

DISCLOSURE OF INTERESTS

Particulars of my interests which could conflict with the proper performance of the functions of my office are set out in Attachment A. Particulars of any indirect and personal interests (other than pecuniary interests) are included.

In preparing these details, I have had regard to the provisions of the *Australian Communications and Media Authority Act 2005* and the *Public Governance, Performance and Accountability Act 2013* and the *Public Governance, Performance and Accountability Rule 2014*, particularly:

- the requirement to disclose material personal interests that relate to the affairs of the Australian Communications and Media Authority (the ACMA);
- the requirement to disclose relevant interests as I acquire them or as I become aware that they may give rise to a potential conflict of interests;
- the requirement that this disclosure be provided to each of the other members and the Minister; and
- the ability of my appointer to terminate my appointment as a member/associate member if I fail to comply with these requirements without a reasonable excuse.

In preparing these details, I have made reasonable efforts to identify all material personal interests.

I confirm that I will provide further information to you should a situation arise where a material personal interest of mine relates to the affairs of the ACMA.

Signature:



Position: **Commissioner, ACCC &
Associate Member, ACMA**

Date: **16 August 2021**

DISCLOSURE OF INTERESTS

Explanatory notes

Requirements

In accordance with section 29 of the *Public Governance, Performance and Accountability Act 2013* (the PGPA Act), a member or associate member of the ACMA who has a material personal interest that relates to the affairs of the ACMA must disclose details of the interest. This disclosure must be made to the Minister and each of the other members of the ACMA. The disclosure to the Minister must be in writing. A member or associate member of the ACMA may disclose a material personal interest to each other member of the ACMA orally and must ensure that such a disclosure is recorded in the minutes of the meeting.

This disclosure is distinct from the more comprehensive *Record of Private Interests Statement*, which you are also required to complete. The *Record of Private Interests* will not be circulated to other members or the Minister.

Disclosure is required whether or not there is any particular matter under consideration that gives rise to an actual conflict of interest. What constitutes a “material personal interest relating to the affairs of the ACMA” will depend on the particular facts, but it is not confined to financial or similar interests. To be “material” a personal interest must be of a type that can give rise to a real or perceived conflict of interest. Personal interests do not give rise to a conflict of interest unless there is a real or sensible possibility of conflict and not simply a remote or theoretical possibility of conflict. In addition, to be “material”, the nature and substance of the interest must have the capacity to impact on the ability of the member or associate member to honestly discharge their duties to the ACMA. The term “relates to the affairs of the entity” should be read broadly, for example, to include activities of the ACMA that involve collaboration by the entity with other entities inside or outside government. An interest can include a duty (for example, a duty as a director of a company).

The material personal interest could be direct, indirect, pecuniary, non-pecuniary, acquired before or after a member or associate member’s appointment.

Indirect interests may include interests held by your spouse or a member of your immediate family. When interests are held jointly with spouse or dependants you should note such as ‘jointly owned with spouse’. Your ‘immediate family’ is your spouse, de facto spouse or partner, and your dependent children.

This statement will need to cover financial, personal and other interests where these amount to a material personal interest which relates to the affairs of the ACMA. Non-pecuniary interests may include sporting, political, social or cultural activities as well as family and other personal relationships.

This statement should include details of the nature and extent of the interest and how the interest relates to the affairs of the entity.

If you are in any doubt about whether to include a particular interest, you should seek advice from the Chair or the General Manager, Legal Services Division.

Ongoing obligations

When an interest is acquired by a member or associate member that is a material personal interest relating to the affairs of the ACMA, then that member or associate member must complete a new form disclosing the interest which has been newly acquired as soon as practicable after becoming aware of the interest.

When a member or associate member has an existing interest which has not been previously disclosed, and that member or associate member becomes aware that the interest is a material personal interest relating to the affairs of the ACMA, then that member or associate member must complete a new form disclosing the interest as soon as practicable after becoming aware of that change.

When a member or associate member has previously disclosed an interest and there is a change in the nature or extent of that interest, then that member or associate member must complete a new form as soon as practicable after becoming aware of the change.

Requirement to disclose before deciding a particular matter

There are additional requirements which you must comply with prior to participating in an ACMA decision where you have an interest which is a material personal interest relating to the affairs of the ACMA. Those requirements apply whether or not you have disclosed that interest on this form. For more information, see section 15 of the PGPA Rules at Attachment B.

Please read these explanatory notes and the supplementary attached information carefully before completing the following form.

