

# CONSTITUTIONAL AND PARLIAMENTARY INFORMATION

*published by the*

ASSOCIATION OF SECRETARIES GENERAL  
OF PARLIAMENTS



*under the auspices of the*

INTER-PARLIAMENTARY UNION

GENEVA, PLACE DU PETIT-SACONNEX

1st Series - No. 148

4th Quarter 1986

**THE FINANCIAL INTERESTS OF MEMBERS  
OF PARLIAMENT**

**THE DUTIES AND RIGHTS OF DEPUTIES TO THE DIET  
OF THE POLISH PEOPLE'S REPUBLIC  
ACTO OF 31 JULY 1985**

**POLAND: CONSTITUTIONAL TRIBUNAL ACT  
OF APRIL 29, 1985**

## INTER-PARLIAMENTARY UNION

### AIMS

The Inter-Parliamentary Union whose international Statute is outlined in a Headquarters Agreement drawn up with the Swiss federal authorities, is the only world-wide organization of Parliaments.

The aim of the Inter-Parliamentary Union is to promote personal contacts between members of all Parliaments and to unite them in common action to secure and maintain the full participation of their respective States in the firm establishment and development of democratic institutions and in the advancement of the work of international peace and co-operation.

In pursuance of this objective, the Union makes known its views on all international problems suitable for settlement by parliamentary action and puts forward suggestions for the development of parliamentary assemblies so as to improve the working of those institutions and increase their prestige.

### MEMBERSHIP OF THE UNION AS OF 2 SEPTEMBER 1985

Albania, Algeria, Argentina, Australia, Austria, Belgium, Benin, Bolivia, Brazil, Bulgaria, Burundi, Cameroon, Canada, Cape Verde, China, Colombia, Comoros, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Greece, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Mexico, Monaco, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Senegal, Singapore, Somalia, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Tunisia, Turkey, United Arab Emirates, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, USSR, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

### STRUCTURE

The organs of the Union are:

1. *The Inter-Parliamentary Conference* which, unless otherwise decided, meets once a year.
2. *The Inter-Parliamentary Council*, composed of two members from each affiliated Group. *President*: Mr. H. Stercken (Federal Republic of Germany).
3. *The Executive Committee* composed of eleven members, ten of whom are elected by the Conference, the Council President acting as *ex officio* President. At present, it has the following composition:

*President*: Mr. H. Stercken (Federal Republic of Germany).

*Members*: Mr. S. Bares (Hungary); Mr. R. Bitat (Algeria); Mr. R. Carpio Castillo (Venezuela); Mr. B. Friesen (Canada); Mr. A. Ghalanos (Cyprus); Mr. C. Pepper (United States of America); Mr. B.R. Jakhar (India); Mr. S.E. Oh (Republic of Korea); Sir John Page (United Kingdom); Mr. L.N. Tolkunov (USSR).

*Secretary general*: Mr. Pio-Carlo Terenzio.

### OFFICIAL PUBLICATION

The Union's official organ is the *Inter-Parliamentary Bulletin*, which appears quarterly in both English and French. This publication is indispensable in keeping posted on the activities of the Organization. Subscription can be placed with the Inter-Parliamentary Bureau, Geneva.

---

INTER-PARLIAMENTARY UNION

**CONSTITUTIONAL AND PARLIAMENTARY  
INFORMATION**

---

*First Series - Thirty-sixth year*

---

CONTENTS

---

ASSOCIATION OF SECRETARIES GENERAL  
OF PARLIAMENTS

	<i>Page</i>
<b>THE FINANCIAL INTERESTS OF MEMBERS OF PARLIAMENT</b>	
Report by C. J. Boulton, Deputy Clerck of the House of Commons ...	95

**THE DUTIES AND RIGHTS OF DEPUTIES TO THE DIET  
OF THE POLISH PEOPLE'S REPUBLIC**

Act of 31 July 1985. . . . .	.106
------------------------------	------

**CONSTITUTIONAL TRIBUNAL**

Act of April 29, 1985. . . . .	.113
--------------------------------	------

# THE FINANCIAL INTERESTS OF MEMBERS OF PARLIAMENT

## REPORT

by C. J. Boulton, Clerk Assistant, House of Commons,  
United Kingdom

### Introduction

An English judge once asserted that "it is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done." It is on this principle, when applied to public life, that the concept of Members of Parliament declaring their private financial interests is based. The case for declaration is not that Parliamentarians are corrupt or act from concealed motives, but that the good name of Parliament and the public interest are best served by the removal of grounds for making such assertions.

