

REPUBLIC OF NAURU

(No. 4 of 2004)

AN ACT

An Act relating to the establishment and maintenance of a
Register of Interests of Members of Parliament, and
for related purposes.

(Certified: 21st May 2004)

REPUBLIC OF NAURU

PARLIAMENT OF NAURU (REGISTER OF INTERESTS) ACT... 2004

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**PARLIAMENT OF NAURU (REGISTER OF
INTERESTS) ACT, 2004**

(No. 4 of 2004)

An Act relating to the establishment and maintenance
of a register of interests of members of
Parliament, and for related purposes

Be it enacted by the parliament of Nauru

(Certified: 21/05/2004)

PART I - PRELIMINARY

1. Short Title

This Act may be cited as the *Parliament of Nauru (Register of Interests) Act*

2004

2. Commencement

This Act shall commence on a day to be notified in the *Gazette* or 1 September 2004 whichever is earlier

3. Definitions

In this Act, unless the contrary intention appears -

"**family**", in relation to a member, means -

- (a) the spouse of that member; and
- (b) the children of that member who are wholly or mainly dependent on him for support;

"**financial benefit**" means -

- (a) the remuneration, fee or other pecuniary sum exceeding \$500 received by a member in respect of a contract of service entered into, or paid office held, by him; and
- (b) the total of all remuneration, fees or other pecuniary sums received by a member in respect of any trade, profession or vocation engaged in by the member where the total exceeds \$500,

other than remuneration received by the member under the [Salaries of Members of Parliament Act];

"**income source**" means -

- (a) a person or body of persons with whom a member entered into a contract of service or held a paid office; or
- (b) a trade, profession or vocation engaged in by a member;

"**member**" means a member of Parliament;

"**Register**" means the Register of Interests established under section 6;

"**return**" means a return in a form approved in accordance with section 5;

"**return period**" means the period of time between the making of successive returns;

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"spouse", in relation to a member, means a person, whether or not legally married to the member, who is living with the member as his or her spouse on a bona fide domestic basis and whether or not of the same sex.

PART 2--CODE OF CONDUCT

Code of conduct for members

4. It is hereby declared that a member of Parliament is bound by the following code of conduct--

- (a) members shall--
 - (i) accept that their prime responsibility is to the performance of their public duty and therefore ensure that this aim is not endangered or subordinated by involvement in conflicting private interests;
 - (ii) ensure that their conduct as members must not be such as to bring discredit upon the Parliament;
- (b) members shall not advance their private interests by use of confidential information gained in the performance of their public duty;
- (c) A member shall not receive any fee, payment, retainer or reward, nor shall he permit any compensation to accrue to his beneficial interest for or on account of, or as a result of the use of, his position as a member;
- (d) A member shall make full disclosure to the Parliament of--
 - (i) any direct pecuniary interest that he has;
 - (ii) the name of any trade or professional organisation of which he is a member which has an interest;
 - (iii) any other material interest whether of a pecuniary nature or not that he has--
in or in relation to any matter upon which he speaks in the Parliament;
- (e) A member who is a Minister shall perform his public duty without fear or favour and in such manner as to ensure that neither he or his family materially benefit from the exercise of his public duties;
- (f) A member who is Minister is expected to devote his time and his talents to the carrying out of his public duties.

PART 3 - DISCLOSURE OF MEMBERS' INTERESTS

Return to be submitted to Clerk

5. (1) Every member shall on 30 June in each year or within 30 days thereafter, submit to the Clerk an ordinary return.

(2) A person who is elected (other than re-elected) as a member shall, within 30 days after making and subscribing the oath or affirmation as required by the *Constitution* submit to the Clerk a primary return.

Form of returns

6. (1) A primary return required by this Part shall be in the prescribed form and shall contain -

- (a) a statement of all income sources that the member has or expects to have in the period commencing on the date of the return until 30 June next following
- (b) the name of each company or other body in which on the date of the primary return the member held any office of any kind;
- (c) the information as at the date of the primary return referred to in paragraphs (2)(c), (d), (e) and (h).

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(2) An ordinary return required by this Part shall be in the prescribed form and shall contain –

- (a) where the member receives or is entitled to receive a financial benefit during any part of the return period - a statement of the income source of the financial benefit;
- (b) Where the member holds or has held an office whether as director or otherwise in any company or other body, corporate or unincorporate, during the return period--the name of such company or other body;
- (c) the name and description of each company, partnership, association or other body in which the member holds or held during the return period, a beneficial interest which exceeds \$500;
- (d) a concise description of each trust in which the member or the member's family holds or held during the return period, a beneficial interest;
- (e) the address and description of all land in which the member has a beneficial interest other than by way of security for any debt;
- (f) the source of all significant contributions made in cash or otherwise (other than a contribution by the Public Service or the Parliament or a statutory authority of Nauru) to any travel beyond the limits of Nauru undertaken by the member during the return period;
- (g) particulars of all gifts of or above, or in total of or above, the amount or value of \$500 received by the member during the return period from a person other than a person related to the member or the member's spouse
- (h) any other substantial interest of the member or of the member's family of which the member has knowledge, whether of a pecuniary nature or otherwise, and which the member considers might appear to raise a conflict between his private interest and his public duty as a member.

