

NORTHERN TERRITORY OF AUSTRALIA

LEGISLATIVE ASSEMBLY (MEMBERS' CODE OF CONDUCT AND
ETHICAL STANDARDS) ACT 2008

Act No. 35 of 2008

TABLE OF PROVISIONS

1	Short title	1
2	Commencement	1
3	Definitions	1
4	Establishment of the Code	2
5	Enforcement of the Code	2

Schedule Code of Conduct and Ethical Standards



NORTHERN TERRITORY OF AUSTRALIA

Act No. 35 of 2008

An Act to establish a Code of Conduct and Ethical Standards for Members of the Legislative Assembly and to provide for enforcement of the Code and related purposes

[Assented to 8 December 2008]
[Second reading 22 October 2008]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Legislative Assembly (Members' Code of Conduct and Ethical Standards) Act 2008*.

2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

3 Definitions

In this Act:

Assembly means the Legislative Assembly of the Northern Territory of Australia.

Code means the Code of Conduct and Ethical Standards set out in the Schedule.

member means a member of the Assembly.

Privileges Committee means a committee of the Assembly established as the Committee of Privileges.

4 Establishment of the Code

The Code is established.

5 Enforcement of the Code

- (1) The Assembly may refer an alleged breach of the Code to the Privileges Committee to inquire into and report on the alleged breach.
- (2) If the Privileges Committee finds the breach established, the Assembly may punish the breach as a contempt.

Schedule Code of Conduct and Ethical Standards

section 4

Part 1 Introduction

The *Code of Conduct and Ethical Standards* is established under section 4 of the *Legislative Assembly (Members' Code of Conduct and Ethical Standards) Act*.

The Code establishes principles of ethical conduct, and standards of behaviour, for members.

The principles of ethical conduct fall under 4 main heads:

- (a) integrity; and
- (b) accountability; and
- (c) responsibility; and
- (d) the public interest.

The Code states rules and standards of conduct that are implicit in these principles. However, the Code is not to be regarded as an exhaustive statement of the implications of these principles and, in a situation that is not explicitly covered by the Code, the member must use the member's own judgment to determine an appropriate course of conduct conforming with these principles.

Commentary

The Code is intended to be read in conjunction with other relevant laws, the Standing Orders of the Assembly, and other standards established by the Assembly governing the conduct of members.

In case of conflict between the Code and the Assembly's Standing Orders or other Standards, the Code prevails.

The Assembly may refer an alleged breach of the Code to the Privileges Committee, and if the Committee finds a breach established, may punish it as a contempt of the Assembly.

Part 2 Principles, standards and commentary

1 Integrity

Members must act with integrity in the exercise of official functions.

Commentary

Public confidence in the integrity of parliamentary decision-making is essential to an effective democracy. In order to maintain that confidence, it is essential, especially in a relatively small community, for members to avoid any suggestion that they are exploiting their position to gain an improper personal benefit.

2 Conflict of interest

Members must avoid conflicts, or apparent conflicts, between their private interests and their official functions.

Commentary

Members may need to divest themselves of business interests or distance themselves from management by, for example, placing assets in the administration of a blind trust.

Members must ensure that they do not come under any financial obligation to individuals or organisations that are likely, or might reasonably be considered likely, to influence a member improperly in the performance of official functions.

3 Declaration of interests

A member must not vote in any division on a question affecting a declarable interest unless the member has first declared the interest to the Assembly.

A declarable interest is:

- (a) an interest the member has disclosed, or is required to disclose, under the *Legislative Assembly (Disclosure of Interests) Act* (including such an interest held by a related person within the meaning of that Act); or
- (b) an interest of a company or business for which the member acts, for remuneration, as a consultant or adviser.

The declaration must be made:

- (a) if the member participates in debate on the matter – at the beginning of the member's speech; or

- (b) if the member does not participate in debate on the matter – before, or as soon as practicable after, a vote is taken on the question.

Commentary

Section 21(3) of the Northern Territory (Self-Government) Act 1978 (Cth) prohibits a member of the Legislative Assembly who is a party to, or has a direct or indirect interest in, a contract made by or on behalf of the Territory under which goods or services are to be supplied to the Territory from taking part in discussion of a matter, or voting on a question, in the Legislative Assembly where the matter or question relates directly or indirectly to that contract. The above rules operate in cases of conflict, or possible conflict, of interest to which the statutory prohibition is inapplicable.

4 Commitment

A member must not engage in any other employment or business activity that involves a substantial commitment of time and effort.

Commentary

A member's functions require a commitment of time and effort at least equivalent to full-time employment. Substantial commitments to other employment or business activities are incompatible with the proper performance of the member's representative and parliamentary duties

5 Honesty

Members must act honestly in all their official dealings, and must take care not to mislead the Assembly or the public.

6 Respect for confidences

A member must respect the confidentiality of information obtained in confidence in the member's official capacity.

A member must not make improper use of confidential information obtained in an official capacity to gain a private benefit.

7 Gifts

A member must not solicit or encourage a gift or private benefit from a constituent or other person with whom the member deals in an official capacity.

However, a member may accept an unsolicited gift or private benefit and disclose the gift or benefit if required under the *Legislative Assembly (Disclosure of Interests) Act*.

8 Government contracts

A member must not hold a direct or indirect interest in a contract or arrangement for the provision of goods or services to or for the Territory or an agency or instrumentality of the Territory.

9 Accountability

Members are accountable to the Assembly, their constituents and the public generally.

Commentary

Public office is a public trust. The holders of public office who make decisions affecting the welfare, rights or obligations of others have an obligation to ensure they use their powers and influence lawfully and fairly and must be prepared to demonstrate that this obligation has been met.

The people of the Northern Territory are entitled to know why the Assembly or a member has taken a particular policy position.

Accountability fosters integrity and probity in official decision-making, good governance, and the prevention and detection of corruption. It encourages public confidence and trust.

10 Responsibility

Members must act in accordance with the principle of responsibility.

This means members must endeavour to ensure their decisions reflect a proper consideration of all relevant matters, including the reasonably foreseeable consequences for those likely to be affected by their decisions.

Members must also foster, by their conduct in office, respect for democratic institutions, rights and freedoms and the principles of good governance. In particular, members must foster the following:

- (a) respect for the institution of the Parliament;
- (b) respect for the Rule of Law;
- (c) recognition of the value of social and cultural diversity;
- (d) fairness and integrity in official decision-making;

- (e) freedom of reporting by media;
- (f) the independence of the public service;
- (g) freedom of speech;
- (h) access to justice.

A member's conduct in office should be exemplary in regard to the member's work ethic and standards of ethical behaviour.

Members must manage, economically and responsibly, the resources and facilities provided to them and their staff at public expense.

Members must recognise the public service as a non-partisan public resource, and treat public servants in accordance with established conventions of public service neutrality.

11 Public interest

In performing official functions, members must act in what they genuinely believe to be the public interest.

In particular, members must seek to ensure their decisions and actions are based on an honest, reasonable, and properly informed judgment about what will best advance the common good of the people of the Territory.

Commentary

The public's confidence in the institutions of government is strengthened when members demonstrate the highest standards of professional competence, efficiency and effectiveness, uphold the laws of the Territory, and seek to advance the common good of the people of the Territory at all times.