ATTACHMENT A

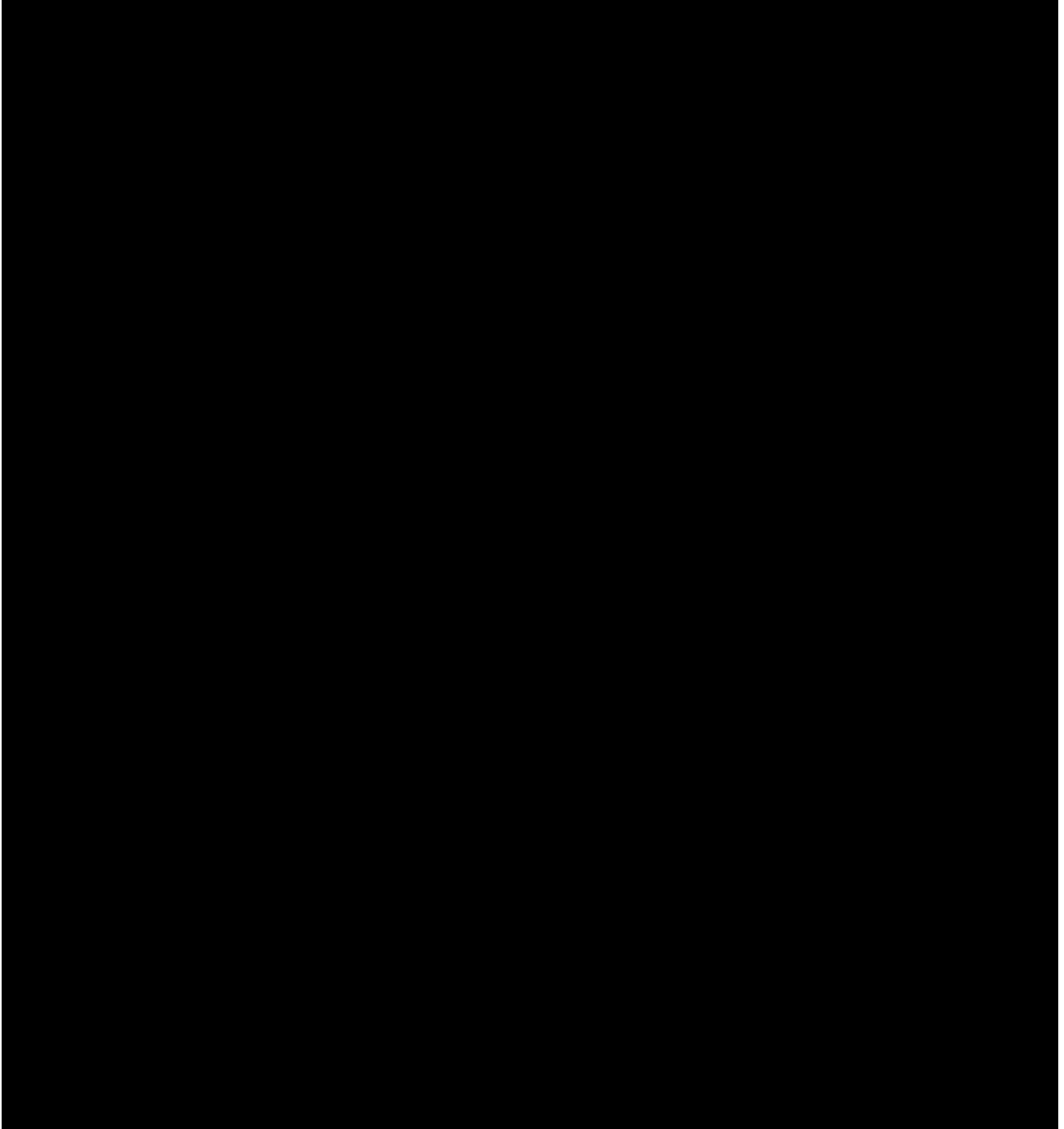
DISCLOSURE OF INTERESTS

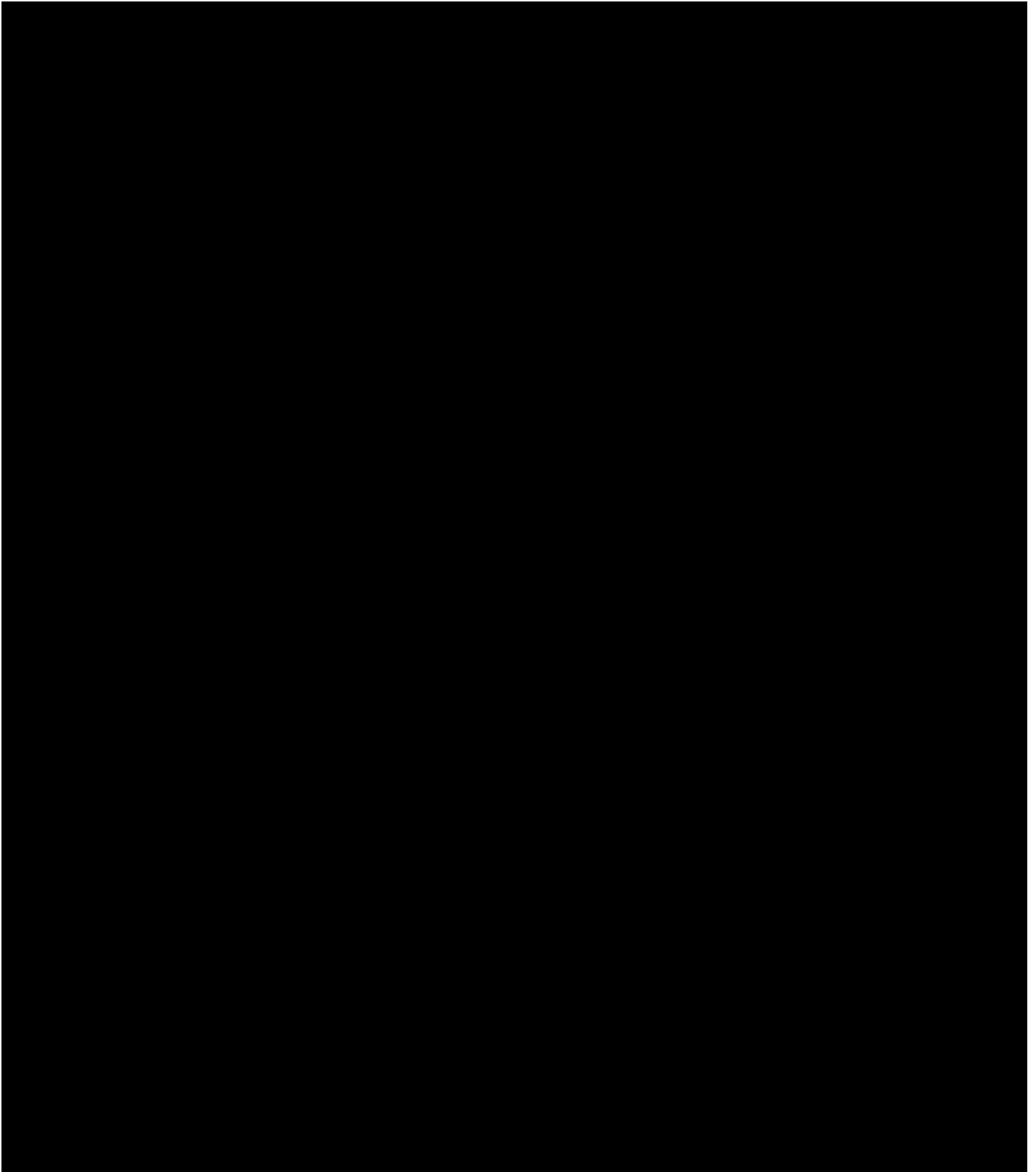
- **Provide information about a particular interest if you believe that the interest is a material personal interest that relates to the affairs of the ACMA.**
- **Copies of this document, once completed, will be distributed to each of the other ACMA members and the Minister in accordance with subsection 29(1) of the *Australian Communications and Media Authority Act 2005*.**
- **Failure to properly disclose any relevant interest without a reasonable excuse may result in the termination of your appointment under the *Australian Communications and Media Authority Act 2005*.**

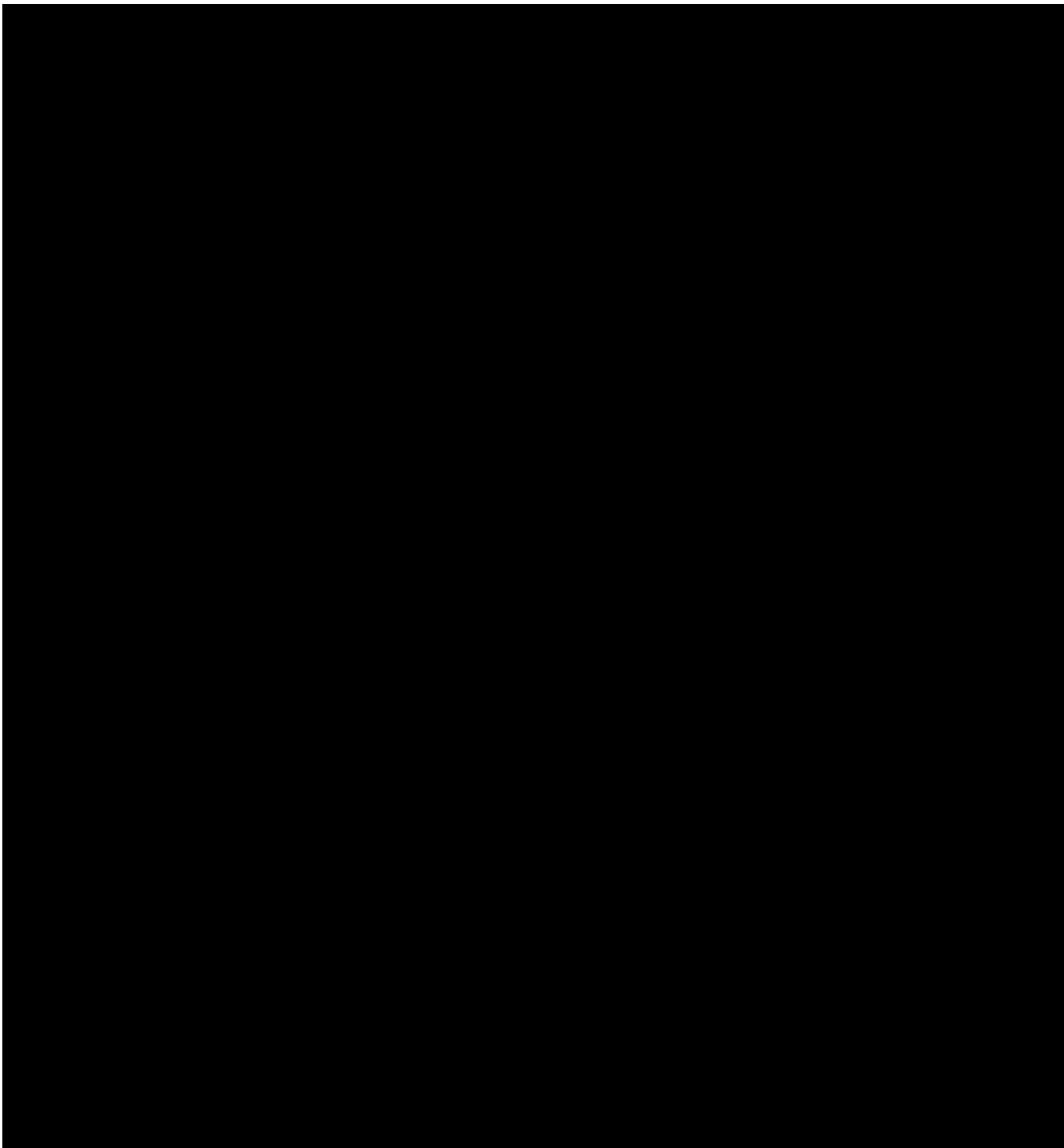
Some examples of companies in which any financial interest (including a retainer or fee-paying relationship) has the potential to constitute a material personal interest relating to the affairs of the ACMA:

