

Our ref – AD001169

3 February 2017

Mr Greg Johannes  
Secretary  
Department of Premier and Cabinet  
GPO Box 123  
HOBART TAS 7001

Dear Mr Johannes

Thank you for your letter of 4 January 2017 requesting input from the Integrity Commission on the Parliamentary (Disclosure of Interests) Amendment Bill.

We appreciate the opportunity to provide input and attach the Integrity Commission's response.

Yours sincerely



Michael Easton  
**Acting Chief Executive Officer**

Attachment  
Response to Parliamentary (Disclosure of Interests) Act Amendment Bill 2017

## Response to Parliamentary (Disclosure of Interests) Amendment Bill

---

### Background

The Commission takes a keen interest in the review of the *Parliamentary (Disclosure of Interests) Act 1996* (the *Disclosure Act*), given that one of the functions of the Commission is to monitor the operation of the Parliamentary disclosure of interests register (the register).<sup>1</sup>

The Commission has undertaken this task over recent years, and has provided feedback to the Department of Premier and Cabinet and to the clerks of both Houses of Parliament. The Commission has also assisted in the revision of the forms used by members of Parliament for their annual returns.

As it has stated elsewhere, the Commission considers that

*the parliamentary registers of interests are a key – albeit somewhat neglected – method of achieving accountability and trust. Along with a code of conduct, they are central integrity mechanisms for elected members.*<sup>2</sup>

The Commission has previously raised the issue of its role in monitoring the register, and of the accessibility of the register to the public. For ease of reference, the Commission has attached an extract from a report it provided to the Joint Standing Committee on Integrity regarding these issues (refer Attachment 1). The nature of the Commission's oversight was also raised in its submission to the Independent Review of the *Integrity Commission Act 2009*,<sup>3</sup> and is discussed further below.

The Commission's response to the Amendment Bill mirrors the Bill, but also includes discussion of other issues that the Commission believes should be addressed in the *Disclosure Act*. The Commission has only addressed those clauses on which it has a particular opinion; other clauses may be taken to be supported by the Commission.

### Response to the Amendment Bill

#### Clause 4

##### Definition of 'gift'

The Commission supports the broadening of the definition to capture all items of personal and real property.

In addition, it is the Commission's view that the definition of 'gift' should capture the connection to the role of a Member of Parliament. This would eliminate much unnecessary reporting of irrelevant (i.e. purely personal) gifts, and remove the need for the exception in

---

<sup>1</sup> *Integrity Commission Act 2009* (Tas) s 30(a).

<sup>2</sup> Integrity Commission, *Enhancing accountability mechanisms for members of parliament and ministerial staff: a progress update* (2015) pg 7.

<sup>3</sup> Integrity Commission, *Submission to Independent Reviewer: Review of the Integrity Commission Act 2009* (2016) pg 12–13 & 90. To access the submission, see [http://www.integrity.tas.gov.au/reports\\_and\\_publications/reviews](http://www.integrity.tas.gov.au/reports_and_publications/reviews).

s 14(1)(b) of the *Disclosure Act*. The Commission proposes that the definition be redrafted as follows:

*gift means a disposition of real or personal property, or the conferral of a financial or other benefit, other than any financial or other contribution to travel, that is or could reasonably be perceived to have, been given by any person or entity in relation to the role and duties of the Member and is –*

*(a) free of charge; or*

*(b) for a substantially discounted value;*

If this proposal is accepted, s 14(1)(b) of the *Disclosure Act* should be removed (see discussion below).

#### Definition of 'relevant person'

The Commission strongly supports the extension of disclosure requirements to include any interests which could have a direct or indirect influence on decision making.

The Commission supports the insertion of 'relevant person' into the *Disclosure Act*, and generally supports the definition as it stands. The Commission notes that the definition in cl 4 of the Amendment Bill is a slightly simplified version of Recommendation 1 of the 2009 report, *Public Office is Public Trust*.<sup>4</sup>

The Commission considers however that the definition should be expanded from that proposed in the Amendment Bill to encompass people who are not necessarily 'dependent' on the Member, but whose affairs are so closely connected with the Member's affairs that a benefit derived by the person, or a substantial part of it, could pass to the Member. This expansion would, for example, capture adult children whose financial affairs are closely connected to the Member's financial affairs. The Commission proposes that the definition be redrafted as follows:

*relevant person means a Member, the spouse of a Member, a dependent child of a Member, any other person who is dependent on a Member, and any other person whose affairs are so closely connected with the Member's affairs that a benefit derived by the person, or a substantial part of it, could pass to the Member;*

The Commission notes that declarations of the interests of relevant persons other than the Member may not need to be made publicly available (refer Attachment 1, [65]–[66], and below).

