

Act No. 126

**LOCAL GOVERNMENT (DISCLOSURE OF INTERESTS)
AMENDMENT BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Local Government Act 1919—

- (a) to require members of councils and persons employed in certain positions by councils to lodge a return each year containing information as to certain interests and assets of those members or employees;
- (b) to extend the existing provisions relating to disclosure of interests by members of councils to members of committees constituted or established under that Act; and
- (c) for other purposes relating to disclosure of interests.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the provisions of the proposed Act, with minor exceptions, will commence on 26 September 1987.

Clause 3 is a formal provision which gives effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1919

Schedule 1 (1) amends section 30 of the Principal Act as a consequence of the amendment made by Schedule 1 (3).

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Schedule 1 (2) omits section 30A of the Principal Act (Disability of members of councils for voting on account of interest in contracts etc.). The provisions of this section have been included in proposed Division 9A of Part IV of the Principal Act as inserted by Schedule 1 (3).

Schedule 1 (3) inserts proposed Division 9A of Part IV into the Principal Act. The Division contains the following provisions:

Proposed section 46A is an interpretation provision which defines, among other things, "designated employee" (that is, an employee to whom the disclosure provisions will apply). The section also provides that the interests (if known to a person) of a spouse, de facto partner or relative of the person are to be regarded as interests of the person for the purposes of the Division.

Proposed section 46B requires a member or designated employee of a council to lodge a primary return on becoming a member or designated employee and an ordinary return each year thereafter. The section gives effect to Schedule 5 which sets out the pecuniary interests to be disclosed in the returns and Schedule 5A which sets out the forms of the returns.

Proposed section 46C requires a member of a council or of a committee constituted by a council to disclose at a meeting of the council or committee pecuniary interests which the member has in matters to be dealt with at the meeting. The member must not vote or take part in discussions of any matter in which the member has a pecuniary interest. In addition to the existing exceptions (which are retained in the new section), a member is disqualified from voting or discussing a matter relating to the making or repeal of an environmental planning instrument if the member has an interest in land which may be affected.

Proposed section 46D contains provisions currently found in section 30A (8) and (9). These enable the Minister to remove a disability imposed by proposed section 46C in certain circumstances and allows the council to exclude a member of a council or committee from a meeting if the member has an interest in a matter under consideration.

Proposed section 46E requires a person with delegated authority to deal with building and development applications to disclose any interest which the person has in a particular application. The matter must then be referred to the council which shall decide whether to deal with the application or refer it to another person with delegated authority to determine the application. The proposed section also requires a council employee when giving a report, recommendation or advice in writing in relation to certain council matters to disclose any pecuniary interest which the employee has in the matter.

Proposed section 46F provides for the keeping of registers of returns and records of disclosures.

Proposed section 46G provides that a person is guilty of an offence for a failure to comply with the disclosure provisions, the penalty being a fine of up to \$2,000 and possible disqualification for a civic office for a period of up to 7 years.

Proposed section 46H extends the time within which proceedings for offences under the Division may be instituted from 6 months to 12 months.

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Schedule 1 (4) inserts proposed Schedules 5 and 5A into the Principal Act.

Proposed Schedule 5 sets out the pecuniary interests to be disclosed in primary and ordinary returns by members and designated employees of councils.

Proposed Schedule 5A contains the forms of the primary and ordinary returns.