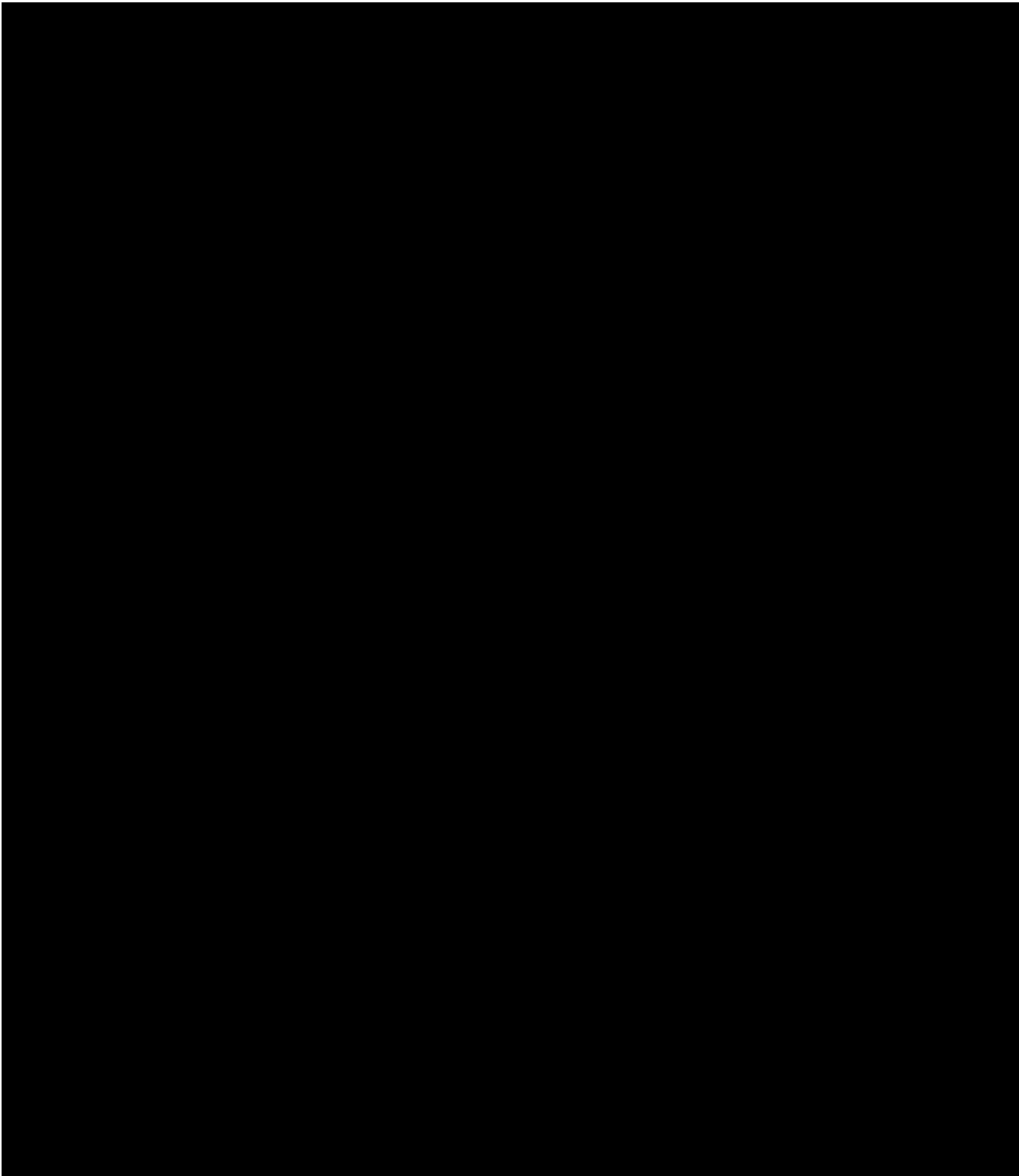
- telecommunications, broadcasting, radiocommunications or electronic media companies; and
- companies with a financial interest in the areas in which ACMA regulates (such as AMP or Macquarie Bank); and
- companies involved in areas closely related to telecommunications, broadcasting, radiocommunications or electronic media (for example, a production company such as Endemol Southern Star).