#### **Clause 6**

The Commission notes that the form used for the returns will require further revision to take account of these amendments.

The Commission considers that – in regard to ss 6(e) and 7(e) of the *Disclosure Act* – members should be required to declare the principal object of all relevant corporations. This is contrary to both the Amendment Bill and the *Disclosure Act* as it currently stands. The basis for this view is that, despite the principal object of a corporation being publicly available, this information will not necessarily be easily accessible to a member of the public. Consequently, in the interests of full disclosure, members should have a duty to state the

---

<sup>4</sup> Joint Select Committee on Ethical Conduct, Parliament of Tasmania, *Public Office is Public Trust* (2009) pg 10.

principal object of corporations in which they have an interest in their disclosure form. Such disclosure may also prompt members to think more deeply about any possible related conflicts of interests.

### **Clauses 10–12**

The variations in cl 10–12 incorporating ‘relevant person’ into ss 12(b), 13(1)(b) and 14(1)(b) of the *Disclosure Act* has the perhaps unintended consequence of widening the scope of exceptions to required disclosures for debts, contributions to travel, and gifts. It is the opinion of the Commission that this widening of exceptions is not appropriate.

The Commission proposes the following wording would be a suitable substitute for the current exception in s 12(b) of the *Disclosure Act* (as opposed to the draft provision set out in cl 10(d) of the Amendment Bill):

*the relevant person is liable to pay the debt to a relative and the debt was incurred in a purely personal capacity, and there is no connection, conflict of interest, or possible perception of a conflict of interest, with the Member’s duties.*<sup>5</sup>

The Commission proposes the following wording would be a suitable substitute for the current exception in s 13(1)(b) of the *Disclosure Act* (as opposed to the draft provision set out in cl 11(b) of the Amendment Bill):

*the contribution was made by a relative of the relevant person and the contribution was received in a purely personal capacity, and there is no connection, conflict of interest, or possible perception of a conflict of interest, with the Member’s duties.*

As noted above under ‘Clause 4’, if the Commission’s proposed revised definition of ‘gift’ is accepted, the exception outlined in s 14(1)(b) of the *Disclosure Act* (and the draft provision set out in cl 12 of the Amendment Bill) would be unnecessary and should be removed.

If the Commission’s proposed definition of ‘gift’ is not adopted, the Commission proposes that the following wording would be a suitable substitute for the exception outlined in s 14(1)(b) of the *Disclosure Act* (as opposed to the draft provision set out in cl 12 of the Amendment Bill):

*the donor was a relative of the relevant person and the gift was received in a purely personal capacity, and there is no connection, conflict of interest, or possible perception of a conflict of interest, with the Member’s duties.*

### **Clause 13**

The Commission supports the ability to prescribe the form of the register in regulations.

The Commission notes that, in the interests of practicality, the declaration forms should be provided in electronic (fillable PDF) format. An electronic format could provide prompts where sections are incomplete, and enable members to complete and submit the form efficiently for easy uploading to the relevant website. It would also enable members to review previous returns each subsequent year, and easily re-submit where there are no changes to their interests.

---

<sup>5</sup> The base wording of the Commission’s three proposed exceptions have been taken from Queensland, Legislative Assembly, Standing Rules and Orders of the Legislative Assembly, 1 December 2016, pg 75 & 77 [cl 1]  
<<https://www.parliament.qld.gov.au/documents/assembly/procedures/StandingRules&Orders.pdf>>.

The Commission offers its assistance in the finalisation of both the regulations and the form of the register.

### **Clause 16**

The Commission strongly supports the online publication of the register (refer Attachment 1, [67]–[72]). However, the Commission notes:

- its comments in relation to the publication of private information of relevant persons other than a Member (refer 'Clause 4' above and Attachment 1, [66]); and
- that Recommendation 3 of *Public Office is Public Trust* – while recommending that the register be published online – notes that the detail of each Member's residential address should be excluded from publication on the internet site of the Parliament of Tasmania.<sup>6</sup>

### **Issues not addressed in the Amendment Bill**

#### ***Monitoring the operation of the register***

The Commission's function to 'monitor the operation' of the register arises in s 30(a) of the *Integrity Commission Act 2009*. The Commission has concerns about the vagueness of 'monitor the operation', as discussed in Attachment 1 at [53]–[61].

