

# Constitution (Disclosures by Members) Regulation 1983

[1983-155]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Financial Services Reform \(Consequential Amendments\) Bill 2002](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Constitution (Disclosures by Members) Regulation 1983



New South Wales

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# Constitution (Disclosures by Members) Regulation 1983



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation may be cited as the *Constitution (Disclosures by Members) Regulation 1983*.

### 2 Arrangement

This Regulation is divided as follows:

Part 1—Preliminary—cII 1-3

Part 2—Lodgment of returns by members—cII 4-6

Part 3—Pecuniary interests etc to be disclosed—cII 7-16

Part 4—Registers of pecuniary interests etc disclosed—cII 17-21

Part 5—Miscellaneous—cII 22, 23

Schedule 1—Forms

### 3 Interpretation

(1) In this Regulation, except in so far as the context or subject-matter otherwise indicates or requires:

**Clerk** means:

(a) in relation to a Member of the Legislative Council—the Clerk of the Legislative Council, or

(b) in relation to a Member of the Legislative Assembly—the Clerk of the Legislative Assembly.

**general election** means:

- (a) in relation to a Member of the Legislative Council—a periodic Council election, or
- (b) in relation to a Member of the Legislative Assembly—a general election of Members of the Legislative Assembly.

**Member** means a Member of either House of Parliament.

**ordinary return** means a return in or to the effect of Form 2.

**ordinary return period**, in relation to an ordinary return required to be lodged by a Member in a particular year, means:

- (a) where the last return lodged by the Member was an ordinary return—the period of 12 months ending on 30th June in that particular year, or
- (b) where the last return lodged by the Member was a primary return—the period commencing on the first day after the primary return date in relation to the Member and ending on 30th June in that particular year.

**primary return** means a return in or to the effect of Form 1.

**primary return date** means:

- (a) in relation to a person who was a Member on 30 June 1983 and who is not a person referred to in paragraph (b)—that date, or
- (b) in relation to a person who, after that date, becomes a Member (not being a re-elected Member)—the date on which he takes and subscribes the oath, or makes the affirmation, required under section 12 of the Act.

**re-elected Member** means a person who is returned as a Member at a general election and who had ceased to be a Member by reason of the termination, either by dissolution or expiry, of the Legislative Assembly immediately preceding that general election.

**register** means the Register of Disclosures by Members of the Legislative Council compiled and maintained under clause 17 or the Register of Disclosures by Members of the Legislative Assembly compiled and maintained under clause 18.

**return** means a primary return or an ordinary return.

**the Act** means the [Constitution Act 1902](#).

- (2) In this Regulation, a reference to a form is a reference to a form in Schedule 1.
- (3) A form shall be completed in accordance with such directions as are consistent with this Regulation and specified in that form.

## **Part 2 Lodgment of returns by Members**

### **4 Primary returns—existing Members**

A person who is a Member on 30 June 1983, shall, within 3 months after that date, lodge with the Clerk a primary return.

### **5 Primary returns—new Members**

A person who becomes a Member (not being a re-elected Member) after 30 June 1983, shall, within 3 months after the date on which he takes and subscribes the oath, or makes the affirmation, required under section 12 of the Act, lodge with the Clerk a primary return.

### **6 Ordinary returns**

- (1) A Member shall, before the prescribed date in each year, lodge with the Clerk an ordinary return unless the primary return date in relation to the Member is after 30th April in that year.
- (2) For the purposes of subclause (1), the prescribed date in any year is:
  - (a) except as provided in paragraph (b)—1st October in that year, or
  - (b) where there are no Members of the Legislative Assembly on 1st October in that year by reason of the termination, either by dissolution or expiry, of the Legislative Assembly—the date on which the Legislative Assembly first meets after 1st October in that year.

