

# **Local Government (Pecuniary Interests Register) Amendment Bill**

Member's Bill

As reported from the Governance and Administration Committee

## **Commentary**

### **Recommendation**

The Governance and Administration Committee has examined the Local Government (Pecuniary Interests Register) Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

### **Introduction**

The Local Government (Pecuniary Interests Register) Amendment Bill is a Member's bill in the name of Tangi Utikere MP.

This bill would amend the Local Government Act 2002 to require local authorities to maintain and publish a register of pecuniary interests for members of authorities. The bill aims to improve transparency of local authorities and their decision-making. It also aims to better align the requirements for notifying and declaring pecuniary interests for local authorities with those of members of Parliament and the Executive Council.

### **Legislative scrutiny**

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We believe that the issues raised in this process have been addressed in our consideration, and some are directly addressed in this commentary.

### **Proposed amendments**

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

### **Changes to the numbering of new sections**

The bill as introduced would insert new sections into the Local Government Act under subpart 1 of Part 4 of that Act which covers the governance and management of local authorities. Subpart 1 of Part 4 only relates to local authorities. Due to our recommendation that the bill also cover local and community board members (as discussed below), the provisions could no longer sit in a part that only deals with local authorities. We therefore recommend amending clause 4 of the bill to insert new subpart 3 into Part 4 of the Act. New subpart 3 would have the heading “Register of members’ pecuniary interests”.

Our recommendation would change all the numbering of the new sections that the bill would insert into the Act. Instead of new sections 42A to 42F as introduced, the bill as amended would refer to new sections 54A to 54I.

In the rest of this commentary, we only discuss these sections where we propose amending the substance of the section. Where only the number or position of the section would change, we do not discuss it further.

### **Including local and community board members**

The bill as introduced would only apply to elected members of a local authority. We are concerned that this would exclude other elected members who have an effect on local government, such as those elected to local or community boards. This is particularly the case for bigger councils, such as Auckland Council, where local board members may have significant influence. The general policy statement for the bill states that its purpose is to provide better transparency of the pecuniary interests of those who are elected members of a community. Local and community board members are also elected under the Local Electoral Act 2001. Therefore, we recommend amending proposed new section 54A(1) (previously numbered 42A) to specify that members who have been elected to a local board or a community board would also be covered by the legislation. This amendment would result in consequential amendments throughout the bill.

We want to be clear that we do not recommend extending the bill to representatives appointed to council committees. However, councils would still be able to require certain information to be disclosed by appointed members of council committees. Relevant provisions of the Local Authority (Members’ Interests) Act 1968 would also still apply.

### **Purpose of the register**

The general policy statement of the bill states that the register’s purpose is to “improve transparency and strengthen public trust and confidence in decision-making of local authorities”. However, this purpose is not explicitly referred to anywhere in the bill itself. There is no reference in the bill to the purpose of creating a pecuniary interests register for local members.

We believe it is important that the bill includes a clause describing the purpose of the register. Including a purpose statement may help members in understanding what

information to declare, and why they need to provide it. We therefore recommend inserting new section 54B to clearly state the purpose of a register of members' pecuniary interests regarding transparency and public trust in local government.

### **Providing a summary of information**

We recognise that making the activity of local government members more transparent is important to encourage greater public trust in local government. However, we believe that fulfilling this purpose should be balanced against members being able to expect some privacy around particularly personal information.

The bill as introduced states that the register must be made publicly available. We have some concerns about the potential broad effect of this provision. Essentially, information regarding the pecuniary interests of members is personal information. Requiring the entire register to be made publicly accessible would make that personal information widely available. We are concerned that this would infringe on members' rights regarding their privacy, and possibly disincentivise people from running for election for local authorities, local boards, and community boards. Given the existing difficulty in finding candidates to run for local government in some areas, we do not want to discourage potential candidates by making everything they declare on the register of pecuniary interests publicly available. Therefore, we recommend that the requirement be amended to making an accurate summary of the contents of the register publicly available, rather than the entire register. This would allow some specific details to be withheld from publication while still meeting the public interest of increased transparency regarding local government. A summary could also assist members of the public to understand the information contained in the register.

Further, we think it is important that the information in the register is only disclosed in accordance with the stated purpose of the register. We also believe that the information should only be retained for 7 years after the member provides their returns and then be removed from the register. This would align with the existing provisions in the Local Electoral Act that relate to keeping information on candidates' electoral returns. We recommend amending proposed section 54A accordingly.

