Interests of Members of Parliament

(1) A register called the Register of Pecuniary Interests of Members of Parliament is established.

(2) The register comprises all returns transmitted by members under this Appendix.

12 Office of registrar

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

13 Functions of registrar

The functions of the registrar are to—

(a) compile and maintain the register, and

(b) provide advice and guidance to members in connection with their obligations under this Appendix.

14 Registrar must supply returns to Auditor-General

The registrar must supply to the Controller and Auditor-General a copy of every return within 21 days of the date by which all returns are due.

15 Auditor-General's review and inquiry

(1) The Auditor-General will review the returns provided under clause 14 as soon as is reasonably practicable.

(2) The Auditor-General may inquire, either on request or on the Auditor-General's own initiative, into any issue as to whether—

(a) any member has complied, or is complying, with his or her obligations under this Appendix, or

(b) the registrar has complied, or is complying, with his or her obligations under this Appendix.

(3) The Auditor-General may, after he or she has completed an inquiry under subclause (2), report to the House the findings of the inquiry and any other matter that the Auditor-General considers it desirable to report on.

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

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

(2) The registrar must, within 90 days of the due date for transmitting annual returns, publish on a website and in booklet form a

summary containing a fair and accurate description of the information contained in those annual returns that has been transmitted by persons who, at the date of publication, are members of Parliament.

(3) The registrar must promptly provide a copy of the booklet to the Speaker.

(4) The registrar must ensure that a summary containing a fair and accurate description of information contained in all returns is—

(a) maintained on a website:

(b) available for inspection by any person at Parliament Buildings in Wellington on every working day between the hours of 10 am and 4 pm.

(5) A person may take a copy of any part of the summary referred to in subclause (4)(b) on the payment of a fee (if any) specified by the House.

17 Speaker must present copy of booklet to House of Representatives

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

18 Information about register

(1) The registrar must disclose any information relating to the register that the Auditor-General requires for the purposes of reviewing and inquiring into the returns under clause 15.

(2) Subject to subclause (1), all returns and information held by the registrar relating to an individual member (other than information that is required to be disclosed under clause 16) are confidential until the dissolution or expiration of Parliament.

(3) On the dissolution or expiration of Parliament all returns and information held by the registrar or by the Auditor-General relating to individual members are to be destroyed, except in respect of the return of any individual member which the Auditor-General requires to be retained for the purposes of a review or inquiry under clause 15.

19 Responsibilities of members and registrar

(1) It is the responsibility of each member to ensure that he or she fulfils the obligations imposed on the member by this Appendix.

(2) The registrar is not required to—

(a) notify any member of that member's failure to transmit a return by the due date or of any error or omission in that member's return, or

(b) obtain any return from a member.