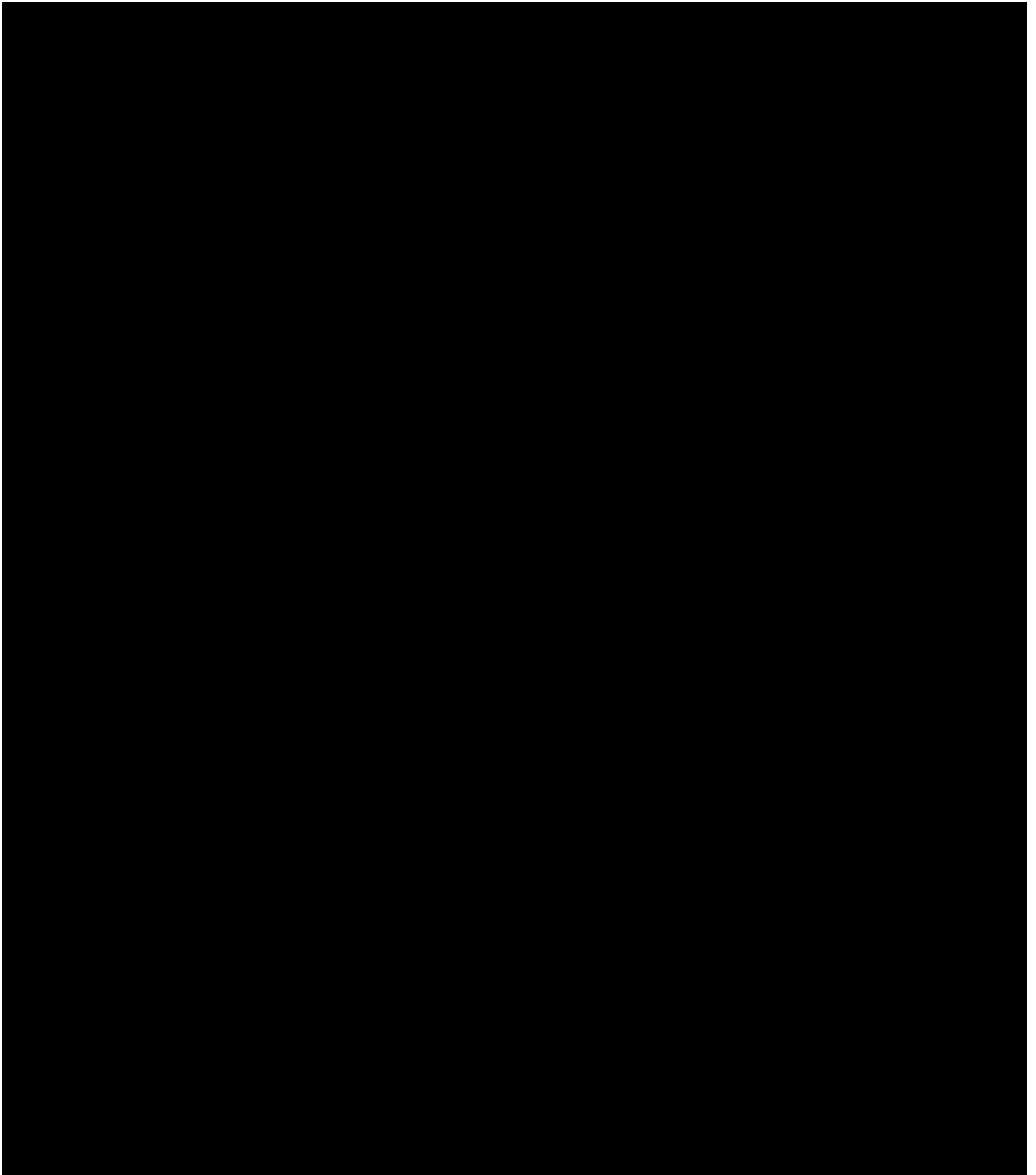
Section 1 – Financial Interests

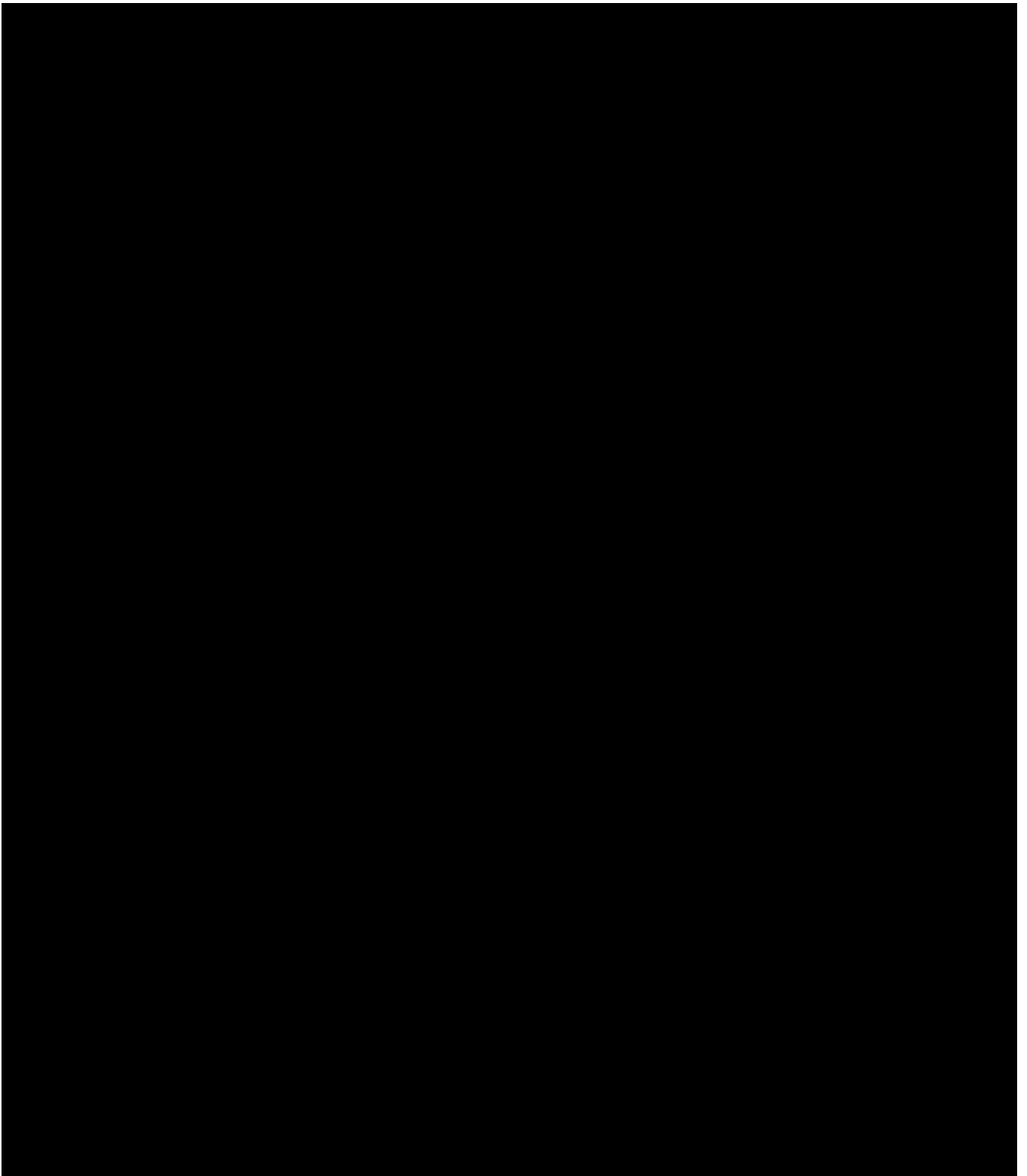












7. Other substantial sources of income

I have identified the following substantial sources of income earned by myself and/or members of my immediate family which are a personal material interest relating to the affairs of the ACMA:

Person receiving income	Nature of income	Source of Income
Anna Brakey	ACCC Commissioner Remuneration	ACCC

Note: Anna Brakey: The above declaration does not relate to ACMA, although it is Commonwealth remuneration.