### **Timeframes for making a pecuniary interest return**

Proposed section 54C (previously 42B of the bill as introduced) relates to the time-frame for which members must make their pecuniary interest returns. We believe that the bill as introduced could lead to inconsistency and confusion about who needs to make returns and when. First, our proposal to include local and community board members under the bill creates a practical problem. The bill as introduced requires that a pecuniary interest return must be made by "the day that is 90 days after the date the member's declaration required by clause 14 of schedule 7 is attested under that clause". However, local and community board members do not make declarations that are attested when they come into office. We recommend amending this section to say "the day that is 120 days after the date on which the member comes into office under section 115 of the Local Electoral Act 2001".

We also propose changing the number of days in proposed section 54C(2)(a) following the member coming into office from 90 to 120 days. The date under section 115 of the Local Electoral Act occurs earlier than the bill as introduced. The change to 120 days is necessary to achieve the same effect as in the bill as introduced.

After making that first pecuniary interest return, members would only have to make a pecuniary interest return by the last day of February in each subsequent year.

### **Ensuring accuracy of information in pecuniary interest returns**

The bill as introduced does not specify whether members of a local authority may correct mistakes on their pecuniary interest return. A member may notice a mistake once they have provided the return to the Registrar, either before or after a summary of the information is publicly disclosed. We think it is reasonable to assume that in some instances members might make genuine mistakes when compiling their returns. This is particularly given the amount of detail required to be included in the returns. If members are unable to correct mistakes the register could be considered inaccurate. This could affect the public's view regarding the transparency of local authorities.

We therefore recommend inserting new section 54D. This would first state that members must ensure that the information contained in their return is accurate. However, it would also allow members to advise the Registrar of any errors or omissions the member may have made as soon as practicable upon the member realising their mistake. The Registrar would then be required to correct the register accordingly to reflect the corrected information.

### **Contents of a pecuniary interest return relating to members' position**

Proposed new section 54E (previously 42C) sets out what members must include in a pecuniary interest return. We recommend a number of amendments to new section 54E, as discussed below.

#### **Voting rights in a company**

Under the bill as introduced, a member who is a director, or has more than 5 percent of the voting rights of a company, must disclose the company on their pecuniary interest return. We recommend amending this clause to state that a member must be a director or hold 10 percent of the voting rights.

The Local Authorities (Members' Interests) Act is the Act that governs the pecuniary interests of members of local authorities. It includes the making of contracts and what matters members can discuss and vote on if they have a possible pecuniary conflict of interest. Under this Act, if a member has 10 percent or more of the issued capital in a company they are deemed to have a pecuniary interest in that company. To ensure consistency with that Act and to avoid confusion with members' obligations under that Act, we therefore recommend amending section 54E(1)(a).

### **Managed investment schemes**

We recommend amending section 54E to make it clear that a member does not need to disclose the name of companies or businesses of which they are an investor through a managed investment scheme. The general policy statement accompanying the bill notes that the bill aims to better align the transparency requirements for members of local authorities with the requirement for members of Parliament. The Standing Orders govern the declaration of pecuniary interests for members of Parliament.<sup>1</sup> The Standing Orders make it clear that members need not declare pecuniary interests involving managed investment schemes. To better align the bill with requirements for members of Parliament we recommend that members of local authorities, local boards, and community boards also do not need to declare interests in managed investment schemes. For clarity, we also recommend inserting a definition of “managed investment scheme” in section 54E(5).

### **Disclosing information about real property**

The bill as introduced would require a member to include the location of real property in which they have an interest, but would exclude property that is held in a trust. We recommend two amendments in relation to this provision.

#### *Disclosing real property that is held in a trust*

The bill as introduced states that a member does not need to disclose the location of property held in a trust that the member has an interest in. However, we think that in some cases a member should be required to disclose the location of that property, particularly if the member is a beneficiary of that trust. We recommend inserting new section 54E(1)(h) to state the circumstances in which a member must declare the location of real property held in a trust that they have an interest in. Our proposed insertion is taken almost exactly from Appendix B, clause 5(1)(g) of Parliament’s Standing Orders. This amendment would further align the requirements for local authority, local board, and community board members with those for members of Parliament.

