



New South Wales

Constitution Amendment (Disclosures by Members) Bill 2014

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

This bill is cognate with the *Independent Commission Against Corruption Amendment (Ministerial Code of Conduct) Bill 2014*.

Overview of Bill

The object of this Bill is to amend the *Constitution (Disclosures by Members) Regulation 1983* to require each Member of Parliament (**Member**) to:

- (a) disclose certain pecuniary interests of any spouse or de facto partner of the Member and any person under the age of 18 years who is dependent on the Member for support, and
- (b) disclose commercial arrangements that relatives of the Member have entered into, or reasonably expect to enter into, with the Government, and
- (c) disclose the Member's annual taxable income.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Constitution (Disclosures by Members) Regulation 1983

Schedule 1 [2] extends the disclosures that must be made by Members in relation to certain pecuniary interests. A Member will be required to disclose pecuniary interests of any spouse or de

facto partner of the Member and any person under the age of 18 years who is wholly or mainly dependent on the Member for support. A Member will also be required to disclose commercial arrangements that relatives of the Member have entered into, or reasonably expect to enter into, with the Government.

Schedule 1 [3] requires a Member to disclose the Member's annual taxable income assessed under the *Income Tax Assessment Act 1936* of the Commonwealth.

Schedule 1 [1] and [4]–[20] make consequential amendments.



New South Wales

Constitution Amendment (Disclosures by Members) Bill 2014

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Constitution (Disclosures by Members) Regulation 1983	3



New South Wales

Constitution Amendment (Disclosures by Members) Bill 2014

No. , 2014

A Bill for

An Act to amend the *Constitution (Disclosures by Members) Regulation 1983* to make further provision with respect to disclosures by Members of Parliament.

The Legislature of New South Wales enacts:

1

1 Name of Act

2

This Act is the *Constitution Amendment (Disclosures by Members) Act 2014*.

3

2 Commencement

4

This Act commences on the date of assent to this Act.

5

Schedule 1	Amendment of Constitution (Disclosures by Members) Regulation 1983	1
		2
[1] Clause 6A	Supplementary ordinary returns	3
	Omit “clauses 9,” from clause 6A (4) (b). Insert instead “clauses 7C, 9, 9A,”.	4
[2] Clauses 7B and 7C		5
	Insert after clause 7A:	6
7B	Spouses and dependants	7
(1)	The disclosures of pecuniary interests required by clauses 8–15 are extended so that the disclosures are required to be made by a Member in respect of the pecuniary interests of any spouse or dependant of the Member and, accordingly, a reference in any of those clauses to the Member in relation to the pecuniary interest includes a reference to the spouse and the dependant.	8 9 10 11 12
(2)	A reference in this clause to a pecuniary interest of a spouse or dependant of a Member is a reference to a pecuniary interest of which the Member is aware.	13 14
(3)	In this clause: <i>dependant</i> , in relation to any Member, means any person under the age of 18 years who is wholly or mainly dependent on the Member for support. <i>pecuniary interest</i> means:	15 16 17 18
(a)	an interest in real property, or	19
(b)	a source of income received or reasonably expected to be received, or	20
(c)	a gift received, or	21
(d)	a financial or other contribution to travel, or	22
(e)	an interest, or position, held in a corporation, or	23
(f)	a position held in a trade union or professional or business association, or	24 25
(g)	a liability to pay a debt, or	26
(h)	a disposition of real property.	27
	<i>spouse</i> includes de facto partner.	28
7C	Commercial arrangements of relatives	29
(1)	A Member must disclose in a primary return and an ordinary return any commercial arrangement that a relative of the Member has entered into, or reasonably expects to enter into, with the Government.	30 31 32
(2)	A reference in this clause to a commercial arrangement of a relative of a Member is a reference to a commercial arrangement of which the Member is aware.	33 34 35
[3] Clause 9A		36
	Insert after clause 9:	37
9A	Taxable income	38
(1)	A Member must disclose:	39
(a)	in a primary return—the amount of the Member’s taxable income assessed for the financial year immediately preceding the financial year in which the primary return date occurs, and	40 41 42

(b)	in an ordinary return—the amount of the Member’s taxable income assessed for the financial year immediately preceding the financial year in which the prescribed date for the purposes of clause 6 (1) occurs.	1 2 3
(2)	If the Member is unable to comply with subclause (1) because an assessment has not yet been made in respect of the Member for the relevant financial year, the Member must disclose in the primary return or ordinary return the amount of the Member’s taxable income most recently assessed.	4 5 6 7
(3)	In this clause: <i>assessed</i> means assessed by the Commissioner of Taxation under the <i>Income Tax Assessment Act 1936</i> of the Commonwealth. <i>financial year</i> and <i>taxable income</i> have the same meanings as in the <i>Income Tax Assessment Act 1997</i> of the Commonwealth.	8 9 10 11 12
[4]	Schedule 1 Forms	13
	Omit “clauses 8, 9,” from Form 1. Insert instead “clauses 7C, 8, 9,”.	14
[5]	Schedule 1	15
	Insert after item 2 in the matter appearing under each heading “Directions” in Forms 1–3:	16
2A	In accordance with clause 7B of the <i>Constitution (Disclosures by Members) Regulation 1983</i> , the pecuniary interests required by clauses 8–15 of that Regulation to be disclosed by a Member include the pecuniary interests of any spouse or dependant of the Member. Accordingly, a reference in this form to any pecuniary interest of a Member includes a reference to the pecuniary interest of the Member’s spouse or dependant.	17 18 19 20 21 22
[6]	Schedule 1, Form 1 Primary return and Form 2 Ordinary return	23
	Insert before Part 1 of Section 1 of Forms 1 and 2:	24
Part 1A	Commercial arrangements of relatives	25
	Under clause 7C of the <i>Constitution (Disclosures by Members) Regulation 1983</i> , you must disclose in Part 1A of the return each commercial arrangement that you are aware a relative has entered into, or reasonably expects to enter into, with the Government. Make a separate entry for each commercial arrangement, separated by a line, in Part 1A of the return.	26 27 28 29 30
	Example entry only:	31
	Commercial arrangement	
	<hr/> Contract for the provision of XYZ <hr/>	
[7]	Schedule 1, Form 1, Section 1	32
	Insert after Part 2:	33
Part 2A	Taxable income	34
	Under clause 9A of the <i>Constitution (Disclosures by Members) Regulation 1983</i> , you must disclose in Part 2A of the return the amount of your taxable income assessed under the <i>Income Tax Assessment Act 1936</i> of the Commonwealth for the financial year immediately preceding the financial year in which the primary return date occurs. If the amount of your taxable income has not yet been assessed under that Act for that financial year, you	35 36 37 38 39 40

