



Tasmania

CODE OF CONDUCT

GOVERNMENT MEMBERS OF PARLIAMENT

2006

CODE OF CONDUCT

TABLE OF CONTENTS

1	INTRODUCTION	1
2	PRINCIPLES OF ETHICAL CONDUCT	2
2.1	RESPECT FOR LAW AND OUR SYSTEM OF GOVERNMENT	2
2.1.1	<i>The Law</i>	2
2.1.2	<i>Relationship with Other Elements of the System of Government</i>	2
2.1.3	<i>Cabinet Government</i>	3
2.2	INTEGRITY	5
2.2.1	<i>Standards of Personal Conduct</i>	5
2.2.2	<i>Improper Advantage</i>	5
2.2.3	<i>Conflicts of Interest</i>	5
2.3	FAIRNESS AND EQUITY	7
2.4	DILIGENCE AND PROFESSIONALISM	8
2.5	ECONOMY	9
2.6	PRINCIPLES OF PUBLIC LIFE	10
3	SPECIFIC PROVISIONS	11
3.1	CONSTITUTION ACT 1934	11
3.1.1	<i>Introduction</i>	11
3.1.2	<i>Office of Profit (section 32)</i>	11
3.1.3	<i>Contractors (section 33)</i>	12
3.1.4	<i>Vacation of office (section 34)</i>	15
3.2	CRIMINAL OFFENCES	16
3.2.1	<i>Receiving or Soliciting a Bribe</i>	16
3.2.2	<i>Other Crimes Against the Executive and Legislative Power</i>	16
3.3	DISCLOSURE OF INTERESTS	17
3.4	MEMBERS' ENTITLEMENTS	19
4	OTHER REFERENCES	21
4.1	CODE OF ETHICAL CONDUCT (STANDING ORDER 2A)	21
4.2	OTHER STANDING ORDERS	21
4.3	GIFTS POLICY	22
4.4	GOVERNMENT MEMBERS HANDBOOK	22

1 INTRODUCTION

- 1.1 In issuing this Code I would like to confirm my strong personal commitment to the highest standards of conduct and ethics and the commitment of my Government to doing everything it can to prevent impropriety in public life and to promote exemplary conduct by public officials.
- 1.2 All members of the Government recognise the importance of transparent and open government, and acknowledge that they are expected to behave according to the highest standards of personal conduct in the performance of their duties.
- 1.3 This Code has been developed for the guidance of all parliamentary members of the Government. It sets out principles to assist members in observing the expected standards of conduct in public office and to act as a benchmark against which that conduct can be measured.
- 1.4 Much of the material in the Code is drawn from existing legislative and other sources and much of it is simply common sense. Its prime purpose is to draw together all of these matters in a single place. For the first time it also references the principles of public life set out in the first report of the UK Committee on Standards in Public Life.
- 1.5 The Code is intended to be a living document and I would welcome any feedback on it.
- 1.6 The Code is available on the Web at <http://www.dpac.tas.gov.au/govtguidelines/codeofconduct>
- 1.7 For people without Web access, printed copies can be obtained from the Department of Premier and Cabinet (GPO Box 123B, Hobart, 7001 or phone 03 6233 8011).

Paul Lennon
Premier

1 June 2006

2 PRINCIPLES OF ETHICAL CONDUCT

2.1 RESPECT FOR LAW AND OUR SYSTEM OF GOVERNMENT

2.1.1 THE LAW

- (i) Members of Parliament (MPs) are clearly subject to State, Federal and common law to the same extent as any other citizen. In fact there are some laws, such as disclosure of interests legislation, which apply only to MPs; but not every aspect of public life is explicitly covered by law. Merely avoiding breaking the law will not always be enough to guarantee an acceptable standard of conduct.
- (ii) The rule of thumb must be: if I were called before a public enquiry to justify my conduct, would I be able to do so? - the so-called "*Royal Commission Test*".

2.1.2 RELATIONSHIP WITH OTHER ELEMENTS OF THE SYSTEM OF GOVERNMENT

- (i) Government Members must be careful that their behaviour does not impinge upon the proper role of the other branches of government, the Parliament and judiciary, or other elements of executive government, such as the Executive Council.