Do not include your own Commonwealth remuneration

The Chair must not engage in paid employment outside the duties of his or her office without the approval of the Minister.¹

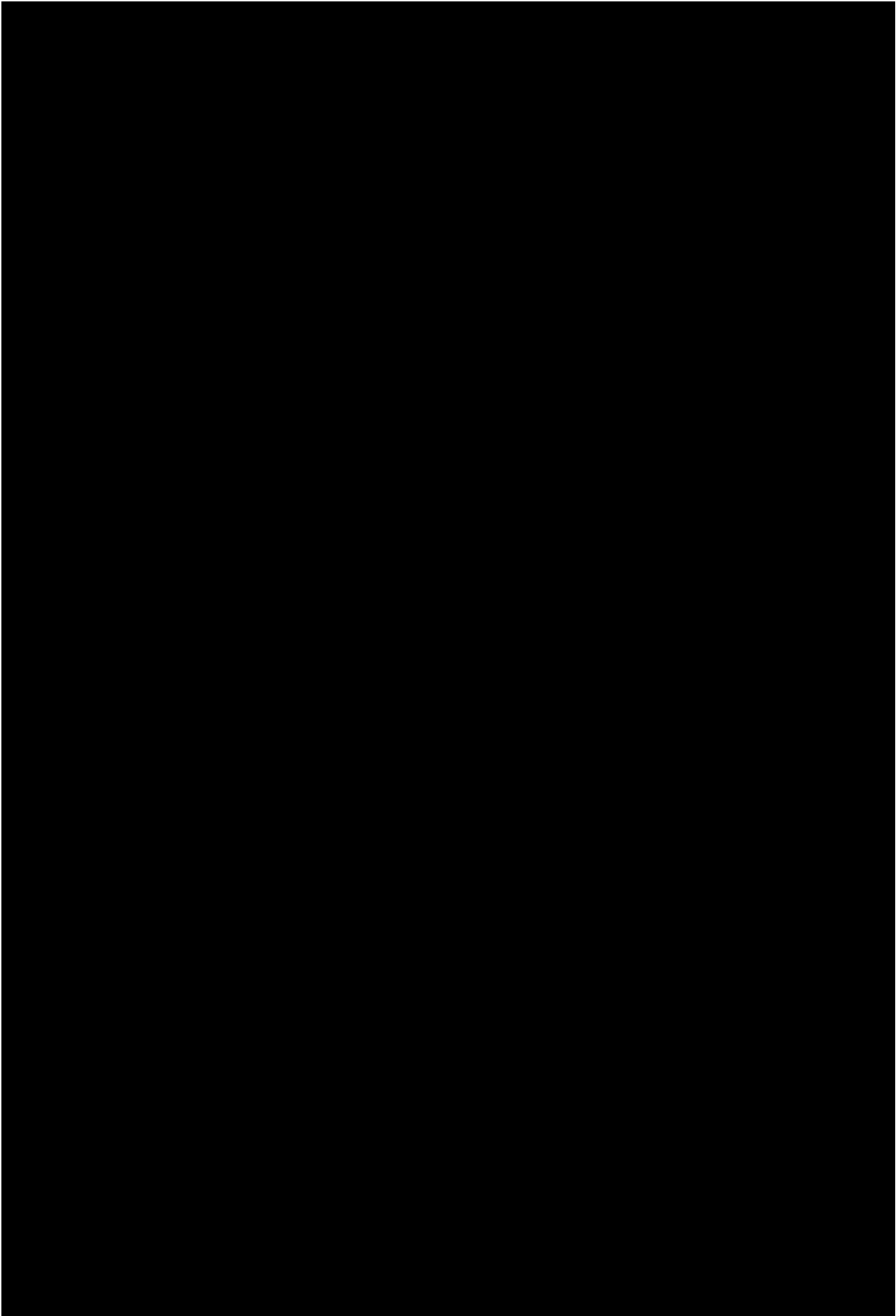
Full time members and full time associate members of ACMA are not permitted to engage in paid employment outside the duties of his or her office without the approval of the Chair.²

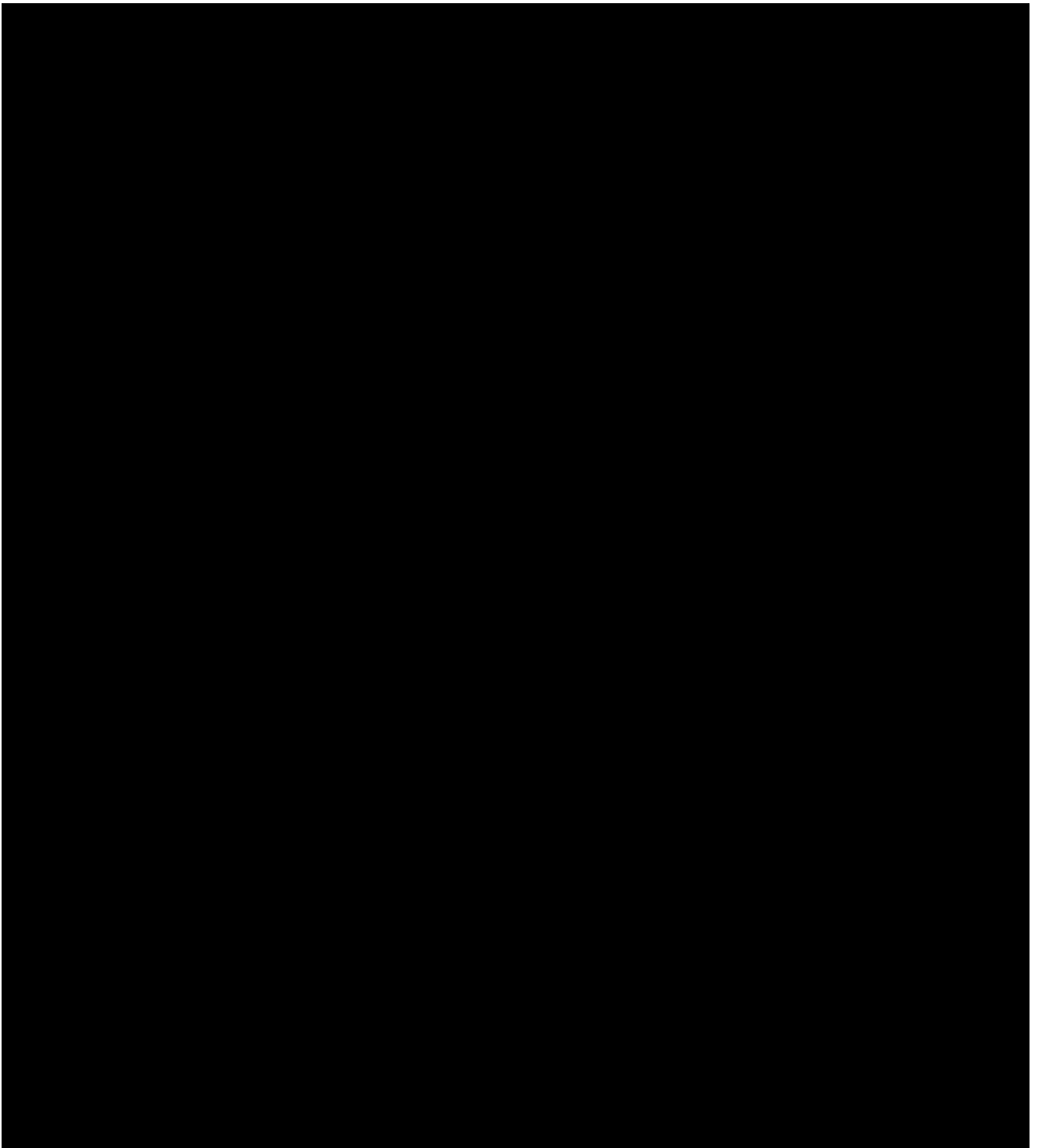
Include spouse's income from employment and any income earned by you, a spouse, or your dependants from investments, annuities, pensions or government sources, other than those already disclosed elsewhere in this form. A reference to 'income from investments as set out above' is sufficient for investment income.