It is hoped that this Report will serve as a basis for discussion within the Association of whether systems of declaration operate satisfactorily; how they are regarded by Members of Parliament; and whether they satisfy public opinion in their respective countries.

Of the 45 Chambers whose Secretaries General responded to the Questionnaire on which the Report is based, fourteen have no system of declaration, whether general or *ad hoc*. It may be that the wide range of systems employed by other Parliaments will prove of interest to them.

Ten Chambers have rules or practice involving *ad hoc* declarations, to be made when particular business is under consideration. Seventeen Chambers have systems requiring a general declaration of specified types of financial interest. Only six Chambers have both. Only eight Chambers publish the general declaration they require their Members to make.

Five Chambers do not require the *amounts* of interests to be declared, but only their nature or source. This illustrates the fact that the object of declaration is not to discover the size of the personal wealth of Parliamentarians—a matter which is quite properly private—but to enable their Parliamentary colleagues and the electorate at large to be aware, when Members of Parliament participate in debates or votes, that they have nothing to hide.

1. This Report concerns the rules and practice of Parliaments in respect of declaration of the financial interests of their Members. It is not concerned with the type of personal interest (such as paid offices in the State) that is incompatible with membership of Parliament, but with permitted interests that, while proper to be held, are required to be declared, either publicly or to a competent authority.

2. Replies to the Questionnaire on which the Report is based were received from the following 34 Parliaments, representing 45 Chambers:

Australia (both Houses)	Italy (Chamber of Deputies on behalf of both Houses) (F)
Austria (both Houses)	Ivory Coast (F)
Belgium (both Houses)	Japan (both Houses)
Republic of Cameroon (F)	Republic of Korea
Canada (both Houses)	Monaco (F)
Council of Europe	Netherlands (Second Chamber)
Cyprus	New Zealand
Denmark	Norway
European Parliament	Pakistan
Finland	Philippines*
France (both Houses)	Portugal (F)
Federal Republic of Germany (both Houses)	Spain (both Houses)
Greece (F)	Thailand
India (Lok Sabha)	United Kingdom (both Houses)
Indonesia	United States of America (House of Representatives)
Republic of Ireland (both Houses)	• Zaire (F)
Israel	Zambia

Those marked (F) replied in French.

\* Reply received before the suspension of that Parliament.

The rapporteur is most grateful to all those who participated in the compilation of the Report.

3. The following Parliaments indicated that they had none of the procedures dealt with in the Questionnaire:

Belgium (both Chambers), Council of Europe, Cyprus, Denmark, France (National Assembly), Federal Republic of Germany (Bundesrat), Indonesia, Ireland, Ivory Coast, Monaco, Pakistan, Thailand and Zaire.

## SECTION A

### General declaration of interests

This section concerns rules or customary practice which require Members to make declarations of all their declarable interests, irrespective of the particular Parliamentary business in which they might participate.

4. The following Parliaments have arrangements in operation for a general declaration: Australia (House of Representatives only), Austria, European Parliament, Federal Republic of Germany (Bundestag only), Greece, Israel, Italy (both Houses), Republic of Korea, Netherlands (Second Chamber), Philippines, Portugal, United Kingdom (House of Commons only), and United States of America (House of Representatives).

5. In Japan, both Houses have agreed in principle to the declaration of certain interests to the Presiding Officer of the House to which a Member belongs; the arrangements to come into force in April 1986 and April 1987 for two different types of declarable interest. Preparations for implementation are now in progress. In Spain there will be a system in force following the next General Election.