Example

Members should not make comment on any matter that is before the courts for consideration.

Example

Many government appointments have to be made by the Governor-in-Council. Where that step has yet to occur the appointment should not, as a matter of law or of courtesy, be announced as having been made. If an announcement cannot be avoided, Government House should be advised that it is to be made and the announcement itself should be made in terms of the Minister intending to recommend the appointment to His Excellency.

2.1.3 CABINET GOVERNMENT

- (i) Tasmania's constitutional arrangements have their origins in the British Westminster system. While we have moved a fair way from that model in its purest form it is still the basis for two important principles relating to the operation of Cabinet-style government: Cabinet confidentiality and the notion of collective responsibility.

Cabinet confidentiality

- (i) Governments do not have access to the papers of previous governments even though those papers form part of the public records of the State. By extension this means that Members and their staff do not have access to departmental files.
- (ii) Cabinet papers are not publicly accessible until a period of 25 years has elapsed. During that time access to a past Cabinet's papers may be permitted at the discretion of the Secretary, Department of Premier and Cabinet, and with the agreement of the relevant past Premier. If that Premier is no longer available the current Leader from the same political party may give permission instead.

Collective Responsibility

- (i) Once Cabinet has reached a decision on an issue that decision is binding on all of its members. A Member of Cabinet who publicly dissents from a Cabinet decision has little option but to resign.

Relationship with the Bureaucracy

- (i) The public service owes its loyalty to the government of the day and its duty is to implement that Government's policy program.
- (ii) It follows that MPs, particularly Ministers, are often in a position to give directions to public servants about the performance of their official duties. In no circumstances should a public servant or member of Ministerial staff ever be instructed to commit an illegal act or to refrain from carrying out a statutory duty.

- (iii) This rule applies with even greater force to the relationship between Ministers and holders of statutory offices, many of whom will also be employed as public servants. Acts frequently assign a set of responsibilities to an office holder or statutory body operating at arms length from executive government. These arrangements are designed to remove specific decision making and investigative processes from political influence and it is essential that they remain, and are seen to remain, free from interference.
- (iv) It is also improper, and may be illegal, to encourage a public servant to act unethically or to engage in political activity during work time or using public resources.

Example

A public servant should not be instructed to provide confidential information to a company tendering for a contract.

- (v) It is quite proper, however, for a Minister to seek a briefing on the exercise of a statutory power by an official working in an agency administered by that Minister.

Example

The Minister for Police and Public Safety may be briefed on the reasons that the Commissioner of Police determined that a protest rally permit should be refused.

- (vi) Government Departments, other State Authorities and the people employed in them are responsible to a specific Minister (in some cases more than one) in their work. For this reason Ministers should only deal directly with the department(s) for which they are personally responsible. If information is required about another portfolio area (which it often will be) the request should be directed through the Office of the responsible Minister. The same rule applies to requests for information from backbenchers or non-government Members.

2.2 INTEGRITY

2.2.1 STANDARDS OF PERSONAL CONDUCT

- (i) MPs must strive to maintain high standards of personal conduct to avoid bringing discredit on the Government, the Parliament and the State of Tasmania. In making choices about conduct, particularly in matters which will be in the public arena, Members should have regard to prevailing community values and standards. They should also, where possible, avoid giving unnecessary offence to groups in the community whose beliefs and views differ from the mainstream.

2.2.2 IMPROPER ADVANTAGE

- (i) MPs must at all times avoid taking advantage of their official position for private benefit. Public duties must be carried out objectively and without consideration of personal or financial gain.
- (ii) Information not in the public domain which is obtained in the course of official duties must not be turned to private advantage, even after leaving public office. By the same token public property or services must not be used for personal gain.
- (iii) The Government has adopted a Gifts Policy applicable to all Members of Cabinet and Parliamentary Secretaries and their immediate families. Its starting point is that gifts, other than token items, should not be accepted, other than in a few defined cases. Other Members should refer to the policy for guidance if a gift is offered to them in their official capacity.