The Commission also noted the issue in its submission to the Independent Review of the *Integrity Commission Act 2009*, and submitted that amendments should be made so that

*the actual returns and declarations are monitored rather than just the register itself, and to enable the CEO to make recommendations to either or both the individual Members and to the Clerk of each House of Parliament.*<sup>7</sup>

Recommendation 50 of the Independent Reviewer's report endorsed this request,<sup>8</sup> and the Government has accepted the recommendation.<sup>9</sup>

The Commission also notes that *Public Office is Public Trust* recommended that the Commission be given a legislated role in relation to alleged breaches of the *Disclosure Act*:

*Recommendation 4 – The Committee recommends that, in order to provide a further level of public accountability, the Parliamentary (Disclosure of Interests) Act be amended to provide that complaints regarding alleged breaches of the Act may be made to the Tasmanian Integrity Commission (vide Recommendation 29).*<sup>10</sup>

The Commission believes that this would remove some of the vagueness surrounding its current function in regard to the register, and it would not be averse to such a role.

---

<sup>6</sup> Joint Select Committee on Ethical Conduct, Parliament of Tasmania, *Public Office is Public Trust* (2009) pg 10.

<sup>7</sup> Integrity Commission, *Submission to Independent Reviewer: Review of the Integrity Commission Act 2009* (2016) pg 12–13 & 90.

<sup>8</sup> Independent Reviewer the Honourable William Cox AC, RFD, ED, QC, *Independent Review of the Integrity Commission Act 2009: Report of the Independent Reviewer*, May 2016, pg 8.

<sup>9</sup> Tasmanian Government, *Tasmanian Government Response: Independent Review of the Integrity Commission Act 2009*, November 2016, pg 18.

<sup>10</sup> Joint Select Committee on Ethical Conduct, Parliament of Tasmania, *Public Office is Public Trust* (2009) pg 10.

## ***Discretionary disclosure of conflicts under s 9 of the Disclosure Act***

Section 9 of the *Disclosure Act* is entitled *Discretionary disclosure* and provides:

*A Member may disclose in any return any direct or indirect benefits, advantages or liabilities, whether pecuniary or not, that –*

*(a) are not required to be disclosed under this Act; or*

*(b) the Member considers may raise a conflict between the Member's private interests and his or her duties as a Member. (Emphasis added)*

As discussed in Attachment 1 at [75] – [82], the Commission considers that

*the effect of [the current s 9] is that Tasmania is one of only three Australian parliamentary jurisdictions in which a Member's obligation to disclose a conflict of interest in the Register is discretionary.*

As it stands, the Amendment Bill does not include any changes to s 9.

The Commission considers that, in the interests of good practice in government and the maintenance of high standards of accountability and transparency, all conflicts of interest must be disclosed.

The Commission recommends that the Amendment Bill repeal s 9 of the *Disclosure Act* and substitute the following:

### ***9. Additional disclosures***

*In addition to the disclosures required under this Act, a Member must disclose in any return any direct or indirect benefits, advantages or liabilities, whether pecuniary or not, that the Member considers may raise a conflict between the Member's private interests and his or her duties as a Member.*

# Attachment 1

---

Extracted from a report provided to the Joint Standing Committee on Integrity (Integrity Commission, *Monitoring Parliamentary Disclosure of Interests Register: Report for the period 1 July 2014 to 30 June 2015*, 2016).

## 3. Further issues for consideration

- [50] The Commission has set out below further issues for consideration relating to its function to monitor the operation of the Registers and other registers. Some of the issues relate to the *Disclosure Act*, while others relate to the Commission's role and functions under the *Integrity Commission Act*. The Commission seeks to highlight these issues for discussion with the Joint Standing Committee and ultimately by Parliament.
- [51] The Commission understands that the Government is considering reviewing the *Disclosure Act*, and the Commission has advised the Secretary of DPaC of its interest in participating in such a review.
- [52] The Commission has made submissions on some of the issues discussed below to the Five Year Independent Review of the *Integrity Commission Act*.<sup>11</sup> The issues have also been broadly discussed with the Parliamentary Standards Commissioner, and both the Speaker of the House of Assembly and President of the Legislative Council. The Commission has not, however, set out to convey the views of those parties, nor to suggest that they necessarily endorse the Commission's views as set out below.