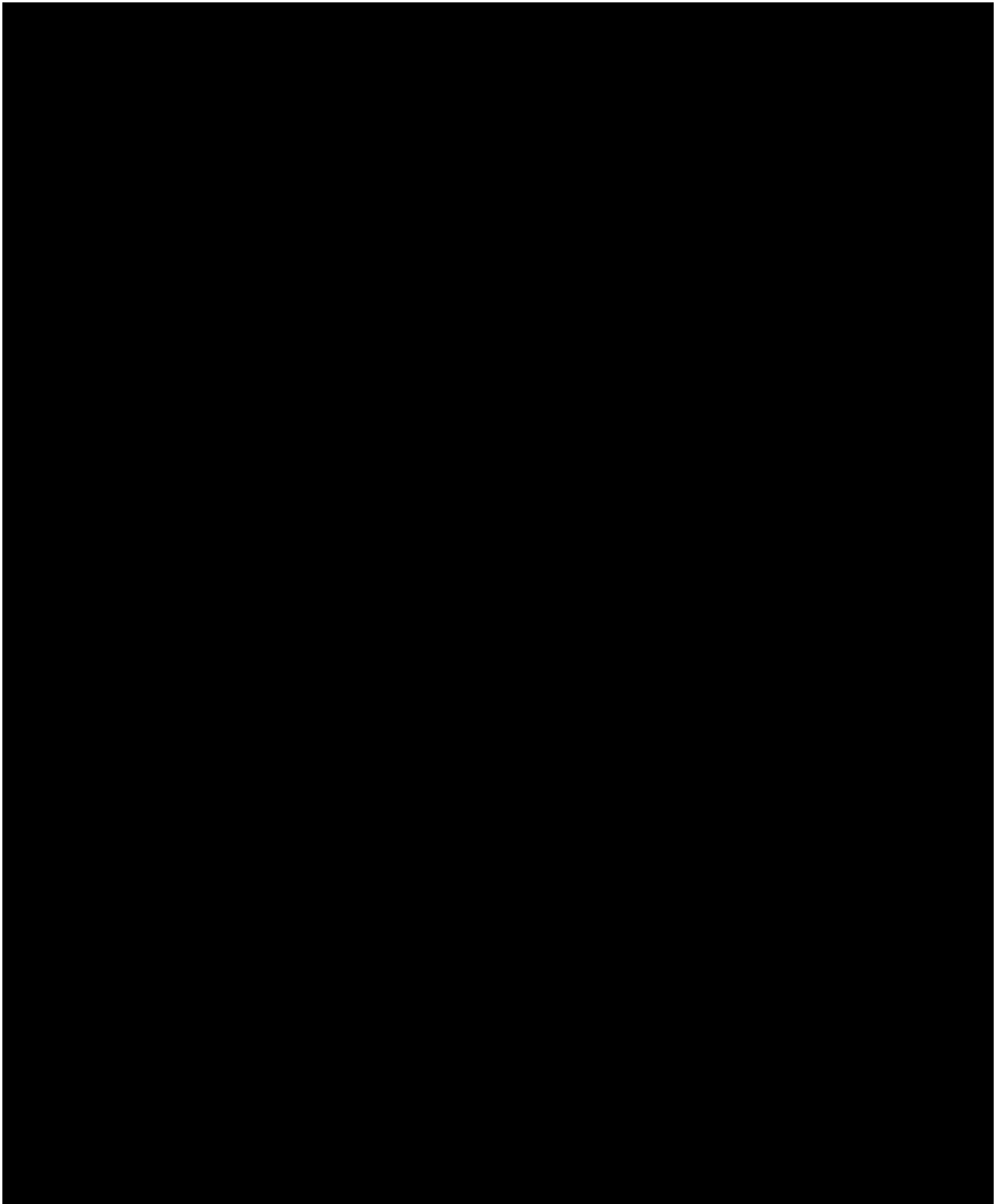
Substantial sources of income, generating income over \$5000 per annum, should be notified, but smaller amounts from sources that have potential to create a conflict of interests should also be included.