2.2.3 CONFLICTS OF INTEREST

- (i) Conflicts of interest arise where a Member is in a position to take part in, or influence, an official decision which could improperly advantage the Member personally, or a relative or associate, especially in a financial sense.
- (ii) A member of Cabinet who has a material interest in a matter to be discussed in Cabinet must declare the interest at the commencement of the meeting and may be required to take no part in the discussion on that matter. The fact of

the declaration will be recorded in any resulting Cabinet decision on the item in question.

- (iii) The Government's Gifts Policy and the disclosure requirements in the *Parliamentary (Disclosure of Interests) Act 1996* are based on the need to avoid actual or perceived conflicts between the public duty of an elected official and their personal interests. MPs should wherever possible arrange their private financial affairs in a manner that prevents such conflicts from arising.
- (iv) Circumstances which could give rise to a serious conflict of interest are not necessarily restricted to those where an immediate advantage will be gained. They may instead take the form of a promise of a future benefit, such as a promise of post-parliamentary employment.
- (v) Any conflict between a Member's private interest and their public duty which arises must be resolved promptly in favour of the public interest.
- (vi) Material conflicts do not arise simply because a decision will benefit a Member, their relative or associate, as part of a broad class of people e.g. all secondary school students or all businesses paying payroll tax.

2.3 FAIRNESS AND EQUITY

- 2.3.1 Members of Parliament have an obligation to serve the people of Tasmania to achieve improvements in the economic and social conditions of all Tasmanians. Decisions must be made objectively, impartially, honestly and without pre-judgement while having regard to the Government's stated policy framework.
- 2.3.2 It is important to recognise that MPs are elected as representatives and not as delegates. The distinction is that a representative has an obligation to exercise his or her own judgement on every issue and not simply to act as mouthpiece for their constituents.
- 2.3.3 This does not prevent Members from acting as effective advocates for constituency interests but in extreme situations it could mean subordinating local considerations to the interests of the State as a whole.
- 2.3.4 Members of the public are entitled to a fair hearing by their elected representatives and MPs should treat the information passed on to them in their official capacity with an appropriate degree of confidentiality. All people with whom a Member has official dealings should be treated with respect and courtesy.
- 2.3.5 Within the Parliament Members should have regard for proper standards of parliamentary conduct and avoid unfairness in political dealings. They must take particular care to consider the rights and reputations of others before making use of the unique protections available under parliamentary privilege. This privilege should never be used recklessly or without due regard for accuracy.

2.4 DILIGENCE AND PROFESSIONALISM

- 2.4.1 All Government Members who hold a specific office must devote the whole of their time and talents to public duties. Government Backbench Members who wish to pursue private occupations, paid or unpaid, must first seek the approval of the Premier. It should be noted that State disclosure of interests legislation requires MPs to declare all non-parliamentary sources of income, including paid employment.
- 2.4.2 Members have a duty to make sure they are fully informed on the issues which come before the Parliament for determination. Before making any decisions or commitments on behalf of Government, Ministers have an obligation to keep properly informed on all aspects of their portfolios and to:
- seek adequate briefing;
 - consult where appropriate; and
 - give due consideration to all viable options.
- 2.4.3 All Members have an obligation to promote Tasmania's interests in every arena and to avoid public comments about the State which could be damaging to social and economic confidence.

2.5 ECONOMY

- 2.5.1 Members must make economical use of the public resources which are made available to them as MPs or office holders. Those resources must only be used in connection with official duties and not for personal benefit.
- 2.5.2 Members are always accountable for the claims they make on the public purse and they are personally responsible for ensuring that all expenditure is:
- related to official duties only;
 - properly recorded; and
 - claimed promptly where reimbursement is involved.
- 2.5.3 Where details of travel or other expense claims are completed by a staff member on behalf of a Member, care must be taken to ensure that they are accurate and supported by diary entries or other records maintained in relation to the Member's daily activities.
- 2.5.4 The Government Members Handbook produced by the Department of Premier and Cabinet provides information and guidance to those members on the use of government resources.

2.6 PRINCIPLES OF PUBLIC LIFE

- 2.6.1 In general terms Members are expected to observe the seven principles of public life articulated in the first report of the UK Committee on Standards in Public Life and which are set out below.