### 3.1. The Commission's role to 'monitor the operation' of the Registers

- [53] Section 30 of the *Integrity Commission Act* provides for the Chief Executive Officer (CEO) of the Commission to:

*(a) monitor the operation of the Parliamentary disclosure of interests register, declarations of conflicts of interest register and any other register relating to the conduct of Members of Parliament;*

- [54] 'Monitor' is not defined in the *Integrity Commission Act*, and the Commission has, to date, interpreted the word narrowly.<sup>12</sup> This has resulted in its role being limited to critically observing whether the returns under the *Disclosure Act* and other declarations comply with prescribed forms. To date, the Commission has not sought to effect greater transparency of the disclosure process, or to make any recommendations in that regard.
- [55] Consequently, there is currently no oversight of the accuracy of information provided by Members under the *Disclosure Act*. The Commission is concerned that the full potential of the disclosure regime under the *Disclosure Act*, as a means of enhancing accountability and trust, has not been realised. Further, it considers that the full potential benefit to Members has not been realised, given Members would likely prefer a system which identified discrepancies or omissions before they (may) become larger issues.

---

<sup>11</sup> The review was undertaken in accordance with *Integrity Commission Act* s 106. The report of the reviewer was tabled in both Houses of Parliament on 23 August 2016.

<sup>12</sup> Integrity Commission, *Enhancing accountability mechanisms for members of parliament and ministerial staff: a progress update (2015)*, pg 8.

- [56] Consistent with the broader intent of the *Integrity Commission Act*, the term ‘monitor the operation’ pertains to the object of ensuring integrity and public confidence in the various registers and information cited within the Act. The Commission considers that, despite the previous narrow interpretation of its role, a more contemporary and robust interpretation would ensure that its monitoring functions are commensurate with the high level of accountability required of Members of Parliament.
- [57] In its Three Year Review of the Commission, the Joint Standing Committee supported amending s 30(a):
- ... so that the actual returns and declarations are monitored rather than just the register itself, and to enable the CEO to make recommendations to either or both the individual Members and to the Clerk of each House of Parliament.*<sup>13</sup>
- [58] The Commission adopted the Joint Standing Committee’s recommendation as part of its submission to the Five Year Independent Review of the *Integrity Commission Act*. The position was endorsed by the Independent Reviewer.<sup>14</sup>
- [59] An amendment to s 30(a), as recommended by the Independent Reviewer, would provide a clear legislative mandate for the Commission to be more forensic in its monitoring of the Register. This makes better use of the Commission’s expertise and powers, and would support greater accountability on the part of Members for the accuracy of information contained in the individual returns.
- [60] It is acknowledged that such detailed reviews of Members’ returns may not be necessary on an annual basis. One option could be to maintain a broader review of the Registers on an annual basis, with a more forensic analysis of the information contained in the returns on a three-year cycle.
- [61] The Commission notes that another option could be to consider – as part of the review of the *Disclosure Act* – setting out the Commission’s role in the *Disclosure Act* itself. However, the Commission’s preference is for the role to remain within the *Integrity Commission Act*, subject to the relevant amendment as discussed above.

### **3.2. Extension of the Register to Members’ immediate families**

- [62] As it stands, the *Disclosure Act* requires Members to disclose only their individual interests. The Commission considers that this is inadequate, and that, in order to improve transparency and the disclosure of potential conflicts, Members should be required to disclose relevant interests held by (at least) their partners and spouses.
- [63] *The Commission’s view aligns with the recommendation of the Joint Select Committee on Ethical Conduct in Public Office is Public Trust, released in 2009. The Committee noted:*

*5.14 The disclosure of the private financial and other interests of Parliamentarians is an imposition that is warranted, on balance, in the public interest as it provides a level of transparency which enables one to determine that Members are serving the public, not private, interest when they take office. Specifically, that they are not using their public office for private gain.*

...

