



THE PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA

THE SENATE

COMMITTEE OF SENATORS' INTERESTS

Report 1/1995

ANNUAL REPORT - 1994

March 1995

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MEMBERS OF THE COMMITTEE

| | |
|---------------------|-----------------------|
| Senator N Minchin | (LP) SA Chair* |
| Senator E Abetz | (LP) TAS |
| Senator V Bourne | (AD) NSW |
| Senator D Brownhill | (NPA) NSW |
| Senator M Colston | (ALP) QLD |
| Senator J McKiernan | (ALP) WA |
| Senator S Murphy | (ALP) TAS |
| Senator M Reid | (LP) ACT |

- * Senator Minchin was elected chair on 8 November 1994 pursuant to an amendment to Standing Order 22A which required the committee to elect as chair one of its members nominated by the Leader of the Opposition in the Senate. Senator Colston was chair of the committee for the period 24 March 1994 to 8 November 1994.

Membership changes

Senator Murphy was appointed to the committee on 1 March 1995 to replace Senator Zakharov who was discharged on account of her serious ill health.

Senator Panizza was appointed to the committee for the period 24 March to 22 April 1994 in the absence of Senator Reid.

Senator Tambling was appointed to the committee for its first meeting on 24 March 1994 in the absence of Senator Brownhill.

Committee Secretary:

Mr John Vander Wyk
Registrar of Senators' Interests
Department of the Senate
Parliament House
CANBERRA ACT 2600

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COMMITTEE OF SENATORS' INTERESTS
Standing Order 22A

- 22A. (1) A Committee of Senators' Interests shall be appointed at the commencement of each Parliament:
- (a) to inquire into and report upon the arrangements made for the compilation, maintenance and accessibility of a Register of Senators' Interests;
 - (b) to consider any proposals made by Senators and others as to the form and content of the Register;
 - (c) to consider any submissions made in relation to the registering or declaring of interests;
 - (d) to consider what classes of person, if any, other than Senators ought to be required to register and declare their interests; and
 - (e) to make recommendations upon these and any other matters which are relevant.
- (2) (a) The membership of the Committee shall as closely as possible reflect the composition of the Senate and, until modified by a subsequent resolution, shall consist of 8 Senators, 3 nominated by the Leader of the Government in the Senate, 4 nominated by the Leader of the Opposition in the Senate and 1 nominated by any minority groups or independent Senators.
- (b) The nominations of the minority groups or independent Senators shall be determined by agreement between the minority groups and independent Senators, and, in the absence of agreement duly notified to the President, the question of the representation on the Committee shall be determined by the Senate.
- (3) The Committee shall elect as its chair one of its members nominated by the Leader of the Opposition in the Senate.
- (4) The quorum of the Committee shall be 3 members.
- (5) The Chairman may from time to time appoint a member of the Committee to be Deputy Chairman, and the member so appointed shall act as Chairman of the Committee when there is no Chairman or the Chairman is not present at a meeting of the Committee.
- (6) Where votes on a question before the Committee are equally divided, the Chairman, or the Deputy Chairman when acting as Chairman, shall have a casting vote.
- (7) The Committee shall have power to send for persons or documents, but shall not exercise that power, nor undertake an investigation of the private interests of any person, except in accordance with a decision agreed to by not less than 3 members of the Committee other than the Chairman.
- (8) The Committee shall have power to confer with a similar committee of the House of Representatives.
- (9) The Committee shall, as soon as practicable after 31 December in each year, prepare and table in the Senate a report on its operations during that year, and shall also have power to report from time to time.

(Adopted 17 March 1994, amended 24 August 1994)

REGISTRATION OF SENATORS' INTERESTS
Resolution of the Senate, adopted 17 March 1994

1 Registration of Senators' Interests

1.(1) That, within 14 sitting days after the adoption of this resolution by the Senate and 28 days of making and subscribing an oath or affirmation of allegiance as a Senator, each Senator shall provide to the Registrar of Senators' Interests a statement of:

- (1) the Senator's registrable interests; and
- (2) the registrable interests of which the Senator is aware:
 - (a) of the Senator's spouse, and
 - (b) of any children who are wholly or mainly dependent on the Senator for support;

in accordance with this resolution and in a form determined by the Committee of Senators' Interests from time to time, and shall also notify any alteration of those interests to the Registrar within 28 days of that alteration occurring.

(2) That any Senator who:

- (a) knowingly fails to provide a statement of registrable interests to the Registrar of Senators' Interests by the due date;
- (b) knowingly fails to notify any alteration of those interests to the Registrar of Senators' Interests within 28 days of the change occurring; or
- (c) knowingly provides false or misleading information to the Registrar of Senators' Interests;

shall be guilty of a serious contempt of the Senate and shall be dealt with by the Senate accordingly, but the question whether any senator has committed such a serious contempt shall first be referred to the Privileges Committee for inquiry and report and may not be considered by any other committee.

2. That statements of the registrable interests of a Senator's spouse or of any dependent children submitted in accordance with paragraph (1) shall be maintained in a separate part of the Register and shall remain confidential to the Committee of Senators' Interests except where the Committee considers that a conflict of interest arises, at which time the Committee may table the declaration.