Seven principles of public life

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

3 SPECIFIC PROVISIONS

3.1 CONSTITUTION ACT 1934

3.1.1 INTRODUCTION

- (i) The Tasmanian *Constitution Act 1934* contains a number of provisions relevant to Members' conduct. The Act is the key piece of legislation that establishes the structure of Parliament and the broad procedural framework for its operation.
- (ii) Division 5 of Part III of the Act deals with matters relating to the conduct of Members. The relevant sections are summarised and reproduced below (repealed provisions are noted in the following way e)).

3.1.2 OFFICE OF PROFIT (SECTION 32)

- (i) The intention of the section is to prevent double dipping. A person is not permitted to draw a government pension or hold a government job while a Member of Parliament. A breach of the section renders the Member's seat vacant.

Office of profit

32. Except as otherwise expressly provided, if any Member of either House shall accept any pension payable, out of the Public Account, during the pleasure of the Crown or any office of profit or emolument by the appointment of -

(a) the Governor or the Governor in Council; or

(b) a State instrumentality -

his seat shall thereupon become vacant.

(2) The provisions of subsection (1) do not apply to a person by reason only that he holds the office of Minister of the Crown or Secretary to Cabinet for this State.

(3) No judge of the Supreme Court, and no person holding any office of profit or emolument to which the provisions of subsection (1) apply, shall be capable of being elected to, or of holding, a seat in either House.

(4) In this section -

"Public Account" means the Public Account as defined in the Public Account Act 1957;

"State instrumentality" means a State instrumentality as defined in section 33(6).

3.1.3 CONTRACTORS (SECTION 33)

- (i) This provision aims to prevent contractual relationships between Members of Parliament and the Crown, the underlying principle being to prevent MPs from taking advantage of their special position or being placed in a situation of conflict of interest.
- (ii) There are exceptions for run of the mill dealings between citizens and the Crown such as purchasing Hydro power or leasing Crown land, or in some cases where the contract is between the Crown and a larger entity (a corporation with more than 30 members) in which the Member holds an interest.
- (iii) The section is quite complex and any Member who believes they may be in breach of it should seek immediate professional advice.
- (iv) The sanction for breach of this provision is, like section 32, loss of office. New Members have 6 months to divest themselves of any such interests before the penalty is invoked.

Contractors

- 33(1) Subject to this section, any person who shall directly or indirectly himself or by any person whatsoever in trust for him or for his use or benefit or on his account, undertake, execute, hold, or enjoy in the whole or in part, any contract or agreement with the Government of the State shall be incapable of being elected or of sitting or voting as a Member of either House during the time he shall execute, hold, or enjoy any such contract or any part or share thereof or any benefit or emolument arising from the same, and if any Member shall enter into any such contract or agreement or having entered into it shall continue to hold it, his seat shall be vacant.
- (2) Subsection (1) does not render a person incapable of being elected or of sitting or voting as a Member of either House or render the seat of a Member vacant by reason only of the making, entering into, or acceptance of a contract or agreement by a corporation (not being a prescribed corporation) consisting of more than 30 members where the contract or agreement is made, entered into, or accepted for the general benefit of the corporation.
- (2A) For the purposes of subsection (2), a prescribed corporation is a corporation -
- (a) in which a Member or other person to whom that subsection relates holds one-fifth or more of -

- (i) the total number for the time being of the issued shares of all classes; or
- (ii) the total amount of the stock for the time being;

(b) in which the Member or other person is entitled to exercise, or to control the exercise, of one-fifth or more of the total voting rights; or

(c) that is, by virtue of section 7 (5) of the Companies (Tasmania) Code, related for the purposes of that Code to any corporation to which paragraph (a) or paragraph (b) of this subsection relates.

(2B) For the purposes of subsection (2A), shares or stock held, or voting rights exercisable, by a member of the family of the Member or other person shall be deemed to be shares or stock held, or voting rights exercisable, by that Member or person.