<sup>13</sup> Joint Standing Committee on Integrity, Parliament of Tasmania, *Three Year Review – Final Report* (2015), schedule 2, item 5.

<sup>14</sup> *Independent Review of the Integrity Commission Act 2009: Report of the Independent Reviewer* (2016), pg 112, cl 8.13.2 (referring to item 5 from Attachment 2 of the report).



5.17 The Committee carefully considered widening the application of the Act to include the family of a Member. Gerard Carney summarises the arguments against the declaration of family interests as being twofold: “the invasion of privacy and the difficulty for a Member in knowing of the relevant interests”.

5.18 The counter argument of course is that family interests are just as capable of raising an actual or apparent conflict of interest as the Member's own interests and second, that their exclusion would leave open an avenue of avoidance, the mere existence of which could undermine public confidence in the registers.

[64] The Committee ultimately recommended that the *Disclosure Act* be amended to require that Members disclose interests of relatives:

*Recommendation 1 - The Committee recommends that the Parliamentary (Disclosure of Interests) Act 1996 be strengthened by amendments to provide for the following:*

(1) *The definition of ‘related person’ to be added. Such definition to mean –*

(a) *the spouse of a Member;*

(b) *a child of a Member who is wholly or substantially dependent on the Member; or*

(c) *any other person –*

(i) *who is wholly or substantially dependent on the Member; and*

(ii) *whose affairs are so closely connected with the affairs of the Member that a benefit derived by the person, or a substantial part of it, could pass to the Member.*

(2) *Consequential amendments to require the declaration of a related person's interests in the Registers of Interests.*

[65] The justification for requiring disclosure of the interests of immediate or dependent family members is that a Member may be just as influenced by the interests of their partner or children, as they would be by their own personal interests. As of December 2015, Tasmania was one of only three jurisdictions in Australia in which Members of Parliament do not have to disclose the interests of immediate family members.<sup>15</sup>

[66] The Commission supports amending the *Disclosure Act* to at least require the interests of spouses and partners to be disclosed in Members' annual returns. However, it would not be averse to such information being excluded from public access (as occurs in Queensland and in the Commonwealth Senate). The information should be made available to the Commission to ‘monitor’ and scrutinize as part of its current role, but disallowing public access would protect the privacy of Members' partners and spouses. This may necessitate the information being provided in a separate section of the return, given that the returns themselves make up the Registers.

### **3.3. Public access to the Register**

[67] The Commission supports the publication of the Register online on the Parliament's website, subject to the exclusion of information pertaining to the interests of Members' partners and spouses (as discussed at [66], above). The Commission can see no reason for the Registers to only be available for inspection in hard copy at Parliament House, and submits that this unnecessarily narrows the accessibility of the Registers.

---

<sup>15</sup> Integrity Commission, *Enhancing accountability mechanisms for members of parliament and ministerial staff: a progress update (2015)*, pg 17.

[68] The *Joint Select Committee on Ethical Conduct in Public Office is Public Trust* recommended that:

... with the exception of the detail of each Member's residential address, the Register of Interest of Members of the Legislative Council and the Register of Interests of Members of the House of Assembly be published on the internet site of the Parliament of Tasmania.<sup>16</sup>

[69] Currently, the *Disclosure Act* provides for the registers to be inspected in hard copy:

**18. Inspection of registers**

(1) The Clerk of each House of Parliament is to make the register available for inspection by any person at the office of the Clerk between the hours of 10 a.m. and 4 p.m. on any day except –

(a) a Saturday or Sunday; or

(b) a public holiday.

(2) The Clerk of each House of Parliament is to make available the register for inspection by any Member during any time that House is sitting.

[70] The Commission has previously reviewed the existing publication requirements in other Australian jurisdictions.<sup>17</sup> Tasmania is one of three (of a total of nine) parliamentary jurisdictions that does not publish the registers of either of its Houses of Parliament online.

[71] The Commission considers that the electronic reporting form recommended as part of this report will assist in the facilitation of online publication.

[72] The Commission also notes that both the register of gifts and benefits for Ministers, and the register of lobbyists (discussed below) are currently required to be published online.

**3.4. Other registers**

[73] Beyond the disclosure of interests register, s 30(a) of the *Integrity Commission Act* provides for the Commission to 'monitor the operation of the ... declarations of conflicts of interest register and any other register relating to the conduct of Members of Parliament'.