#### *Disclosing the general location of real property*

We also recommend that it be made clear that a member is only required to disclose the general location of property. Requiring the disclosure of the exact address of properties might discourage potential candidates from running for office. It might also discourage existing members from being completely transparent on their returns. We believe that disclosing a general location rather than an exact address is reasonable and would fulfil the legislation’s purpose. We were advised that this level of disclosure would be consistent with the principles of the Privacy Act 2020. We therefore recommend amending proposed section 54E(4) accordingly.

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<sup>1</sup> You can read Parliament’s Standing Orders here: <https://www.parliament.nz/en/pb/parliamentary-rules/standing-orders/>.

**Remuneration from employment**

Under the bill as introduced, a member would be required to give a description of each payment they received for activities they had been involved in, except for:

- the salary or allowances they were paid under the Remuneration Authority Act 1977 or the Local Government Act 2002
- any payment made in respect of any activity in which the member concluded their involvement prior to becoming a member.

The effect of this provision, as introduced, would be that a member would be required to disclose any salary or wages from employment that they had outside their role as a local authority member.

We were concerned about this provision. Unlike members of Parliament, local authority members are more likely to work part-time as a member, and work another job elsewhere. We were concerned that being required to disclose what they were paid would discourage people from standing for local election.

Under the bill, local authority members would already be required to disclose the name of each employer and a description of the main business activities of that employer. We believe this would provide sufficient information about a member's interests in relation to employment, without members having to disclose their salary. We therefore recommend amending new section 54F(1)(c) (previously section 42D) to clarify that payment received from an interest that is disclosed under section 54E does not have to be included in the register. Exempting all payments associated with interests declared in section 54E will cover all relevant situations where a member is working even if there is not a direct employment relationship.

**Interests of members regarding organisations, governing bodies, and trustees**

The bill as introduced would require members of a local authority to declare if they have an interest in an organisation or trust that either receives funding from the local authority or has applied to receive funding. We are concerned that this provision could be too broad. In our view, "interest" needs to be more clearly described.

In comparison to members of Parliament, local members may be more heavily involved with the community at a local level. In some cases this could be considered as having an "interest" in some local community groups and organisations. It is reasonable to assume that councils and boards may sometimes make decisions regarding community groups that a member is involved in. A member being involved in a community group that receives funding from the council is an example.

We think that members should be allowed to be involved in community groups without having to declare every group they have an association with. We therefore recommend amending proposed section 54E(1)(e) to require that an organisation or trust is disclosed on a return if:

- the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust (as applicable); and

- the organisation or trust receives funding from, or has applied to receive funding from, the local authority, local board, or community board to which the member has been elected.

In our view, this amendment would satisfactorily capture those who have a significant interest in an organisation to the point where they are regularly or actively involved, but would not capture every organisation that a member might work with. This also largely aligns with the Standing Orders.

We also recommend that it be made clear in new section 54E that a member is not required to declare involvement in council-controlled organisations under section 54E(1)(e).

### **Requirements regarding gifts and travel costs**

New section 54F (previously 42D) covers the contents of pecuniary interest returns relating to members' activities.

#### **Disclosing gifts**

The bill as introduced states that members must disclose a description of each gift they receive that has a market value in New Zealand of more than \$500. They must also disclose the donor of that gift. The intent of this provision is to address instances where there is a risk that a pecuniary interest may influence, or be perceived to influence, an elected member's actions or decisions.

We believe that a minimum of \$500 is a fair amount for which members would need to declare gifts to fulfil this purpose. However, we think there needs to be clarification regarding receiving multiple gifts from one donor. We recommend amending proposed section 54F(1)(b) to specify that members must disclose the gifts and donor if they receive multiple gifts from a donor with a total market value over \$500. We believe this would provide further transparency.

Although we hope this legislation will provide enhanced transparency of members' pecuniary interests, we also believe that this needs to be balanced against rights to privacy. We therefore recommend inserting section 54F(3) to state that a member does not need to disclose gifts over \$500 if it was from a member of their family. An exception would be if the member considered that the gift should be disclosed, taking into account the purpose of the register. We think that this provides a fair balance between transparency and privacy.

We also recommend defining "family" in new section 54F(4) to mean the member's spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild, or sibling. This aligns with the equivalent provision in the Standing Orders.

#### **Disclosing travel and accommodation costs**

We recommend amending proposed section 54F(2) (previously 42D(2)) to make it clear that travel costs and accommodation costs would not need to be disclosed if they were paid in full by the member, the member's family, or a combination of the two.