## **Part 3 Pecuniary interests etc to be disclosed**

### **7 Interpretation: Part 3**

- (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires:

**address** means:

- (a) in relation to a person other than a corporation—the last residential or business address of the person known to the Member disclosing the address,
- (b) in relation to a corporation—the address of the registered office of the corporation in New South Wales or, where there is no such office, the address of the principal office of the corporation in the place in which it is incorporated, or
- (c) in relation to any real property—the postal address of the property or the particulars of title of the property.

**debt** means:

- (a) a debt arising from a loan of money, or
- (b) a debt arising from the supply of goods or services.

**disposition of property** means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes:

- (a) the allotment of shares in a company,
- (b) the creation of a trust in respect of property,
- (c) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property,
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in respect of property,
- (e) the exercise by a person of a general power of appointment over property in favour of any other person, and
- (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of his own property and to increase the value of the property of any other person.

**donor** means a person who makes a gift.

**gift** means any disposition of property made otherwise than by will (whether with or without an instrument in writing), without consideration in money or money's worth passing from the donee to the donor, or with such consideration so passing if the consideration is not fully adequate, but does not include any financial or other contribution to travel.

**income** means assessable income within the meaning of the [Income Tax Assessment Act 1936](#) of the Parliament of the Commonwealth, but does not include remuneration payable under the [Parliamentary Remuneration Tribunal Act 1975](#).

**interest** means:

- (a) in relation to any property—any estate, interest, right or power whatever, whether at law or in equity, in or over the property, or
- (b) in relation to any corporation—a relevant interest (within the meaning of the [Corporations Act 2001](#) of the Commonwealth) in any securities issued or made available by the corporation.

**occupation** includes trade, profession and vocation.

**political party** means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the election

to the Parliament of New South Wales of a candidate or candidates endorsed by it or by a body or organisation of which it forms part.

**professional or business association** means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

**property** includes money.

**public company** means a company whose shares are listed for quotation on the stock market of a stock exchange in New South Wales.

**relative**, in relation to any Member, means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the Member or of the Member's spouse, or
- (b) the spouse of the Member or of any other person specified in paragraph (a).

**securities** has the same meaning as it has in section 92 (1) of the [Corporations Act 2001](#) of the Commonwealth.

**travel** includes accommodation incidental to a journey.

- (2) A reference in this Part to a disclosure concerning any real property, income, corporation or other thing, includes a reference to a disclosure concerning any real property situated, income derived, corporation incorporated, or other thing arising or received, outside New South Wales.
- (3) For the purposes of this Part, gifts or contributions to travel given, loans made, or goods or services supplied, to a Member by 2 or more corporations which are related to each other for the purposes of section 50 of the [Corporations Act 2001](#) of the Commonwealth shall be regarded as having been given, made or supplied by a single corporation.

## 8 Real property

- (1) A Member shall disclose in a primary return and an ordinary return:
  - (a) the address of each parcel of real property in which the Member had an interest:
    - (i) in the case of a primary return—on the primary return date, or
    - (ii) in the case of an ordinary return—at any time during the ordinary return period, and
  - (b) the nature of the interest in each such parcel of real property.
- (2) An interest in a parcel of real property need not be disclosed by a Member in a



primary return or an ordinary return if:

- (a) the Member had the interest only in his capacity as the executor or administrator of the estate of a deceased person and the Member was not a beneficiary under the will or intestacy, or
- (b) the Member had the interest only in his capacity as a trustee and the Member acquired the interest in the ordinary course of any occupation of the Member which is not related to his duties as a Member.

## **9 Sources of income**

(1) A Member shall disclose:

- (a) in a primary return—each source of income which the Member reasonably expects to receive in the period commencing on the first day after the primary return date and ending on the next succeeding 30th June, and
- (b) in an ordinary return—each source of income received by the Member at any time during the ordinary return period.