6. In Canada, Senators have to show they have a certain amount of property in order to qualify as a Senator, and they have to make a declaration of qualification on appointment and at the beginning of each Parliament.

### The types of interest declared

7. Some Parliaments gave a detailed specification of the types of interest to be declared; others stated the requirements in more general terms. However, the following analysis has been attempted:

<i>All income:</i>	Republic of Cameroon, Italy (both Houses), Philippines (plus sources), U.S.A. (House of Representatives) (plus sources).
<i>All assets:</i>	Israel (plus privileges, undertakings, debts).
<i>All assets and income:</i>	Greece. Portugal.
<i>All assets and securities and debts above certain levels:</i> (except regularly paid salaries)	Republic of Korea.
<i>Assets above a certain limit, but not household and personal effects:</i>	Australia (House of Representatives).
<i>Real property:</i>	Australia (House of Representatives — specifying approximate situation and purpose for which owned). Italy (both Houses) — including vehicles, boats and aircraft. Spain. United Kingdom ((House of Commons) — 'of a substantial value'). Spain. Republic of Korea.
<i>Investments:</i>	Australia (House of Representatives). Republic of Cameroon.
<i>Occupations:</i> paid	European Parliament (so far as they are relevant) Federal Republic of Germany (Bundestag). Japan.

	Spain. United Kingdom (House of Commons).
paid or unpaid:	Republic of Korea. Netherlands.
<i>Consultancies:</i>	European Parliament (so far as they are relevant) Federal Republic of Germany (Bundestag). United Kingdom (House of Commons).
<i>Liabilities:</i>	Australia. Israel. U.S.A. (House of Representatives).
<i>Contracts:</i>	U.S.A. (House of Representatives) (Transactions, agreements).
<i>Other income:</i>	Australia (House of Representatives).
Substantial sources	European Parliament (direct financial interest in matters debated). Japan (if over half Parliamentary salary). Republic of Korea (if over \$ 13,500 p.a.). Spain.
<b>Gifts</b> (various levels of declarable value)	Australia (House of Representatives). Federal Republic of Germany (Bundestag) — (for political activities). United Kingdom (House of Commons) (from foreign sources). U.S.A. (House of Representatives). Republic of Korea.
Travel	Australia (House of Representatives). Netherlands. United Kingdom (House of Commons).
<i>Companies etc. :</i> Shareholdings	Australia (House of Representatives). Italy (both Housss). United Kingdom (House of Commons) (above 1%). Republic of Korea (over \$ 11,000).
Family and business trusts, partnerships	Australia (House of Representatives).
Executive positions with certain types of company	Austria. Federal Republic of Germany (Bundestag).
<i>Other interests:</i> Membership of organisations	Australia (House of Representatives). Republic of Korea (over \$ 5,890).
Representation in legal proceedings for or against the State	Federal Republic of Germany (Bundestag).

### **Declaration of the amount of an interest**

8. The following Parliaments require declaration of amounts:

Austria, Greece, Israel, Italy (both Houses) (income only, not assets), Japan (income from outside Parliament, if totalling over half of Parliamentary income), Republic of Korea, Philippines, Portugal. For the United States (House of Representatives), some categories of interest are specified by amount and others by a letter indicating a range of amounts. Amounts are required to be specified for a few interests in the Federal Republic of Germany (Bundestag).

9. Amounts are not required to be declared in Australia, Netherlands, Spain or United Kingdom (House of Commons). In Australia and the United Kingdom, there are limits of amount below which the existence of an interest does not have to be declared.

### **Declaration of interests of spouse, etc.**

10. The interests of a spouse or dependent children are declared in Australia, Greece, Israel (and any relative supported by the Member), Republic of Korea and the United States (House of Representatives). In the United States, the categories of declarable interest for a spouse are fewer than for the Member, and for children fewer still. In Australia and the United States, interests unknown to the Member and not resulting from gifts from him are exempt from declaration. In Italy (both Houses), Members may declare the interests of their spouses and dependent children, with their agreement.