[74] The Commission has been advised by DPaC that there is no legislative requirement for a conflict of interests register or any other register, as envisaged in the *Integrity Commission Act*. The clerks of both Houses of Parliament have indicated that no other registers are maintained by either House.

**Conflicts of interest**

[75] As discussed in Chapter 2, the *Disclosure Act* requires Members to make disclosures relating to various interests, including income, real property and received gifts. The disclosure form provided to Members contains sections aligned to the required disclosures under the Act, and is an 'Approved form' under the *Disclosure Act*.

---

<sup>16</sup> *Joint Select Committee on Ethical Conduct, Public Office is Public Trust* (2009), Recommendation 3.

<sup>17</sup> Integrity Commission, *Enhancing accountability mechanisms for members of parliament and ministerial staff: a progress update* (2015).

[76] The *Disclosure Act* also provides for Members to make a discretionary disclosure about additional conflicts of interest:

**9. Discretionary disclosure**

*A Member may disclose in any return any direct or indirect benefits, advantages or liabilities, whether pecuniary or not, that –*

*(a) are not required to be disclosed under this Act; or*

*(b) the Member considers may raise a conflict between the Member's private interests and his or her duties as a Member.*

- [77] This provides a 'catch-all' for additional interests that are not prescribed in the *Disclosure Act*. However the effect of this provision is that Tasmania is one of only three Australian parliamentary jurisdictions in which a Member's obligation to disclose a conflict of interest in the Register is discretionary.
- [78] The Commission notes that Government Ministers are required to make disclosures of conflicts of interest in accordance with the Code of Conduct for Ministers, while the Tasmanian Government Members' Handbook requires all Members to declare any conflicts of interest in relation to procurement. However, there appears to be no central management system or register of any such disclosures.
- [79] The Commission's proposed revised form retains the provision for Members to declare additional interests that may result in a conflict (refer Appendix 2, part I), however this is subject to the potential review of s 9 of the *Disclosure Act* (as discussed in [81]–[82], below). The revised form gives greater guidance on the disclosures, and requires Members to state the nature of any benefit, advantage or liability.
- [80] Declaring all conflicts of interest is supportive of good practice in government and assists in maintaining high standards of accountability and transparency. The approach helps to minimise ethical risks by removing potential misinterpretation by Members, and ensures that all potential, perceived and actual conflicts of interest are recorded in the Register and available for public viewing.
- [81] The Commission considers that the terminology used in s 9 of the *Disclosure Act* enhances the potential for misinterpretation of the need to disclose conflicts of interest. Section 9 provides for disclosure of conflicts outside of the interests prescribed in the earlier sections of the Act; this is important and is supported by the Commission. However, where such conflicts arise, it should be mandatory that they be declared by Members ie not left to a Member's discretion.
- [82] The Commission suggests that, to address the above issue, the heading of s 9 – 'Discretionary disclosure' – be termed 'Additional disclosures'. The wording of the provision could then be rephrased to require any identified conflict of interest to be disclosed:

**9. Additional disclosures**

*In addition to the disclosures required under this Act, a Member must disclose in any return any direct or indirect benefits, advantages or liabilities, whether pecuniary or not, that the Member considers may raise a conflict between the Member's private interests and his or her duties as a Member.*

...

### 3.5. Reporting

[92] To date, the Commission has provided minimal reporting on its monitoring of the disclosure of interests register. The Commission has previously provided feedback to DPaC on the forms used for Members' returns, and ensured that the Clerk of each House of Parliament has been informed of each review.

[93] The *Integrity Commission Act* makes no specific requirement for the Commission to report on its monitoring of any of the registers. However, the Act provides for the Commission to:

*... at any time, lay before each House of Parliament a report on any matter arising in connection with the performance of its functions or exercise of its powers.*<sup>18</sup>

[94] It is considered that, in the interests of transparency and public accountability, future reports on the Commission's functions relating to the registers discussed in this report should be tabled in Parliament. This may necessitate the exclusion of certain sensitive information that is not in the public interest, for instance information relating to Members' partners' or spouses' interests (refer [66], above). However, this current report shall be provided only to the Joint Standing Committee, the Clerk of each House of Parliament, the Parliamentary Standards Commissioner and DPaC, and will not be released publicly.

---

<sup>18</sup> *Integrity Commission Act* s 11(3).