(2) A reference in subclause (1) to each source of income received, or reasonably expected to be received, by a Member is a reference to:

(a) in relation to income from an occupation of the Member:

- (i) a description of the occupation,
- (ii) where the Member is employed or the holder of an office—the name and address of his employer or a description of the office, and
- (iii) where the Member has entered into a partnership with other persons—the name (if any) under which the partnership is conducted,

(b) in relation to income from a trust—the name and address of the settlor and the trustee, or

(c) in relation to any other income—a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.

(3) The source of any income need not be disclosed by a Member in a primary return or an ordinary return if the amount of the income received, or reasonably expected to be received, by the Member from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.

## **10 Gifts**

(1) A Member shall disclose in an ordinary return:

- (a) the description of each gift received by the Member at any time during the ordinary return period, and
  - (b) the name and address of the donor of each such gift.
- (2) A gift received by a Member need not be disclosed in an ordinary return if:
- (a) the amount of the gift did not exceed \$500 unless:
    - (i) the gift was 1 of 2 or more gifts made by 1 person at any time during the ordinary return period, and
    - (ii) the amount of those 2 or more gifts exceeded, in the aggregate, \$500,
  - (b) the gift was a political contribution disclosed, or required to be disclosed, under Part 6 of the *Election Funding Act 1981*, or
  - (c) the donor was a relative of the Member.
- (3) For the purposes of this clause, the amount of a gift comprising property other than money shall be deemed to be an amount equal to the value of the property.

## **11 Contributions to travel**

- (1) A Member shall disclose in an ordinary return:
- (a) the name and address of each person who made any financial or other contribution to any travel undertaken by the Member at any time during the ordinary return period,
  - (b) the dates on which the travel was undertaken, and
  - (c) the names of the States, Territories of the Commonwealth and overseas countries in which the travel was undertaken.
- (2) A financial or other contribution to any travel undertaken by a Member need not be disclosed in an ordinary return if:
- (a) the contribution was made from public funds (including a contribution arising from travel on free passes issued under any Act or from travel in government vehicles),
  - (b) the contribution was made by a relative of the Member,
  - (c) the contribution was made in the ordinary course of any occupation of the Member which is not related to his duties as a Member,
  - (d) the amount of the contribution did not exceed \$250 unless:
    - (i) the contribution was 1 of 2 or more contributions made by 1 person at any time during the ordinary return period, and

- (ii) the amount of those 2 or more contributions exceeded, in the aggregate, \$250,
  - (e) the contribution was a political contribution disclosed, or required to be disclosed, under Part 6 of the *Election Funding Act 1981*, or
  - (f) the contribution was made by a political party of which he was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales or to enable him to represent the party within Australia.
- (3) For the purposes of this clause, the amount of a contribution (other than a financial contribution) shall be deemed to be an amount equal to the value of the contribution.

## **12 Interests and positions in corporations**

- (1) A Member shall disclose in a primary return and an ordinary return:
- (a) the name and address of each corporation in which he had an interest or held any position (whether remunerated or not) on the primary return date or at any time during the ordinary return period, as the case may be,
  - (b) the nature of the interest, or the description of the position held, in each such corporation, and
  - (c) except in the case of a public company—a description of the principal objects of each such corporation.
- (2) An interest, or position held, in a corporation need not be disclosed by a Member in a primary return or an ordinary return if the corporation is:
- (a) formed for the purpose of providing recreation or amusement or promoting commerce, industry, art, science, religion or charity or for any other community purpose,
  - (b) required to apply its profits (if any) or other income in promoting its objects, and
  - (c) prohibited from paying any dividend to its members.

## **13 Positions in trade unions and professional or business associations**

A Member shall disclose in a primary return and an ordinary return:

- (a) the name of each trade union and each professional or business association in which he held any position (whether remunerated or not) on the primary return date or at any time during the ordinary return period, as the case may be, and
- (b) the description of the position held in each such union or association.