¹ Section 31(1) of the ACMA Act

² Section 31(2) of the ACMA Act

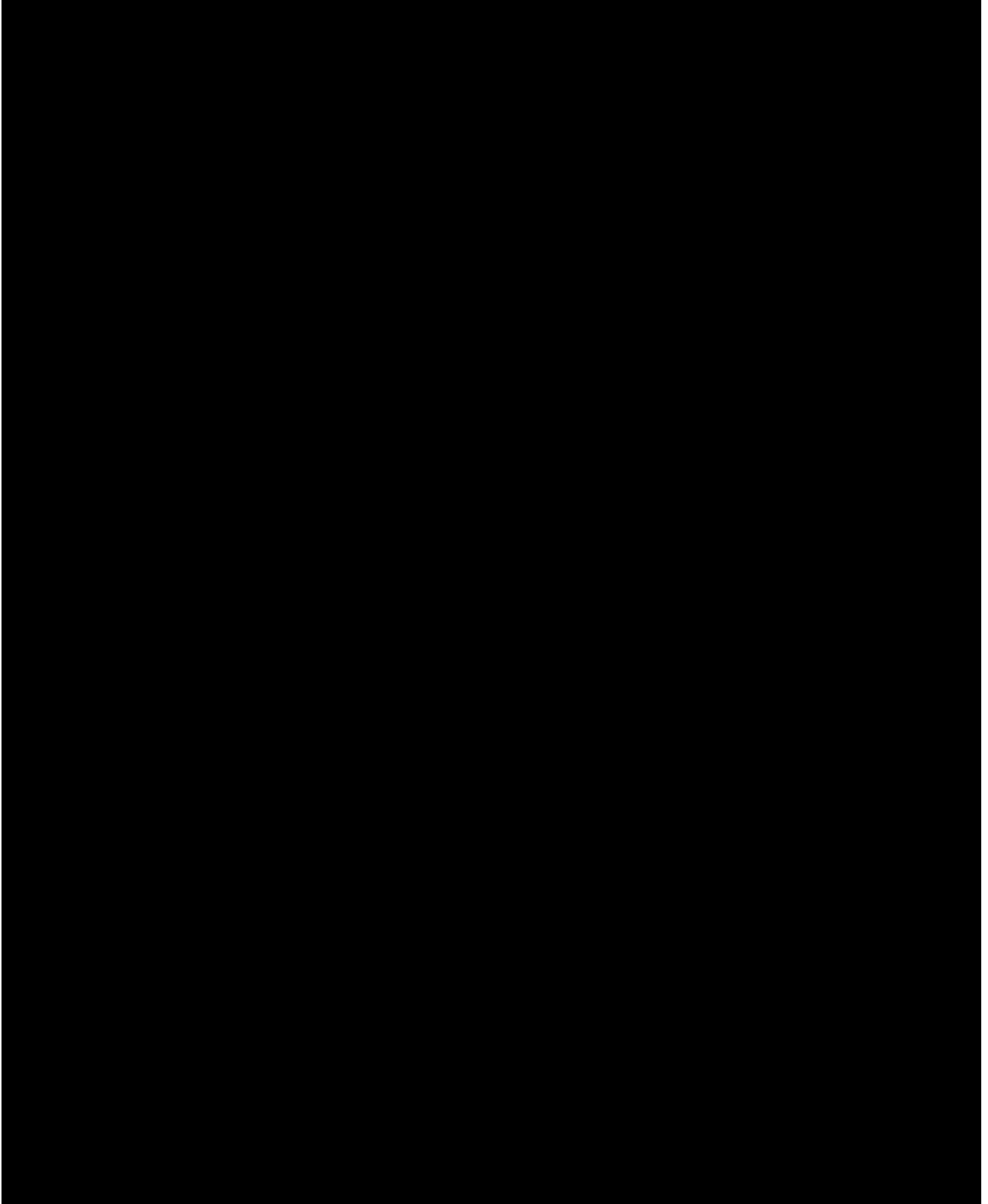


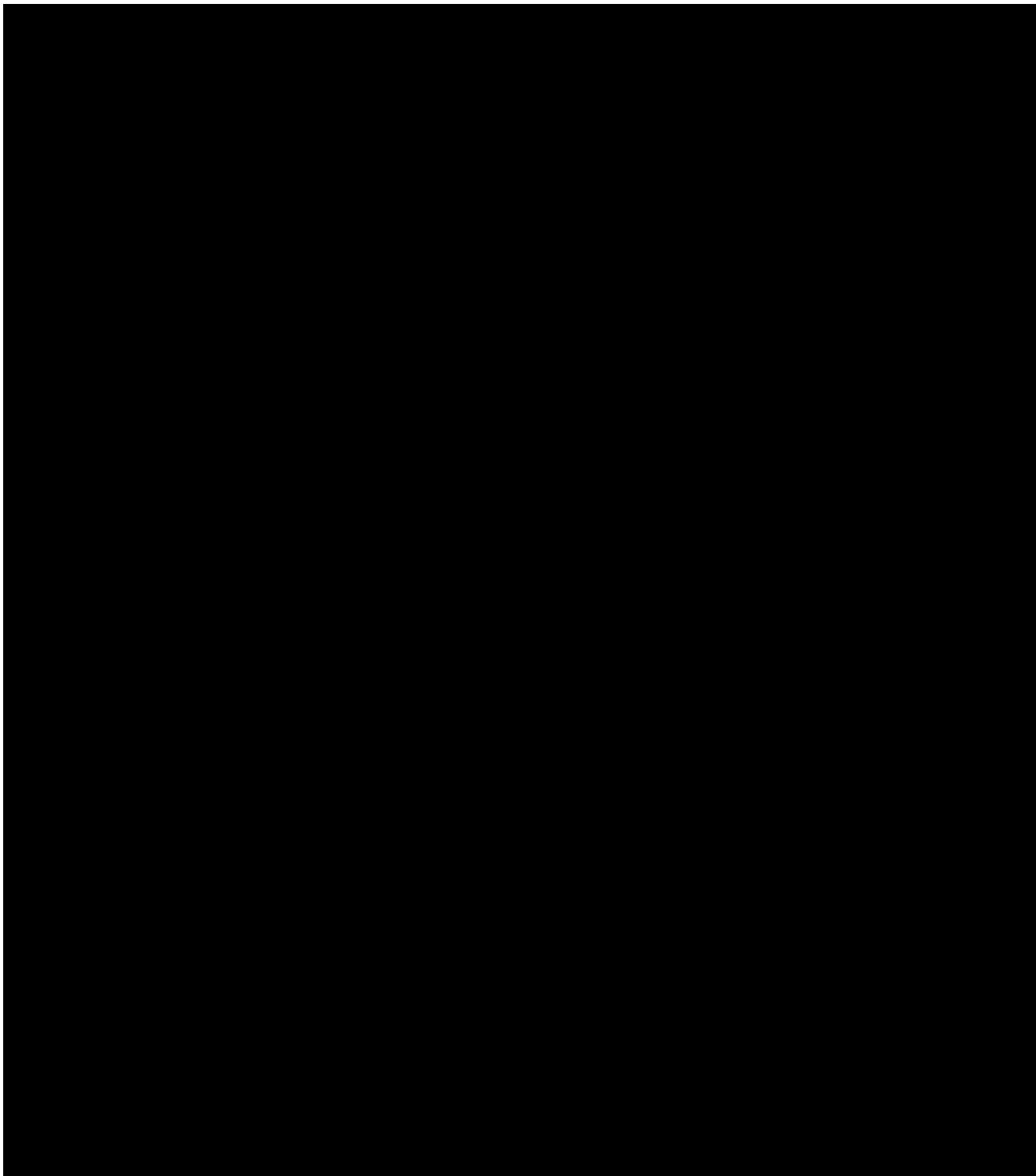


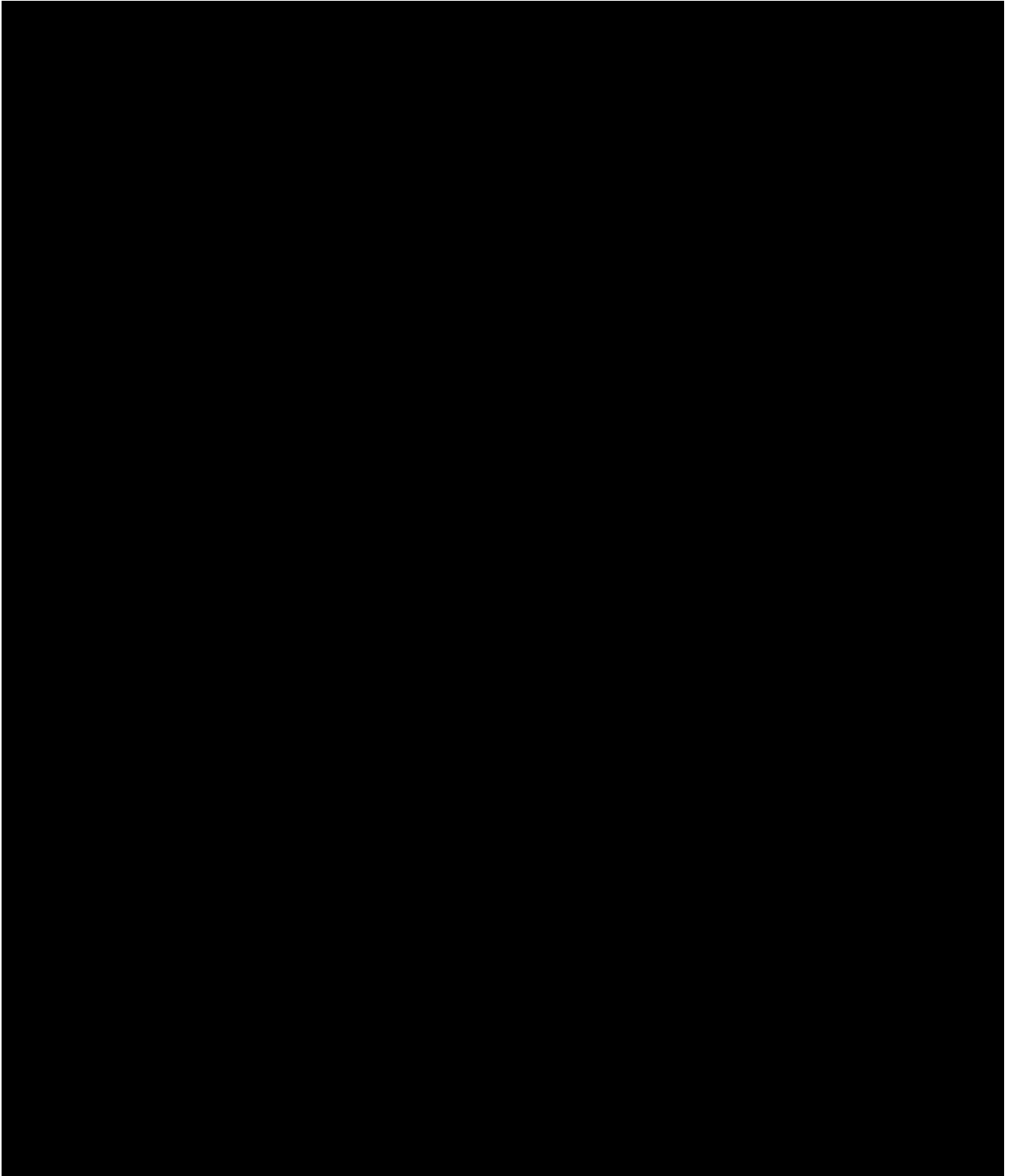


Section 2 – Non-pecuniary Interests

Under the PGPA Act, Authority members must disclose all material personal interests which relate to the affairs of the ACMA.







