

# House of Representatives

# Supplementary Order Paper

Tuesday, 24 March 2015

## Judicature Modernisation Bill

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### *Proposed amendments*

David Clendon, in Committee, to move the following amendments:

*New cross-heading and new clauses 167A and 167B*

Delete the cross-heading above *clause 168* (page 107, line 12), and insert:

### *Judges' interests and recusal*

#### **167A Register of pecuniary interests**

- (1) The Chief Justice must maintain a register of pecuniary interests for Judges, and may set such requirements for the recording of pecuniary interests as the Chief Justice thinks fit.
- (2) All Judges must supply an annual statement of pecuniary interests to the Chief Justice, to be entered into the register of pecuniary interests for Judges.
- (3) The register of pecuniary interests for Judges may not be published.

#### **167B Interests statement**

- (1) Prior to the commencement of each proceeding, the Judge hearing the proceeding must provide a signed interests statement to the Chief High Court Judge, the President of the Court of Appeal, or the Chief Justice as appropriate.
- (2) In the interests statement, the Judge must declare whether—
  - (a) the Judge has a close relationship to the litigants, legal advisers, or witnesses in the case; and
  - (b) the Judge has made any public statement of firm opinion on any issue of relevance to the case; and
  - (c) any close relative or member of the Judge's household has an economic interest in the outcome of the proceedings of the case.

*Clause 168*

After *clause 168(2)* (page 107, after line 21), insert:

- (3) The guidelines required by **subsections (1) and (2)** must direct Judges to recuse themselves if—
- (a) they have a relevant pecuniary interest recorded in the register of pecuniary interests for Judges under **section 167A**; or
  - (b) they have declared an interest in the interests statement under **section 167B**.
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### Explanatory note

This Supplementary Order Paper amends the Judicature Modernisation Bill by inserting *new clause 167A*, which introduces a register of pecuniary interests for Judges, to be maintained by the Chief Justice. It also inserts *new clause 167B*, which requires Judges hearing a proceeding to provide a signed interests statement, declaring whether the Judge has a close relationship to the litigants, legal advisers, or witnesses in the case; or has made any public statement of firm opinion on any issue of relevance to the case; or has any close relative or household member who has an economic interest in the outcome of the proceedings of the case.

*New clause 168(3)* requires that guidelines must direct Judges to recuse themselves if they have a relevant pecuniary interest recorded in the register of pecuniary interests for Judges, or if they have declared an interest in the interests statements. This will ensure greater transparency within the judicial system, and help to avoid any conflict of interest in the judicial role. The purpose of these amendments is not to curtail judicial independence, but to recognise that public confidence may respond more to a degree of legislative clarity in the recusal process than might be the case if left to the individual, as is currently the case.

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