## **14 Debts**

- (1) A Member shall disclose in a primary return and an ordinary return the name and address of each person to whom the Member was liable to pay any debt:
  - (a) in the case of a primary return—on the primary return date, or
  - (b) in the case of an ordinary return—at any time during the ordinary return period.
- (2) A liability to pay a debt shall be disclosed by a Member in a primary return and an ordinary return whether or not the amount, or any part of the amount, to be paid was due and payable on the primary return date or at any time during the ordinary return period, as the case may be.
- (3) A liability to pay a debt need not be disclosed by a Member in a primary return or an ordinary return if:
  - (a) the amount to be paid did not exceed \$500 on the primary return date or at any time during the ordinary return period, as the case may be, unless:
    - (i) the debt was 1 of 2 or more debts which the Member was liable to pay to 1 person on the primary return date or at any time during the ordinary return period, as the case may be, and
    - (ii) the amounts to be paid exceeded, in the aggregate, \$500.
  - (b) the Member was liable to pay the debt to a relative,
  - (c) in the case of a debt arising from a loan of money—the Member was liable to pay the debt to a bank, building society, credit union or other person whose ordinary business includes the lending of money and the loan was made in the ordinary course of business of the lender, or
  - (d) in the case of a debt arising from the supply of goods or services:
    - (i) the goods or services were supplied in the period of 12 months immediately preceding the primary return date or were supplied during the ordinary return period, as the case may be, or
    - (ii) the goods or services were supplied in the ordinary course of any occupation of the Member which is not related to his duties as a Member.

## **15 Dispositions of property**

- (1) A Member shall disclose in an ordinary return particulars of each disposition of real property by the Member at any time during the ordinary return period whereby the Member retained either wholly or in part, the use and benefit of the property or the right to reacquire the property at a later time.

- (2) A Member shall disclose in an ordinary return particulars of each disposition of property to a person by any other person under arrangements made by the Member, being a disposition made at any time during the ordinary return period, whereby the Member obtained, either wholly or in part, the use and benefit of the property.

#### **16 Discretionary disclosures generally**

A Member may, at his discretion, disclose in any return any direct or indirect benefits, advantages or liabilities, whether pecuniary or not:

- (a) which are not required to be disclosed by any provision of this Part, and
- (b) which the Member considers might appear to raise a conflict between his private interests and his public duty as a Member or which he otherwise desires to disclose.

### **Part 4 Registers of pecuniary interests etc disclosed**

#### **17 Register of Disclosures by Members of the Legislative Council**

The Clerk of the Legislative Council shall compile and maintain a register to be called the "Register of Disclosures by Members of the Legislative Council" in respect of disclosures of pecuniary interests and other matters made by Members of the Legislative Council pursuant to this Regulation.

#### **18 Register of Disclosures by Members of the Legislative Assembly**

The Clerk of the Legislative Assembly shall compile and maintain a register to be called the "Register of Disclosures by Members of the Legislative Assembly" in respect of disclosures of pecuniary interests and other matters made by Members of the Legislative Assembly pursuant to this Regulation.

#### **19 Form of registers**

- (1) A register shall be in loose-leaf form and shall, at any time, comprise the returns lodged by Members within the previous 8 years.
- (2) A register shall be divided into parts as follows:
  - (a) There shall be a separate part of a register for the primary returns lodged under clause 4.
  - (b) There shall be separate parts of a register for the ordinary returns lodged in respect of each ordinary return period, together with primary returns lodged under clause 5 in respect of primary return dates in that period.
- (3) The returns filed in any part of a register shall be filed in alphabetical order according to the surnames of the Members concerned.

## **20 Inspection of registers**

- (1) A register shall be open to public inspection at the office of the Clerk required to compile and maintain the register between the hours of 10.00 am and 4 pm on any day except Saturday, Sunday or a day which is a public holiday throughout New South Wales.
- (2) A register shall be open to inspection by Members at the office of the Clerk required to compile and maintain the register at any time the register is open for public inspection under subclause (1) and:
  - (a) in the case of the Register of Disclosures by Members of the Legislative Council—at any time the Legislative Council is sitting, or
  - (b) in the case of the Register of Disclosures by Members of the Legislative Assembly—at any time the Legislative Assembly is sitting.