11. These interests are not declared in Austria, Republic of Cameroon, European Parliament, Federal Republic of Germany (Bundestag), Netherlands, Philippines, Portugal, Spain or the United Kingdom (House of Commons), although a spouse's shareholding counts with the Member's when determining whether it amounts to more than 1% of the shares of a company and is therefore declarable.

### **Administrative arrangements for declaration**

12. There is usually a time limit for the initial declaration:

- |                              |   |
|------------------------------|---|
| (a) 28 days or one month:    | Australia (House of Representatives), Austria, Republic of Korea, Philippines, Portugal, United Kingdom (House of Commons). |
| (b) 60 days or two months:   | Israel, Spain,  |
| (c) 90 days or three months: | Greece, Italy (both Houses),  |

Subsequent changes have to be notified within 28 days in Australia (House of Representatives) and United Kingdom (House of Commons), one month in Austria (both Houses) and 60 days in Spain.



An annual declaration is made in Australia, Republic of Cameroon, Greece, (property and income only), Italy (both Houses), Netherlands (except visits, which are to be declared at the end of the visit), Philippines, U.S.A. (House of Representatives).

In the European Parliament a declaration form is sent by the President to the Member directly after his election and he is expected to reply without delay. There are no special rules for up-dating the declaration.

In the Republic of Korea, new compatible offices have to be notified within 15 days and subsequent changes declared by 31st January every year.

A declaration upon leaving office is required in Greece (and for 3 years afterwards), Israel, Italy (both Houses), Portugal, Philippines.

It is usual for declarations to be made to the Speaker (or other presiding officer), as in Austria, Federal Republic of Germany (Bundestag), Greece (and to the Athens Court of Appeal), Israel, Italy (both Houses), Japan, Republic of Korea (offices only), Philippines.

Declarations are made to a member of the Clerk's or Secretary General's department in Australia (House of Representatives) (the Registrar is a Clerk appointed for the purpose by the Speaker), Republic of Korea (property and income only), Netherlands, United Kingdom (House of Commons) (the Registrar is a Clerk appointed by the Clerk of the House), U.S.A. (House of Representatives) (the Clerk of the House).

In Spain, a declaration of offices held is made before a public notary; declaration of other interests are expected to be presented to the Secretary General for reference to the supervisory Committee.

In Portugal, declarations are made to the Constitutional Court.

Most Parliaments have a Committee to supervise the arrangements for registration: Australia (House of Representatives), Austria, Israel, Republic of Korea, Spain, United Kingdom (House of Commons), United States.

In Greece and Portugal, a court supervises the arrangements (the Athens Court of Appeal; the Portuguese Constitutional Court).

In the Philippines, the Speaker supervises the arrangements; in the Federal Republic of Germany (Bundestag), this task is performed by the Praesidium (the President and 4 Vice-Presidents).

There are no supervising arrangements in Italy (both Houses), nor for the voluntary system in the Netherlands. In the European Parliament, the Committee on the Rules of Procedure is responsible for the interpretation of the rules relating to declaration.

#### Authority for declarations

13. Most Registers are compiled on the authority of a Statute: Austria, Republic of Cameroon, Greece, Italy (both Houses), Republic of Korea, Philippines, Portugal, Spain, U.S.A. (House of Representatives).

In Australia, the European Parliament, Federal Republic of Germany (Bundestag), Israel, Japan and the United Kingdom (House of Commons), the registration is specified by resolutions or rules of the appropriate House.

The system in the Netherlands is voluntary, and was introduced by a decision of the Chamber's Praesidium.

The States with statutory authority can institute criminal proceedings, except in Austria, and Portugal (where a Member could be expelled). In Italy (both Houses), the Speaker can order a member to comply and inform the House if he does not do so. Action by the House is also possible in the United States.

In Australia and the United Kingdom, a Member can be proceeded against for contempt. (In the United Kingdom no action has been taken against the one or two Members who refused to register their interests.)

In Israel a Member can be reprimanded.

The Republic of Cameroon, Greece, Philippines and the United States stated that they had examples of action being taken.