(3) The provisions of subsection (1) shall not apply in respect of any contract or agreement -

(a) for the purchase or lease of any land of the Crown under and in pursuance of any Act authorizing the same;

(b) for the sale or surrender of any land resumed or acquired by the Crown for any public purpose under the provisions of any Act if the purchase money or consideration has been determined by arbitration or by a judicial tribunal or has been approved by a resolution of both Houses;

(c) for or in respect of a loan to the Treasurer or any person authorized to borrow on behalf of the State;

(ca) for or in relation to the making of a loan by Tasmania Development and Resources, if the loan is made upon the like conditions and at the same rate of interest (if any) as would be applicable if the loan were made to any other private person;

(cb) for or in relation to the education of a person who is wholly or partly dependent on a Member (including, but without prejudice to the generality of this paragraph) -

(i) the conveyance of such a person to or from a college, school, or other educational establishment;

(ii) the granting or payment to such a person of any allowance in connection with a course of studies; and

(iii) the granting, tenure, or enjoyment of any bursary, scholarship, award, or exhibition-

if the contract or agreement is entered into or made by the Member as a private citizen and upon and subject to the same conditions as would be applicable if it had been entered into or made with any other private person;

(d) for the provision or supply of any prescribed service or the sale or supply, by public auction or public tender, of any goods or the provision for any insurance or indemnity which the State or any State instrumentality on its behalf supplies or undertakes to, for, or for the use of, the public generally if the same -

- (i) is entered into by the Member as a private citizen; and

(ii) is subject to the like conditions, and for a consideration of the like amount, or calculated upon a like basis, as would be applicable respectively to such contract or agreement if the same were made by the State or such State instrumentality with any other private person; or

(e)

(f) for or in relation to the making of a loan by -

(i)

(ii) the Retirement Benefits Fund Investment Trust -

if the loan is made upon the like conditions and at the same rate of interest as would be applicable if the loan were made to any other private person.

(4) Subsection (1) does not operate so as to render a person incapable of being elected, or of sitting or voting, as a Member of either House by reason of his having entered into any contract or agreement to which that subsection relates if, but only if -

(a) the contract or agreement was entered into by the Member before the date on which he was nominated for election; and

(b) not later than 6 months after the date of his election as a Member the contract or agreement is effectually terminated or rescinded.

(5) For the purposes of this section, a contract or agreement with the Government of the State is a contract or agreement -

(a) that is entered into by or on behalf of the State, or by any Minister of the Crown in his capacity as such, or by any Department; or

(b) that is entered into by or on behalf of a State instrumentality.

(6) In this section -

"agricultural operations" includes horticulture, dairy farming, bee keeping, poultry farming, and the use of land as grazing land or pasture land;

"Corporation" means a corporation within the meaning of section 5 (1) of the Companies (Tasmania) Code;

"member of the family", used in relation to a Member or other person, means -

(a) the spouse of that Member or person; and

(b) a child or stepchild (whether legitimate or illegitimate) of that Member or person;

"prescribed service" means -

(a) electricity;

(b) gas;

(c) water;

(d) public transport facilities;

(e) sewerage or drainage facilities;

(f) medical, surgical, dental, or hospital treatment;

(g) professional or technical services in connection with the carrying on of agricultural operations; and

(h) any other service that is declared, by resolution of both Houses, to be a prescribed service for the purposes of this section;

3.1.4 VACATION OF OFFICE (SECTION 34)

- (i) This is quite a straightforward provision which renders a Member's seat vacant in a range of situations. These situations relate either to a Member being unwilling or unable to discharge the duties of their office or to the Member becoming personally unfit to hold office.

Vacation of office for other causes

34. If any Member of either House shall -

(a) for one entire session thereof, fail to give his attendance therein without the permission of such House;

(b) take any oath or make any declaration or act of acknowledgment of allegiance or adherence to any foreign prince or power;

(c) do, or concur in, or adopt, any act whereby he may become a subject or citizen of any foreign state or power;

(d) become bankrupt, or take the benefit of any law relating to bankruptcy;

(e) be attainted of treason or be convicted of any crime and is sentenced or subject to be sentenced to imprisonment for any term exceeding one year unless he has received a free pardon in respect thereof; or

(f) become of unsound mind -

his seat in such House shall thereupon become vacant.

3.2 CRIMINAL OFFENCES

3.2.1 RECEIVING OR SOLICITING A BRIBE

- (i) Section 71 of the *Tasmanian Criminal Code* makes it an offence for a Member of Parliament to accept a bribe. This section would, for example, cover the situation of a Member accepting payment in return for asking a question in Parliament, as in the “cash for questions” scandal in the UK in the 1990s.