## Other amendments

We recommend a number of other small amendments to improve the workability of the bill. They include:

- amending clause 4, new section 54A(1) to clarify that a local authority must “keep” a register, rather than maintain one (as maintaining a register is the Registrar’s responsibility)
- clarifying that under clause 4, new section 54G(1)(b), a local authority must appoint a Registrar to provide advice and guidance to members in connection with their obligations under the subpart related to the pecuniary interests register (rather than under the Act, as stated in the bill as introduced)
- inserting new section 54H(3) through clause 4 to make it clear that a member’s obligations under this bill do not affect their obligations under the Local Authorities (Members’ Interests) Act
- removing clause 7 from the bill, as the Privacy Act 1993 has been replaced by the Privacy Act 2020, and the relevant provisions were not carried over into the new Act.

## Possible amendment to consider

During our final consideration on the bill, we became concerned that it might have the unintended consequence of affecting how the conflict of interest regime in the Local Authorities (Members’ Interests) Act operates.

We wanted to clearly signal in the bill that the existing test for excluding people from local authority decision making because of conflicts of interest would still apply if the bill were passed. New section 54H(3) would state that a member should not consider their obligations under the Local Authorities (Members’ Interests) Act to be satisfied by disclosing interests in the register under the bill’s requirements. However, the bill is silent on how disclosing pecuniary interests under the bill would affect the conflicts of interests provision in the Act. We recommend amending the bill to be clear that an interest declared under the bill is not automatically a pecuniary interest for the purposes of the Local Authorities (Members’ Interests) Act.

We want to ensure that any changes we recommend are drafted in the best way possible, without any unintended consequences. We were not able to do this in the time we had available after this issue came to our attention. We therefore recommend that the House, in committee, consider amending the bill accordingly.



## Appendix

### Committee process

The Local Government (Pecuniary Interests Register) Amendment Bill was referred to the committee on 22 September 2021. We invited the member in charge of the bill to provide oral evidence to us regarding the bill. They did so on 17 November 2021.

The closing date for submissions on the bill was 23 November 2021. We received and considered 23 submissions from interested groups and individuals. We heard oral evidence from seven submitters via videoconference.

We received advice on the bill from the Department of Internal Affairs. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

### Committee membership

Ian McKelvie (Chairperson)

Rachel Boyack

Naisi Chen

Dr Deborah Russell

Hon Michael Woodhouse

Tangi Utikere, the member in charge of the bill, also participated in consideration of the bill.



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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~



*Tangi Utikere*

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#### **Part 1**

#### **Register of members' pecuniary interests**

4	<u>New subpart 3 of Part 4 inserted</u>	<u>5</u>
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Subpart 3—Register of members' pecuniary interests

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**Part 2**

**Other amendments**

5	Section 5 amended (Interpretation)	10
6	Section 235 amended (Offences by members of local authorities and local boards)	10
7	Consequential amendments to Privacy Act 1993	10

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Local Government (Pecuniary Interests Register) Amendment Act **2021**.

**2 Commencement**

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This Act comes into force on the day that is 6 months after the date on which it receives Royal assent.

**3 Principal Act**

This Act amends the Local Government Act 2002 ~~(the principal Act)~~.

**Part 1**

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**Register of pecuniary and other specified interests of members**

**4 New sections 42A to 42F and cross-heading inserted**

After section 42, insert:

*Register of pecuniary and other specified interests of members*

**42A Register of pecuniary and other specified interests**

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(1) A local authority must maintain a register for members of the local authority to disclose their pecuniary and other specified interests.

(2) The register must —

- (a) ~~comprise the pecuniary interest returns transmitted by members of a local authority under **section 42B**; and~~
- (b) ~~contain all information in any pecuniary interest return that is required to be disclosed by **section 42C** and **42D**; and~~
- (e) ~~be made publicly available.~~

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**42B Members to make pecuniary interest returns**

- (1) ~~A member of a local authority must make a pecuniary interest return containing the information specified in **sections 42C** and **42D** in respect of the 12-month period that ended on the day that is 1 month before the date specified for the return in **subsection (2)**.~~
- (2) ~~A member of a local authority must make a pecuniary interest return by the following dates:~~
  - (a) ~~the day that is 90 days after the date the member's declaration required by clause 14 of Schedule 7 is attested under that clause:~~
  - (b) ~~the last day of February in each year.~~