## **21 Tabling and publication of registers**

- (1) The Clerk of the Legislative Council shall:
  - (a) within 21 sitting days of the Legislative Council after the last day for the lodgment of primary returns under clause 4—furnish to the President of the Legislative Council for tabling in the Legislative Council a copy of the Register of Disclosures by Members of the Legislative Council, and
  - (b) within 21 sitting days of the Legislative Council after the last day for the lodgment of any ordinary returns under clause 6—furnish to the President of the Legislative Council for tabling in the Legislative Council a copy of that part of the Register of Disclosures by Members of the Legislative Council that has not been previously tabled in the Legislative Council.
- (2) The Clerk of the Legislative Assembly shall:
  - (a) within 21 sitting days of the Legislative Assembly after the last day for the lodgment of primary returns under clause 4—furnish to the Speaker of the Legislative Assembly for tabling in the Legislative Assembly a copy of the Register of Disclosures by Members of the Legislative Assembly, and
  - (b) within 21 sitting days of the Legislative Assembly after the last day for the lodgment of any ordinary returns under clause 6—furnish to the Speaker of the Legislative Assembly for tabling in the Legislative Assembly a copy of that part of the Register of Disclosures by Members of the Legislative Assembly that has not been previously tabled in the Legislative Assembly.
- (3) For the purposes of subclauses (1) and (2), sitting days shall be counted, whether or not they occur during the same session.

- (4) Unless a copy of a register or a copy of part of a register tabled in the Legislative Council or Legislative Assembly is ordered to be printed upon its being tabled, the Clerk of the Legislative Council or the Clerk of the Legislative Assembly, as the case may be, shall cause it to be published as a parliamentary paper by the Government Printer.
- (5) The Clerk of the Legislative Council or the Clerk of the Legislative Assembly, as the case may require, may, for the purposes of the tabling or publication of a copy of a register, or of a part of a register, referred to in this clause, delete:
  - (a) any notes or directions concerning the completion of a return,
  - (b) where no disclosures are made under a particular main heading in a return—any matter under that heading apart from the word “NIL”, and
  - (c) any page number or other matter that is not relevant to any disclosure in a return.

## Part 5 Miscellaneous

### 22 Nil return

Where no disclosures are included in a primary return or an ordinary return, the return shall nevertheless be lodged.

### 23 Contravention of Regulation

A contravention of this Regulation shall not attract any criminal or civil liability, except to the extent expressly provided by section 14A of the Act.

## Schedule 1

### Form 1

(Clause 3)

CONSTITUTION (DISCLOSURES BY MEMBERS) REGULATION 1983

PRIMARY RETURNS—LEGISLATIVE COUNCIL/ASSEMBLY

#### DIRECTIONS:

- (1) The pecuniary interests and other matters required to be disclosed in this return are prescribed in clauses 8, 9, 12, 13 and 14 of the *Constitution (Disclosures by Members) Regulation 1983*.
- (2) The particulars required to complete this form are to be written in block letters or typed.
- (3) If any space is insufficient in this form for all the particulars required to complete it, attach an appendix for that purpose which is properly identified and signed by the Member.
- (4) Where there are no pecuniary interests or other matters of the kind required to be disclosed under a particular main heading in this form, the word “NIL” is to be placed in an appropriate space under that heading.

DISCLOSURES OF PECUNIARY INTERESTS AND OTHER MATTERS BY

..... AS AT .....

*(full name of Member)* *(primary return date)*

.....

*(Member's signature)*

.....