### **Publication**

14. The Register is published (in whole) in Australia (by being tabled), European Parliament (open for inspection), Italy (both Houses) (for inspection by electors), Netherlands, United Kingdom, United States (for inspection only).

Parts are published in the Federal Republic of Germany, Republic of Korea (offices only), Spain (not property interests).

In Portugal, entries are published only if a court so decrees; in Philippines, inspection is allowed if approved by the Secretary General after consultation with the Member concerned.

In Austria, the Register is available only to Members, and it is not published at all in Israel and Japan.

### **Publication of tax returns**

15. The question 'Are the tax-returns of Members made public?' was answered as follows:

No:	Australia, Austria, Canada (both Houses), European Parliament, Federal Republic of Germany, Greece, India, Israel, Netherlands, Philippines, Portugal, Spain, United Kingdom (House of Commons, House of Lords), U.S.A. (House of Representatives).
Public (in varying detail) for everyone:	Belgium, Finland, France and Norway,

Public (over a limit) for everyone:	Japan,
Yes:	Italy (both Houses) (for inspection by electors), Republic of Korea.

In general, tax returns of Members are not made public. However, they are in the Republic of Korea, and, subject to administrative arrangements, they could be in the Philippines.

### Election expenditure

16. The question 'Are the sources of Member's election expenditure made public?' was answered as follows:

Yes:	United Kingdom (House of Commons) if more than one quarter of total.
Yes (sometimes in separate legislation):	Australia, Canada (House of Commons), Italy (both Houses) (for inspection by electors), Japan, Philippines, U.S.A.
Of political parties, not individuals:	Austria, Federal Republic of Germany, Israel, Portugal, Spain ( <i>income</i> of parties).
No:	European Parliament, Finland, Greece, India, Republic of Korea, Netherlands, New Zealand, Norway.

## SECTION B

### Ad hoc declarations

This section concerns rules or customary practice which require Members to draw special attention to their relevant personal interest when engaged in particular activities—such as speaking or voting on a topic in which they are financially concerned.

17. The following Parliaments have rules or customs about declarations by Members of their interests in relation to particular Parliamentary business:

Australia (both Houses); European Parliament; Federal Republic of Germany (Bundestag: Committees only); Israel; Philippines; United Kingdom (both Houses).

In each case a declaration is required before taking part in a debate. Other proceedings requiring a declaration are as follows:

- (1) asking questions of the Government: Australia (Senate),
- (2) voting: Australia (both Houses).  
Israel.

- |  |  |
|--|--|
|  | Philippines.<br>United Kingdom (House of Lords).<br>Zambia.  |
| (3) tabling notices of motions, amendments or questions: | Australia (House of Representatives: not questions on notice; Senate: all),<br>Israel.<br>Philippines. |
| (4) communicating with Ministers or public officials:    | United Kingdom (House of Commons).   |

Except in the case of (4) above, the declarations would usually be made orally, in the Chamber or committee. In Israel, the procedure is not specified.

18. The making of a declaration is laid down in the following ways:

- |                                      |   |
|--------------------------------------|---|
| (1) custom:                          | Australia (Senate).<br>Philippines.<br>United Kingdom (House of Lords).   |
| (2) resolution or rules of House:    | Australia (House of Representatives),<br>European Parliament.<br>India.<br>Israel.<br>United Kingdom (House of Commons).<br>Zambia (by standing order: fines for non-compliance). |
| (3) annex to the rules of procedure: | Federal Republic of Germany (Bundestag),  |

In Canada (both Houses), Ireland and New Zealand (House of Representatives), Members occasionally make an oral declaration of interest, but there is no convention that they should do so.

In the United States (House of Representatives), Members occasionally make an oral declaration of interest in order to be excused from voting.

In the Philippines, a Member with a personal financial interest in a matter should not participate in the debate (as well as not voting). This can also apply to the United Kingdom (House of Lords), but it is a matter for the discretion of individual Lords.

### **Prohibition from voting**

19. The following countries have rules forbidding Members to vote on a matter in which they have a direct personal financial interest:

Australia (Senate: committees only; House of Representatives); Canada (both Houses), Finland, India, Israel (committees only), New Zealand, Norway, Philippines, United Kingdom (both Houses), U.S.A. (House of Representatives), Zambia.