RELEVANT LEGISLATIVE PROVISIONS

Australian Communications & Media Authority Act 2005

Section 29 –Disclosure of interests

(1) A disclosure by a member or associate member under section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) must be made to the Minister.

(2) Subsection (1) applies in addition to any rules made for the purposes of that section.

(3) For the purposes of this Act and the *Public Governance, Performance and Accountability Act 2013*, the member or associate member is taken not to have complied with section 29 of that Act if he or she does not comply with subsection (1) of this section.

(4) The Chair must inform the Minister if the members of the ACMA agree, in accordance with any rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013*, to a member or associate member doing something that, apart from that agreement, the member or associate member would be prevented by those rules from doing.

Section 34 - Termination of appointment

(4) The appointer may terminate the appointment of a member or associate member if:

...

(b) the member or associate member fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013*.

...

Public Governance, Performance and Accountability Act 2013

29 Duty to disclose interests

(1) An official of a Commonwealth entity who has a material personal interest that relates to the affairs of the entity must disclose details of the interest.

Public Governance, Performance and Accountability Rule 2014

Division 2—Officials' duty to disclose interests

Subdivision A—When duty does not apply

12 When duty does not apply

Guide to this section

The purpose of this section is to set out when an official of a Commonwealth entity is not required to disclose a material personal interest that relates to the affairs of the entity.

This section is made for paragraph 29(2)(a) of the Act.

(1) Subsection 29(1) of the Act does not apply to an official of a Commonwealth entity in the circumstances set out in the following table if the official is the accountable authority, or a member of the accountable authority, of the Commonwealth entity.

Note: Subsection 29(1) of the Act requires an official of a Commonwealth entity who has a material personal interest that relates to the affairs of the entity to disclose details of the interest.

Circumstances when duty to disclose does not apply

Item	Topic	Circumstances
1	Official's remuneration	The interest arises in relation to the official's remuneration as the accountable authority or a member of the accountable authority.
2	Insurance against liability	The interest relates to a contract that insures, or would insure, the official against liabilities the official incurs as the accountable authority or a member of the accountable authority (but only if the contract does not make the Commonwealth entity or a subsidiary of the entity the insurer).
3	Payment or contract relating to indemnity	The interest relates to: (a) a payment by the Commonwealth entity or a subsidiary of the entity in relation to an indemnity permitted under section 61 of the Act; or (b) a contract relating to an indemnity permitted under section 61 of the Act.
4	Official is a member of governing body of subsidiary	The interest: (a) is in a contract, or a proposed contract: (i) with; or (ii) for the benefit of; or (iii) on behalf of; a subsidiary of the Commonwealth entity; and

Circumstances when duty to disclose does not apply

Item	Topic	Circumstances
		(b) arises merely because the official is, or is a member of, the governing body of the subsidiary.

(2) Subsection 29(1) of the Act also does not apply to an official of a Commonwealth entity who is a member of a Land Council established under section 21 of the *Aboriginal Land Rights (Northern Territory) Act 1976* if the interest arises because:

- (a) the official is a traditional Aboriginal owner in relation to land (within the meaning of that Act); or
- (b) the official has an entitlement to enter land, and use or occupy that land, under section 71 of that Act.

Subdivision B—Officials who are the accountable authority**13 Officials who are the accountable authority—how and when to disclose interests****Guide to this section**

The purpose of this section is to ensure that there are consistent requirements for how and when an official who is the accountable authority of a Commonwealth entity must disclose material personal interests that relate to the affairs of the entity.

The official may also need to disclose interests in accordance with section 16A.

If the *Public Service Act 1999* also applies to the official, there is a similar, but separate, requirement in subsection 13(7) of that Act to disclose material personal interests in connection with APS employment.

This section is made for paragraph 29(2)(b) of the Act.

- (1) An official of a Commonwealth entity who:
 - (a) is the accountable authority of the entity; and
 - (b) has a material personal interest that relates to the affairs of the entity;must disclose that interest, in writing, to the entity's responsible Minister.
- (2) The disclosure must include details of:
 - (a) the nature and extent of the interest; and
 - (b) how the interest relates to the affairs of the entity.
- (3) The official must make the disclosure:
 - (a) as soon as practicable after the official becomes aware of the interest; and
 - (b) if there is a change in the nature or extent of the interest after the official has disclosed the interest under this section—as soon as practicable after the official becomes aware of that change.

Subdivision C—Officials who are members of the accountable authority

14 Officials who are members of the accountable authority—how and when to disclose interests

Guide to this section

The purpose of this section is to ensure that there are consistent requirements for how and when an official who is a member of the accountable authority of a Commonwealth entity must disclose material personal interests that relate to the affairs of the entity.

The official may also have to disclose interests in accordance with section 16A.

This section is made for paragraph 29(2)(b) of the Act.

(1) An official of a Commonwealth entity who:

- (a) is a member of the accountable authority of the entity; and
- (b) has a material personal interest that relates to the affairs of the entity;

must disclose that interest, orally or in writing, to each other member of the accountable authority.

(2) The disclosure must include details of:

- (a) the nature and extent of the interest; and
- (b) how the interest relates to the affairs of the entity.

(3) The official must make the disclosure at a meeting of the members of the accountable authority:

- (a) as soon as practicable after the official becomes aware of the interest; and
- (b) if there is a change in the nature or extent of the interest after the official has disclosed the interest under this section—as soon as practicable after the official becomes aware of that change.

(4) The official must ensure that the disclosure is recorded in the minutes of the meeting.

15 Officials who are members of the accountable authority—consequences of having interests

Guide to this section

The purpose of this section is to restrict members of an accountable authority of a Commonwealth entity who have a material personal interest that relates to the affairs of the entity from being present, or voting, at a meeting on a matter in which the member has the interest.

The official may also need to disclose interests in accordance with section 16A.

This section is made for paragraph 29(2)(c) of the Act.

(1) This section applies to an official of a Commonwealth entity who:

- (a) is a member of the accountable authority of the entity; and
- (b) has a material personal interest that relates to the affairs of the entity.

Consequences of having interest

(2) If a matter in which the official has the interest is being considered at a meeting of the members of the accountable authority, the official must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter.

(3) However, if:

(a) the responsible Minister for the entity has declared, in writing, that the official may be present or vote (or both); or

(b) the members of the accountable authority who do not have a material personal interest in the matter have decided that the official is not disqualified from being present or voting (or both), and the decision is recorded in the minutes of a meeting of the members;

then the official may be present or vote (or both) in accordance with the declaration or decision.

Minister's declaration

(4) The responsible Minister for the entity may declare in writing that the official may:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter; or
- (c) be present while the matter is being considered at the meeting and vote on the matter.

(5) The responsible Minister may only make the declaration if:

(a) the number of members of the accountable authority entitled to be present and vote on the matter would be less than the quorum for a meeting of the accountable authority if the official were not allowed to be present or vote on the matter at the meeting; or

(b) the matter needs to be dealt with urgently; or

(c) there is a compelling reason for the matter being dealt with at the meeting.