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**42C Contents of pecuniary interest return relating to member's position**

- (1) ~~Every pecuniary interest return must contain the following information:~~
  - (a) ~~the name of each company of which the member of a local authority is a director or holds or controls more than 5% of the voting rights and a description of the main business activities of each of those companies:~~
  - (b) ~~name of every other company or business entity in which the member of a local authority has a pecuniary interest and a description of the main business activities of each of those companies or business entities:~~
  - (e) ~~if the member of a local authority is employed, the name of each employer of the member and a description of the main business activities of each of those employers:~~
  - (d) ~~the name of each trust in which the member of a local authority has a beneficial interest:~~
  - (e) ~~if the member of a local authority has an interest in an organisation or trust that receives funding from that local authority, or has applied to receive funding from that local authority, the name of that organisation or trust and a description of the main activities of that organisation or trust:~~
  - (f) ~~the title and description of any organisation in which the member of a local authority holds an appointment by virtue of being an elected member:~~
  - (g) ~~the location of real property in which the member of a local authority has a legal interest, other than an interest as a trustee, and a description of the nature of the real property.~~

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- (2) For the purposes of ~~subsection (1)(b)~~, a member of a local authority does not have a pecuniary interest in a company or business entity (~~entity A~~) merely because the member has a pecuniary interest in another company or business entity that has a pecuniary interest in entity A.
- (3) For the purposes of this section,—
- ~~business entity~~ means any body or organisation, whether incorporated or unincorporated, that carries on any profession, trade, manufacture, or undertaking for pecuniary profit, and includes a business activity carried on by a sole proprietor, but does not include any blind trust
- ~~company~~ has the same meaning as in section 2(1) of the Companies Act; and includes—
- (a) a body corporate that is incorporated outside of New Zealand;
- (b) a society incorporated under the Industrial and Provident Societies Act 1908 or any former Industrial and Provident Societies Act
- ~~employed~~—
- (a) means employed under a contract of service; but
- (b) does not include holding the position of an elected member of a local authority or any other position for which the person in question would not be qualified unless he or she had been elected a member of a local authority.
- 42D Contents of pecuniary interest return relating to member's activities**
- (1) Every pecuniary interest return must also contain the following information:
- (a) for each country (other than New Zealand) that the member of a local authority travelled to,—
- (i) the name of the country; and
- (ii) the purpose of travelling to the country; and
- (iii) the name of each person who contributed (in whole or in part) to the costs of the travel to and from the country; and
- (iv) the name of each person who contributed (in whole or part) to the accommodation costs incurred by the member while in the country;
- (b) a description of each gift (including hospitality and donations in cash or kind but excluding any donation made to cover expenses in an electoral campaign) received by the member of a local authority that has an estimated market value in New Zealand of more than \$500 and the name of the donor of each of those gifts (if known or reasonably ascertainable by the member);
- (c) a description of each payment received by the member of a local authority for activities in which the member is involved other than—



- (i) the salary or allowances paid to that person under the Remuneration Authority Act 1977 or the Local Government Act 2002; and
  - (ii) any payment made in respect of any activity in which the member concluded their involvement prior to becoming a member.
- (2) The information referred to in **subsection (1)(a)** does not have to be included in the pecuniary interest return if the travel costs or accommodation costs (as the case may be) were paid in full by the following or any combination of the following:
- (a) the member;
  - (b) a member of the member's family.
- 42E Registrar**
- (1) A local authority must appoint a Registrar to—
- (a) compile and maintain the register of pecuniary and other specified interests of members; and
  - (b) provide advice and guidance to members of the local authority in connection with their obligations under this Act.
- (2) The chief executive of a local authority may be the Registrar under **subsection (1)**.
- 42F Responsibility of members**
- (1) It is the responsibility of each member of a local authority to ensure that they fulfil the obligations imposed on members under this Act.
- (2) A Registrar is not required to—
- (a) notify any member of a local authority of that member's failure to transmit a pecuniary interest return by the due date or of any error or omission in that member's pecuniary interest return; or
  - (b) obtain any pecuniary interest return for a member of a local authority.