In the following countries, a challenge to a vote has to be made immediately: Australia (House of Representatives), India, United Kingdom (House of Commons), Zambia.

20. The following countries forbid Members to take any part in a committee on a matter in which they have a direct personal financial interest:

Australia (both Houses), Canada (Senate), India, Ireland (committees on local legislation), United Kingdom (both Houses: committees on local legislation).

### C. Publications on this subject

The following documents were referred to as being likely to be of interest to members of the Association:

<i>Australia</i>	Recent publications include: Report from the Committee on Members' Interests relating to the registration requirements, 1985; Report on Possible Changes to the Standing Orders in Respect of the Declaration and Registration of Private Interests of Members (1983-84); Senate Debate 20 October 1983; House of Representatives Debates, 5 October 1983; 13 February and 20 May 1986. Report on the form of declaration, 20 March 1986.
<i>Belgium</i>	Parliamentary Bills of 1971-72 (Senate) and 1977 (House of Representatives).
<i>Canada</i>	New Standing Orders published 18 December 1985. Sixth Report from the Standing Committee on Management and Members' Services, on the establishment of a Register of Members' Interests. Government Paper on "Conflict of Interest and Post-Employment Code for Public Office Holders".
<i>Federal Republic of Germany</i>	Bills to incorporate a Code of Conduct into the Law relating to Members of Parliament—in Committee (Rules of Procedure) (Drs. 10/3544, 10/3557).
<i>India</i>	Various non-Government Bills to make declaration a statutory obligation—e.g. 1981, 1983, and 1985.
<i>Spain</i>	Electoral Law of 19 June 1985, Articles 155 to 160.
<i>United Kingdom</i>	New arrangements for the registration of interests of Parliamentary journalists, Members' staffs and Parliamentary Groups: Reports of the Select Committee on Members' Interests, 2 May 1985 and 6 March 1986.

## APPENDIX

*General Chart*  
(Excluding those Chambers which  
answered 'No' to every question)

	General Decl'n	Published?	Tax returns published?	Electoral Expenses published?	Ad hoc Decl'ns?	Voting restriction?
Australia Senate	No	—	No	Yes	Yes	Cttees
Australia Hse. of Reprs.	Yes	Yes	No	Yes	Yes	Yes
Austria	Yes	to Mem- bers only	No	(Parties)	No	No
Republic of Cameroon	Yes	No	No	No	No	No
Canada Senate	No	—	No	N/A	Yes (a)	No
Canada Hse. of Commons	No	-	No	Yes	Yes (a)	No
Finland	No	—	Yes*	No	No	Yes
Federal Republic of Germany (Bundestag)	Yes	part <sup>1</sup>	No	(Parties)	Cttees	No
Greece	Yes	Yes	No	No	No	No
India	No	—	No	No	No	Yes
Israel	Yes	No	No	(Parties)	Yes	Cttees
Italy (both Houses)	Yes	Yes	Yes	Yes	No	No
Japan	[about to]	No	over a certain limit*	Yes	No	No
Republic of Korea	Yes	part	Yes	No	No	No
Netherlands (Second Chamber)	Yes	Yes	No	No	No	
New Zealand	No	—	No	No	Yes (a)	Yes
Norway	No	—	Yes*	No	No	Yes
Philippines	Yes	after consult. with Member	No	Yes	Yes	Yes
Portugal	Yes	not usually	No	(Parties)	No	No
Spain Senate		part	No	(Income of Parties)	No	No
Spain Ch. of Deputies	[about to]	part	No	(Parties)	No	No
United Kingdom H.L.	No	—	No	N/A	Yes	No
United Kingdom H.C.	Yes	Yes		(if substantial from one source)	Yes	Yes
U.S.A. Hse. of Reprs.	Yes	Yes	No	Yes	Yes (a)	Yes
Zambia	No	—	No	No	—	Yes

\* same for everyone.

(a) occasional or voluntary.