*(Date)*

A REAL PROPERTY

<b>Address of each parcel of real property in which I had an interest on the primary return date</b>	<b>Nature of interest</b>

B SOURCES OF INCOME

**1** Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the primary return date and ending on the next succeeding 30th June:

<b>Description of occupation</b>	<b>Name and address of employer or description of office held (if applicable)</b>	<b>Name under which partnership conducted (if applicable)</b>

**2** Sources of income I reasonably expect to receive from a trust in that period:

<b>Name and address of settlor</b>	<b>Name and address of trustee</b>



**3** Sources of other income I reasonably expect to receive in that period:  
*(Include description sufficient to identify the person from whom, or the circumstances in which, that income is expected to be received.)*

C INTERESTS AND POSITIONS IN CORPORATIONS

Name and address of each corporation in which I had an interest or held a position on the primary return date	Nature of interest (if any)	Description of position	Description of principal objects of corporation (except in case of public company)

D POSITIONS IN TRADE UNIONS AND PROFESSIONAL OR BUSINESS ASSOCIATIONS

Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) on the primary return date	Description of position

E DEBTS

Name and address of each person to whom I was liable to pay any debt on the primary return date.

F DISCRETIONARY DISCLOSURES

**Form 2**

(Clause 3)

CONSTITUTION (DISCLOSURES BY MEMBERS) REGULATION 1983

ORDINARY RETURN—LEGISLATIVE COUNCIL/ASSEMBLY

DIRECTIONS:

- (1) The pecuniary interests and other matters required to be disclosed in this return are prescribed by clauses 8-15 of the *Constitution (Disclosures by Members) Regulation 1983*.
- (2) The particulars required to complete this form are to be written in block letters or typed.
- (3) If any space is insufficient in this form for all the particulars required to complete it, attach an appendix for that purpose which is properly identified and signed by the Member.
- (4) Where there are no pecuniary interests or other matters of the kind required to be disclosed under a particular main heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

DISCLOSURES OF PECUNIARY INTERESTS AND OTHER MATTERS BY .....  
 ..... IN RESPECT OF THE PERIOD FROM  
 (full name of Member)  
 ..... TO .....

(ordinary return period)

.....

(Member's signature)

.....

(Date)

A REAL PROPERTY

<b>Address of each parcel of real property in which I had an interest at any time during the ordinary return period</b>	<b>Nature of interest</b>

B SOURCES OF INCOME

1 Sources of income I received from an occupation at any time during the ordinary return period:

<b>Description of occupation</b>	<b>Name and address of employer or description of office held (if applicable)</b>	<b>Name under which partnership conducted (if applicable)</b>

2 Sources of income I received from a trust at any time during the ordinary return period:

<b>Name and address of settlor</b>	<b>Name and address of trustee</b>

- 3 Sources of other income I received at any time during the ordinary return period:  
*(Include description sufficient to identify the person from whom, or the circumstances in which, that income was received.)*

C GIFTS

Description of each gift I received at any time during the ordinary return period	Name and address of donor

D CONTRIBUTIONS TO TRAVEL

Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time during the ordinary return period	Dates on which travel was undertaken	Names of States, Territories of the Commonwealth and overseas countries in which travel undertaken

E INTERESTS AND POSITIONS IN CORPORATIONS

Name and address of each corporation in which I had an interest or held a position at any time during the ordinary return period	Nature of interest (if any)	Description of position (if any)	Description of principal objects of corporation (except in case of public company)

F POSITIONS IN TRADE UNIONS AND PROFESSIONAL OR BUSINESS ASSOCIATIONS

<b>Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at any time during the ordinary return period</b>	<b>Description of position</b>

G DEBTS

Name and address of each person to whom I was liable to pay any debt at any time during the ordinary return period.

H DISPOSITIONS OF PROPERTY

- 1 Particulars of each disposition of real property by me at any time during the ordinary return period whereby I retained, either wholly or in part, the use and benefit of the property or the right to reacquire the property at a later time.
- 2 Particulars of each disposition of property to a person by any other person under arrangements made by me, being dispositions made at any time during the ordinary return period, whereby I obtained, either wholly or in part, the use and benefit of the property.

I DISCRETIONARY DISCLOSURES