must disclose the amount of your taxable income most recently assessed under that Act. 1
2

Example entry only: 3

Amount of taxable income	Financial year
\$XYZ	1 July 2013–30 June 2014

[8] Schedule 1, Forms 1 and 2, Section 2 4

Insert before Part 1: 5

Part 1A 6

Commercial arrangement

[9] Schedule 1, Forms 1 and 2, Section 2 7

Insert after Part 2: 8

Part 2A 9

Amount of taxable income	Financial year
--------------------------	----------------

[10] Schedule 1, Forms 2 and 3 10

Omit “clauses 8” wherever occurring. Insert instead “clauses 7C”. 11

[11] Schedule 1, Form 2, Section 1 12

Insert after Part 2: 13

Part 2A Taxable income 14

Under clause 9A of the *Constitution (Disclosures by Members) Regulation 1983*, you must disclose in Part 2A of the return the amount of your taxable income assessed under the *Income Tax Assessment Act 1936* of the Commonwealth for the financial year immediately preceding the financial year in which the prescribed date occurs. If the amount of your taxable income has not yet been assessed under that Act for that financial year, you must disclose the amount of your taxable income most recently assessed under that Act. 15
16
17
18
19
20
21
22

Example entry only: 23

Amount of taxable income	Financial year
\$XYZ	1 July 2013–30 June 2014

[12] Schedule 1, Form 3 Supplementary ordinary return 24

Insert before item 3 (a) of the matter appearing under the heading “SECTION 1—GUIDANCE NOTES AND EXAMPLES”: 25
26

(aa) become aware of any commercial arrangement that a relative has entered into, or reasonably expects to enter into, with the Government, or 27
28
29

[13] Schedule 1, Form 3	1
Insert after item 3 (b) of the matter appearing under the heading “SECTION 1—GUIDANCE NOTES AND EXAMPLES”:	2
(b1) received an assessment of your taxable income under the <i>Income Tax Assessment Act 1936</i> of the Commonwealth, or	3
	4
	5
[14] Schedule 1, Form 3	6
Omit “set out in item 3 (a)” from item 4 of the matter appearing under the heading “SECTION 1—GUIDANCE NOTES AND EXAMPLES”.	7
Insert instead “set out in item 3 (aa)”.	8
	9
[15] Schedule 1, Form 3	10
Insert before paragraph (a) of item 4 of the matter appearing under the heading “SECTION 1—GUIDANCE NOTES AND EXAMPLES”:	11
(aa) any commercial arrangement that a relative has entered into, or reasonably expects to enter into, with the Government,	12
	13
	14
[16] Schedule 1, Form 3	15
Insert after paragraph (a) of item 4 of the matter appearing under the heading “SECTION 1—GUIDANCE NOTES AND EXAMPLES”:	16
(a1) your taxable income,	17
	18
[17] Schedule 1, Form 3	19
Insert before Part 1 of Section 1:	20
Part 1A Commercial arrangements of relatives	21
List in Part 1A of the return any commercial arrangements that you are aware a relative has entered into, or reasonably expects to enter into, with the Government. You must list all such commercial arrangements, even if you listed the same or a similar matter in your most recent return for the previous return period.	22
	23
	24
	25
	26
Example entry only:	27
Commercial arrangement	
<hr/> Contract for the provision of XYZ	
[18] Schedule 1, Form 3, Section 1	28
Insert after Part 2:	29
Part 2A Taxable income	30
You must disclose in Part 2A of the return the amount of your taxable income assessed under the <i>Income Tax Assessment Act 1936</i> of the Commonwealth for the financial year immediately preceding the financial year in which the prescribed date occurs. If the amount of your taxable income has not yet been assessed under that Act for that financial year, you must disclose the amount of your taxable income most recently assessed under that Act. You must disclose your taxable income, even if you disclosed it in your most recent return for the previous return period.	31
	32
	33
	34
	35
	36
	37
	38

Example entry only:

1

Amount of taxable income

Financial year

\$XYZ

1 July 2013–30 June 2014

[19] Schedule 1, Form 3, Section 2

2

Insert before Part 1:

3

Part 1A

4

Commercial arrangement

[20] Schedule 1, Form 3, Section 2

5

Insert after Part 2:

6

Part 2A

7

Amount of taxable income

Financial year