(2) Nothing in this section shall require a member to disclose the amount of a financial benefit entered in the Register in relation to the member or the member's family.

Register of Interests

7. (1) The Clerk shall maintain a Register of Interests and shall cause to be entered therein, as soon as practicable after the Clerk receives it, all information submitted pursuant to section 5.

(2) The Register shall be in a form approved by the Speaker and may consist of the returns submitted pursuant to section 5.

Change in information in Register

8. (1) A member shall, within 30 days of any change occurring in relation to information in respect of the member or the member's family contained in the Register, notify the Clerk of such change and supply the Clerk with such detail as the Clerk requires to enable the Register to be amended.

(2) Where the Clerk is notified in pursuance of subsection 8(1), the Clerk shall amend the Register accordingly.

Inspection of Register

9. (1) A person may, during the normal business hours of the office of the Clerk, inspect the entries made in the Register in relation to a particular member and his or her family on providing to the Clerk the person's name and address.

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(2) The Clerk shall cause to be recorded in the Register, in such manner as the Clerk thinks fit but so that the information is readily available to any other person who later inspects the relevant entries, the name and address of each person who has inspected those entries and the date on which the inspection was made.

(3) A person inspecting an entry in the register shall not provide to the Clerk as his or her name a name other than his or her full and correct name, or as his or her address an address other than his or her correct residential address.

Penalty: \$500.

Restriction on publication

10. A person shall not publish or comment on information contained in the Register unless the information published constitutes a fair and accurate summary, or the comment is a fair comment, and it is published or made, without malice, in the public interest.

Penalty: \$1000

PART 4 - MISCELLANEOUS

Failure to comply with Act

11. (1) A wilful contravention by a member of a requirement of this Act is an offence.

(2) Parliament may resolve

(i) To refer a contravention or alleged contravention to a committee of the House which may recommend the imposition of a fine not exceeding \$10,000 or that the member be prohibited from entering the House for a period not exceeding 3 years or both; or

(ii) that the Speaker refer a contravention or alleged contravention to the Supreme Court under section 12(1).

Jurisdiction of the Supreme Court

12. (1) The Supreme Court has jurisdiction to hold an inquiry into an allegation that a member has wilfully contravened a provision of this Act

(2) An inquiry under subsection 12(1) shall be held upon the Court receiving a request from the Speaker, a member, or of a person ordinarily resident in Nauru, that the Court hold an inquiry into a complaint that a member has wilfully contravened a provision of this Act.

(3) The Court may determine that an inquiry into a complaint is not necessary and order that a member comply with a provision of this Act.

(4) A complaint made under subsection 12(2) shall be delivered to the Registrar of the Supreme Court and need not be in any particular form but must state –

(a) that it is made under this Act;

(b) the name of the member concerned;

(c) the nature of the complaint;

(d) the matters of fact relied upon in sufficient detail that they are capable of being ascertained and investigated so as to determine the truth of the matters complained of;

(e) the name of the complainant (but so that the name of the complainant shall not be disclosed by any person other than by an order of the Supreme Court that the disclosure is in the public interest).

(5) Upon receipt of a complaint under subsection 12(2) the Registrar shall request the Secretary for Justice to act as counsel assisting the Court to assist with the

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inquiry, arrange for the calling of witnesses and documents and, where necessary, for the examination and cross-examination of witnesses.

(6) The Chief Justice may make such rules of Court as he considers necessary or appropriate for the purposes of this section

(7) If the Supreme Court is satisfied that a member has wilfully contravened a provision of this Act it may:

(a) impose a penalty on the member of not more than \$10,000; and

(b) if it is satisfied that the wilful contravention is serious and material - impose a term of imprisonment on the member of not more than 5 years or place the member on a bond to be of good behaviour for a period not exceeding 5 years

(8) The question of whether an act or omission was wilful shall be determined on the balance of probabilities.

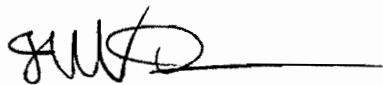
(9) A contravention of this Act that is serious and material includes, but is not limited to, one in which the member has contravened sections 4(b) or (c), or section 6(2)(f).

(10) The Supreme Court may, if it is satisfied that a complaint from a person who is ordinarily resident in Nauru, was without merit, vexatious or malicious, order the complainant to pay the legal costs of hearing and determining the complaint and may determine the quantum of costs payable in lieu of their being taxed.

Regulations

13. The Cabinet may make regulations prescribing any matters or things authorised or required or necessary to be prescribed under this Act.

I hereby certify that the above is a fair print of a Bill for an Act entitled **Parliament of Nauru (Registration of Interests) Act 2004** has been passed by Parliament of Nauru and is now presented to the Speaker for his Certificate under Article 47 of the Constitution.



Clerk of Parliament
21st May 2004

Pursuant to Article 47 of the Constitution, I, **DAVID ADEANG**, Speaker of Parliament, hereby certify that the **Parliament of Nauru (Registration of Interests) Act 2004** has been passed by Parliament of Nauru.



Speaker
21st May 2004