Member of Parliament receiving bribes

71 Any person who, being a Member of either House of Parliament, solicits, receives, or obtains, or agrees to receive or obtain, any property or benefit of any kind for himself or any other person, upon any understanding that the exercise by him of his duty or authority as such Member shall be in any manner influenced or affected, is guilty of a crime.

Charge:

Receiving [or soliciting] a bribe as a Member of Parliament.

3.2.2 OTHER CRIMES AGAINST THE EXECUTIVE AND LEGISLATIVE POWER

Other provisions in Chapter VII of the Criminal Code, Crimes Against the Executive and Legislative Power, create crimes of:

- (i) interfering with an executive officer [i.e. the Governor, a member of the Executive Council or a Minister];
- (ii) interfering with Parliament [using force, threats or fraud to interfere with a Member of Parliament or either House of Parliament];
- (iii) unlawfully influencing a Member of Parliament [using force, threats or fraud to influence a Member of Parliament]; and
- (IV) bribing or offering to bribe a Member of Parliament.

3.3 DISCLOSURE OF INTERESTS

3.3.1 The *Parliamentary (Disclosure of Interests) Act 1996* requires Members of both Houses to make a declaration of their interests when first elected to Parliament. Members must then lodge a return by 1 October in each subsequent year. Return forms are available from the Clerk of each House.

3.3.2 The categories of interests which must be disclosed are:

- (i) all sources of income exceeding \$500, not including parliamentary salary (there is no requirement to declare the size of the income).
- (ii) all interests in real property and the address of the property (there is no requirement to state the value of the property nor to declare interests acquired as a trustee in the normal course of a Member's occupation or held as an executor, but not beneficiary, of an estate).
- (iii) all interests in corporations other than those formed for a community purpose or not-for-profit corporations. The principal objects of the corporation must also be declared except in the case of public companies.
- (iv) all positions held in a trade union or professional or business association (there is no requirement to declare mere membership of such a body).
- (v) all debts of more than \$500, or debts to a single person which are more than \$500 in aggregate (there is no need to declare debts to relatives, those owed to people or organisations whose normal course of business includes lending or those arising from goods or services supplied to a Member's business unconnected with parliamentary duties).
- (vi) details of dispositions of real property where the use of the property or the right to re-acquire it is retained.
- (vii) details of dispositions of real property under an arrangement made by the Member where the Member obtained the use and benefit of the property.
- (viii) details of any sponsored travel worth \$250 or more, or \$250 or more in aggregate over a year from a single source (there is no need to declare

publicly funded travel or contributions from relatives or political parties, or which are related to a non-parliamentary occupation).

- (ix) all gifts over \$500, or \$500 or more in aggregate over a year from a single source, plus details of the donor (there is no need to declare gifts from relatives).

3.3.3 The Act also provides a mechanism for Members to make a discretionary declaration of any interest, pecuniary or not, which is not covered by the Act or which the Member feels may give rise to a conflict of interest.

3.3.4 All matters which are disclosed in a return by a Member, whether on a mandatory or discretionary basis, form part of a register of interests which is a public document.

3.3.5 Interests held by spouses and other family members are not covered by the legislation although a Member could choose to declare them in a discretionary disclosure. Any Member who believes that interests held by them, or a family member, may give rise to a real or apparent conflict of interest should to discuss the matter with the Premier.

3.4 MEMBERS' ENTITLEMENTS

- 3.4.1 The 1997 Committee of Review into Inquiring into the Entitlements of Members of the Tasmanian Parliament Regarding Allowances and Benefits, comprised of three members of the Tasmanian Industrial Commission, articulated some general principles in relation to Members entitlements. These principles are set out below:

Purpose to be Work Related

Consistent with contemporary practice in public sector employment we believe that all benefits and allowances should only be payable in respect of purposes that are work related in nature.

Scope of Application

We are of the view, again consistent with contemporary practice in public sector employment, that work related benefits and allowances payable to Members of Parliament should not extend to a Member's spouse, dependents or other family members.

