

Local Government (Pecuniary Interests of Councillors) Bill 1982

NOTES ON CLAUSES

Clause 1 is a clause in the usual form, containing provisions relating to the short title and the commencement of the Act. The Principal Act is the *Local Government Act 1958*.

Clause 2:

Sub-clause (1) (a) inserts new sub-sections (1) to (1D) into section 181 of the Principal Act—

Proposed sub-section (1) requires a councillor to disclose immediately before the consideration or discussion by the council or any committee of the council of any contract, proposed contract or other matter in which he has a direct or indirect pecuniary interest, the nature of the interest.

Proposed sub-section (1A) permits the councillor to remain in the room (if he wishes) during the consideration or discussion of the matter in which he has declared an interest and take part in that discussion but he may not move or second a motion in relation to the matter.

Proposed sub-sections (1B) and (1C) require the councillor to leave the room and remain outside it and not be in hearing or view of the room while any vote is being taken on the matter in relation to which he has disclosed an interest. The councillor is to notify the chairman that he is leaving the room and the chairman is to cause the councillor to be informed when he may return to the room.

Proposed sub-section (1D) requires a record to be kept of the matters referred to in proposed sub-sections (1A) to (1C).

Sub-clause (1) (b) inserts new sub-section (2) into section 181 of the Principal Act. The sub-section (2) specifies the matters which are not considered to an interest in any contract, proposed contract or other matter for the purposes of section 181.

Sub-clause 2 (d) repeals sub-sections (6) and (7) of section 181 of the Principal Act.

Sub-clause 2 (e) increases the maximum penalty under section 181 from \$500 to \$2000 for a first offence and for a second or subsequent offence to imprisonment for up to three months.

Sub-clause 2 (f) inserts new sub-section (8B) into section 181 to provide that any information for an offence under that section may be laid at any time within three years following the commission of an offence.

Clause 3 amends section 53 of the Principal Act to provide that any person convicted of an offence against section 53A (which relates to improper use of information acquired by virtue of being a councillor) shall not be capable of being or continuing to be a councillor for seven years after conviction unless relief is granted by the courts.

Clause 4 amends section 53A of the Principal Act by providing a fine for a first offence of \$2000 and for a second or subsequent offence to imprisonment for up to three months.

Clause 5 of the Bill inserts a new section—181A—into the Principal Act which provides for the submission of returns and the establishment of a Register of Interests by councillors and nominated officers. Upon commencement of the section the following provisions will apply:

- (1) A person who is a councillor is to submit a primary return within 90 days of the nominated day to the municipal clerk.
- (2) A person who becomes a councillor after the nominated day is to submit a primary return within 30 days after taking the declaration under section 54 of the Principal Act.
- (3) The Council may resolve that nominated officers are to submit returns. Where council so resolves, nominated officers are to submit returns within 30 days of the council resolution. A newly employed nominated officer is to submit a return within 30 days of commencement of employment.
- (4) The matters to be disclosed for the purpose of the primary return and ordinary return are specified. The penalty for failure to comply with this section is \$1000.
- (5) A councillor or nominated officer is required to disclose any change, variation or additional information in the second or subsequent return, but is not required to disclose any information previously disclosed. The penalty for failure to comply with this section is \$1000.
- (6) A primary or ordinary return is to be in the prescribed form.
- (7) The municipal clerk is to maintain a Register of Interests of the councillors and where required, the nominated officers and shall cause to be entered therein all information furnished to him by way of a return.
- (8) The municipal clerk may allow a person to inspect the register where that person has made written application to the municipal clerk to do so. The register may be inspected at the council offices during normal office hours.
- (9) The municipal clerk is to take all reasonable steps to insure that no person other than a person who has made written application, is permitted to inspect the register or returns.
- (10) An employee of the council, whether before or after he ceases to be employed, shall not record, divulge or communicate any information provided under this section except for the purposes of discharging his official duties. A penalty of \$1000 is imposed for contravention of this provision.
- (11) The proposed section is to apply to the cities of Melbourne and Geelong.
- (12) The section provides for the making of Regulations by the Governor in Council.
- (13) Any information for an offence under this section may be laid within three years following the commission of an offence.