## Part 1

### Register of members' pecuniary interests

#### 4 New subpart 3 of Part 4 inserted

After section 54, insert:

#### Subpart 3—Register of members' pecuniary interests

##### **54A Register of members' pecuniary interests**

- (1) A local authority must keep a register of the pecuniary interests of—
- (a) members of the local authority; and

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- (b) members who have been elected under the Local Electoral Act 2001 to a community board that is part of the local authority; and
- (c) members who have been elected under the Local Electoral Act 2001 to a local board that is part of the local authority.
- (2) The register must comprise the pecuniary interest returns that— 5
  - (a) are made by members under **section 54C**; and
  - (b) contain all information in any pecuniary interest return that is required to be disclosed under **sections 54E** and **54F**, and include any notifications made under **section 54D** of errors or omissions in those returns.
- (3) The local authority must— 10
  - (a) make a summary of the information contained in the register publicly available; and
  - (b) ensure that information contained in the register— 15
    - (i) is only used or disclosed in accordance with the purpose of the register; and
    - (ii) is retained for 7 years after the date on which a member provides the information, and is then removed from the register.

**54B Purpose of register**

The purpose of the register of members' pecuniary interests is to record members' interests so as to provide transparency and to strengthen public trust and confidence in local government processes and decision-making. 20

**54C Members to make pecuniary interest returns**

- (1) A member described in **section 54A(1)(a), (b), or (c)** must make a pecuniary interest return containing the information specified in **sections 54E** and **54F** in respect of the 12-month period that ended on the day that is 1 month before each date specified for the return in **subsection (2)**. 25
- (2) The member must make the pecuniary interest return by the following dates:
  - (a) the day that is 120 days after the date on which the member comes into office under section 115 of the Local Electoral Act 2001;
  - (b) the last day of February in each subsequent year. 30
- (3) The member must make the return by providing it to the Registrar.

**54D Accuracy of information included in pecuniary interest return**

- (1) When making a pecuniary interest return under **section 54C**, a member must ensure that the information contained in the return is accurate.
- (2) However, if a member becomes aware of an error or omission in any return that the member has made, the member must advise the Registrar of that error or omission as soon as practicable after becoming aware of it. 35

(3) When advised of an error or omission in a pecuniary interest return, the Registrar must correct the register of members' pecuniary interests accordingly.

**54E Contents of pecuniary interest return relating to member's position**

- (1) Every pecuniary interest return must contain the following information:
- (a) the name of each company of which the member is a director or holds or controls more than 10% of the voting rights and a description of the main business activities of each of those companies: 5
  - (b) the name of every other company or business entity in which the member has a pecuniary interest, other than as an investor in a managed investment scheme, and a description of the main business activities of each of those companies or business entities: 10
  - (c) if the member is employed, the name of each employer of the member and a description of the main business activities of each of those employers:
  - (d) the name of each trust in which the member has a beneficial interest: 15
  - (e) the name of any organisation or trust and a description of the main activities of that organisation or trust if—
    - (i) the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust (as applicable); and 20
    - (ii) the organisation or trust receives funding from, or has applied to receive funding from, the local authority, local board, or community board to which the member has been elected:
  - (f) the title and description of any organisation in which the member holds an appointment by virtue of being an elected member: 25
  - (g) the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property:
  - (h) the location of real property, and a description of the nature of the real property, held by a trust to which the following apply: 30
    - (i) the member is a beneficiary of the trust; and
    - (ii) the member knows or ought reasonably to know that the member is a beneficiary of the trust; and
    - (iii) it is not a unit trust whose name is disclosed under **subclause (1)(d)**; and 35
    - (iv) it is not a retirement scheme whose membership is open to the public.
- (2) For the purposes of **subsection (1)(b)**, a member does not have a pecuniary interest in a company or business entity (**entity A**) merely because the member