Quantum

In our opinion the quantum or amount of allowances, in general, should be prescribed as flat money amounts and not be referenced to some percentage of the basic salary. The only exception to this principle will be those allowances that, like Committee Sitting Fees, relate to the nature of the work, skill and responsibility required. This approach, also, is consistent with contemporary practice in public sector employment.

Means of Establishment

We believe that, for purposes of utmost transparency, the public interest requires all allowances and benefits accruing to Members of Parliament to be expressed in an appropriate Act of Parliament.

Method of Application

Because the method of application is specific to the purpose and nature of each allowance and benefit, we deal with that method in the context of the circumstances of each entitlement.

Substantiation

We believe that sufficient documentation should accompany claims for allowances paid otherwise than as a component of salary to enable support staff to ascertain full compliance by Members. In this context, consistent with established public sector practice, the relevant documentation should refer to the basis of entitlement for the particular claim and, where appropriate, the purpose, dates and times of the service provided; and, concerning travel, locations involved in travel and overnight accommodation and distance travelled.

- 3.4.2 These principles underpin the Committee's determination which is currently the basis for the allowances and benefits available to Members other than in the areas of superannuation, staff support, office accommodation and equipment.
- 3.4.3 The Committee's determination in relation to travel allowances allowed for the reimbursement of actual expenditure, subject to any government guidelines, where prescribed rates proved inadequate.
- 3.4.4 The following guidelines apply:
- (i) claims for actual expenses are subject to the test of reasonableness - this is a matter for judgement according to the circumstances of each case.
 - (ii) the usual considerations of economy and value for money should be rigorously applied.
 - (iii) a Member may elect to limit a claim to the prescribed travel rate even where greater expense has been incurred.
 - (iv) the prescribed rates have been set with the intention of providing reasonable recompense for travel costs incurred in normal circumstances. They provide a benchmark for assessing the cost of accommodation alternatives but in no case will Members be required to stay in substandard accommodation for the reason that no satisfactory accommodation is available at less than the prescribed accommodation rate.
 - (v) Members may give appropriate weight to issues of convenience when choosing between accommodation alternatives, for example when staying in cheaper but more distant accommodation would involve incurring additional expense e.g. in taxi fares, it might represent better value to stay at a more central location.
 - (vi) claims for actual costs incurred in attending scheduled sessions of Parliament will not be approved unless exceptional circumstances apply.
- 3.4.5 The Government Members Handbook produced by the Department of Premier and Cabinet provides information and guidance to those members on expenses and allowances.

4 OTHER REFERENCES

4.1 CODE OF ETHICAL CONDUCT (STANDING ORDER 2A)

- 4.1.1 The Code of Ethical Conduct was adopted as Standing Order 2A by the House of Assembly on 22 May 1996. It is drawn from a similar code from the Canadian province of Saskatchewan and sets out broad principles designed to influence Members in their conduct as public office holders.
- 4.1.2 Many of these principles have been incorporated under the Conduct Principles set out in Part 2.
- 4.1.3 The Legislative Council had not formally adopted a similar Code for its Members.

4.2 OTHER STANDING ORDERS

- 4.2.1 Provisions relating to the proper conduct of Members inside Parliament appear throughout Standing Orders. The observance of these Orders is largely left to the Speaker and President to enforce, although serious cases may be referred to the relevant Privileges Committee. Sanctions range from naming, suspension and fines, to arrest and imprisonment.
- 4.2.2 The *Parliamentary Privileges Act 1858* also empowers either House to take action relation to a range of contempts of Parliament, including those committed by Members.

4.3 GIFTS POLICY

4.3.1 This policy applies explicitly to Government Members of Parliament. It goes further than the disclosure of interests legislation in that it

- (i) also applies to immediate family members;
- (ii) sets out the principles in relation to official gifts;
- (iii) deals with the issue of giving gifts; and
- (iv) establishes a procedure for surrendering gifts over the value of \$500.

4.3.2 The Department of Premier and Cabinet administers the Gifts Policy.

4.4 GOVERNMENT MEMBERS HANDBOOK

4.4.1 The Government Members Handbook produced by the Department of Premier and Cabinet provides information and guidance to Members and their staff on the procedural and administrative frameworks covering their interaction with the public service.