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- has a pecuniary interest in another company or business entity that has a pecuniary interest in entity A.
- (3) For the purposes of **subsection (1)(e)**, a member is not required to disclose the name and a description of the main activities of an organisation that is a council-controlled organisation. 5
- (4) For the purposes of **subsection (1)(g) and (h)**, a member is not required to disclose the street address of the real property, but must provide the general location (for example, the suburb and city in which it is located).
- (5) For the purposes of this section,—
- business entity** means any body or organisation, whether incorporated or unincorporated, that carries on any profession, trade, manufacture, or undertaking for pecuniary profit, and includes a business activity carried on by a sole proprietor, but does not include any blind trust 10
- company** has the same meaning as in section 2(1) of the Companies Act 1993, and includes— 15
- (a) a body corporate that is incorporated outside of New Zealand;
- (b) a society incorporated under the Industrial and Provident Societies Act 1908 or any former Industrial and Provident Societies Act
- employed**—
- (a) means employed under a contract of service; but 20
- (b) does not include holding—
- (i) the position of an elected member of a local authority, local board, or community board (as applicable); or
- (ii) any other position for which the person in question would not be qualified unless he or she had been elected a member of a local authority, local board, or community board (as applicable) 25
- managed investment scheme** has the same meaning as in section 9(1), (2), and (4) of the Financial Markets Conduct Act 2013.
- 54F Contents of pecuniary interest return relating to member’s activities**
- (1) Every pecuniary interest return must also contain the following information: 30
- (a) for each country (other than New Zealand) that the member travelled to,—
- (i) the name of the country; and
- (ii) the purpose of travelling to the country; and
- (iii) the name of each person who contributed (in whole or in part) to the costs of the travel to and from the country; and 35

- (iv) the name of each person who contributed (in whole or part) to the accommodation costs incurred by the member while in the country:
- (b) a description of each gift (including hospitality and donations in cash or kind but excluding any donation made to cover expenses in an electoral campaign) received by the member and the name of the donor of each of those gifts (if known or reasonably ascertainable by the member) if— 5
- (i) the gift has an estimated market value in New Zealand of more than \$500; or
- (ii) the combined estimated market value in New Zealand of all gifts from the donor is more than \$500: 10
- (c) a description of each payment received by the member for activities in which the member is involved other than—
- (i) the salary or allowances paid to that person under the Remuneration Authority Act 1977 or this Act; and 15
- (ii) any payment the member received from an interest required to be disclosed under **section 54E**; and
- (iii) any payment made in respect of any activity the member ceased to be involved in before becoming a member.
- (2) The information referred to in **subsection (1)(a)** does not have to be included in the pecuniary interest return if the travel costs and accommodation costs were paid in full by the following or any combination of the following: 20
- (a) the member;
- (b) a member of the member’s family.
- (3) The information referred to in **subsection (1)(b)** does not have to be included in the pecuniary interest return if the gift was from a member of the member’s family unless the member, taking the purpose of the register into account (*see **section 54B***), considers the information should be included. 25
- (4) For the purposes of this section, **member of the member’s family** means the member’s spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild, or sibling. 30
- 54G Registrar**
- (1) A local authority must appoint a Registrar to—
- (a) compile and maintain the register of members’ pecuniary interests; and
- (b) provide advice and guidance to members in connection with their obligations under this subpart. 35
- (2) The chief executive of a local authority may be the Registrar under **subsection (1)**.

**54H Responsibility of members**

- (1) It is the responsibility of each member to ensure that they fulfil the obligations imposed on them under this subpart.
- (2) A Registrar is not required to—
- (a) notify any member of—
- (i) that member’s failure to make a pecuniary interest return by the due date; or
- (ii) any error or omission in that member’s pecuniary interest return; or
- (b) obtain any pecuniary interest return for a member.
- (3) To avoid doubt, a member’s obligations under this subpart are in addition to any obligations under, and do not affect the application of, the Local Authorities (Members’ Interests) Act 1968.

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**54I Definition of Registrar**

In this subpart, **Registrar** means the Registrar appointed under **section 54G**.

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## Part 2 Other amendments

**5 Section 5 amended (Interpretation)**

In section 5(1), in their appropriate alphabetical order, insert:

**pecuniary interest**, in relation to a member, means a matter or activity of financial benefit to the member that is required to be declared under **section 42C**

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**pecuniary interest return** means the return required to be made by a member of a local authority on their pecuniary and other specified interests under **section 42B 54C**

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**6 Section 235 amended (Offences by members of local authorities and local boards)**

(1) In section 235(1), after “contravenes”, insert “**section 42B, 54C or 54D(1) or (2)** or”.

(2) In section 235(2), after “instituted under”, insert “**section 42B, 54C or 54D(1) or (2)** or”.

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**7 Consequential amendments to Privacy Act 1993**

(1) This section amends the Privacy Act 1993.

(2) In Part 1 of Schedule 2, after the item relating to the Local Electoral Act 2001, insert:

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### Legislative history

1 July 2021  
22 September 2021

Introduction (Bill 51–1)  
First reading and referral to Governance and Administration  
Committee