Registrable interests

3. That the statement of a Senator's registrable interests to be provided by a Senator shall include the registrable interests of which the Senator is aware of the Senator's spouse and of any children who are wholly or mainly dependent on the Senator for support, and shall cover the following matters:

- (a) shareholdings in public and private companies (including holding companies) indicating the name of the company or companies;

- (b) family and business trusts and nominee companies:
 - (i) in which a beneficial interest is held, indicating the name of the trust and the nature of its operation and beneficial interest, and
 - (ii) in which the Senator, the Senator's spouse, or a child who is wholly or mainly dependent on the Senator for support, is a trustee (but not including a trustee of an estate where no beneficial interest is held by the Senator, the Senator's spouse or dependent children), indicating the name of the trust, the nature of its operation and the beneficiary of the trust;
- (c) real estate, including the location (suburb or area only) and the purpose for which it is owned;
- (d) registered directorships of companies;
- (e) partnerships, indicating the nature of the interests and the activities of the partnership;
- (f) liabilities, indicating the nature of the liability and the creditor concerned;
- (g) the nature of any bonds, debentures and like investments;
- (h) saving or investment accounts, indicating their nature and the name of the bank or other institutions concerned;
- (i) the nature of any other assets (excluding household and personal effects) each valued at more than \$5 000;
- (j) the nature of any other substantial sources of income;
- (k) gifts valued at more than \$500 received from official sources (such sources being an Australian or foreign national, State, provincial or local Government or a person holding an office in such a Government) or at more than \$100 where received from other than official sources, provided that a gift received by a Senator, the Senator's spouse or dependent children from family members or personal friends in a purely personal capacity need not be registered unless the Senator judges that an appearance of conflict of interest may be seen to exist;
- (l) any sponsored travel or hospitality received where the value of the sponsorship or hospitality exceeds \$200;
- (m) being an officeholder of or financial contributor donating over \$100 in any single calendar year to any organisation; and
- (n) any other interests where a conflict of interest with a Senator's public duties could foreseeably arise or be seen to arise.

Register and Registrar of Senators' Interests

4. That:

- (a) at the commencement of each Parliament, and at other times as necessary, the President shall appoint an officer of the Department of the Senate as the Registrar of Senators' Interests and that officer shall also be Secretary of the Committee of Senators' Interests;

- (b) the Registrar of Senators' Interests shall, in accordance with procedures determined by the Committee of Senators' Interests, maintain a Register of Senators' Interests in a form to be determined by that Committee from time to time;
- (c) as soon as possible after the commencement of each Parliament, the Chairman of the Committee of Senators' Interests shall table in the Senate a copy of the completed Register of Senators' Interests and shall also table every six months any notification by a Senator of alteration of those interests;
- (d) the Register of Senators' Interests shall be available for inspection by any person under conditions to be laid down by the Committee of Senators' Interests from time to time; and
- (e) that part of the Register of Senators' Interests relating to spouses and dependent children shall remain confidential to the Committee of Senators' Interests as provided for in paragraph 2.

Declaration of interest in debate and other proceedings

- 5. That, notwithstanding the lodgment by a senator of a statement of the senator's registrable interests and the registrable interests of which the senator is aware (a) of the senator's spouse; and (b) of any children who are wholly or mainly dependent on the senator for support, and the incorporation of that statement in a Register of Senators' Interests, a senator shall declare any relevant interest:
 - (a) at the beginning of his or her speech if the senator participates in debate in the Senate, committee of the whole Senate, or a committee of the Senate or of the Senate and the House of Representatives, and
 - (b) as soon as practicable after a division is called for in the Senate, committee of the whole Senate, or a committee of the Senate or of the Senate and the House of Representatives, if the senator proposes to vote in that division;

and the declaration shall be recorded and indexed in the *Journals of the Senate* or minutes of proceedings of the committee and in any Hansard report of those proceedings or that division, but it shall not be necessary for a senator to declare an interest when directing a question seeking information in accordance with standing order 72 or 74.

Interpretation

- 6.(1) For the purposes of paragraphs 1 to 5 of this resolution "spouse" includes de facto spouse.
- (2) "De facto spouse" means a person who is living with another person of the opposite sex as the spouse of that other person on a *bona fide* domestic basis although not legally married to that other person.

REPORT

THE REGISTRATION OF SENATORS' INTERESTS

Introduction

- 1 Standing Order 22A requires the Committee of Senators' Interests, as soon as practicable after 31 December each year, to prepare and table a report on its operations during the year. This report is the first annual report of the committee, but its second report to the Senate, the committee's first report having been presented on 9 June 1994. The first report dealt with arrangements for the compilation, maintenance and accessibility of a register of Senators' interests.
- 2 On 17 March 1994 the Senate adopted a resolution on the registration of Senators' interests which requires that each Senator provide a statement of registrable interests within 14 sitting days after the adoption of the resolution and within 28 days of making and subscribing an oath or affirmation of allegiance as a Senator. The resolution also requires any alterations in those interests to be notified within 28 days of the alteration occurring. The statements of interests are to be kept on a Register of Senators' Interests.
- 3 The resolution provides that a Senator's statement of registrable interests must accord with the resolution and must be in a form determined by the Committee of Senators' Interests. The resolution also provides that the Register of Senators' Interests shall be maintained by the Registrar of Senators' Interests in accordance with procedures determined by the committee and in a form determined by the committee, and that the register shall be available for inspection by any person under conditions laid down by the committee.
- 4 Also on 17 March 1994 the Senate adopted Standing Order 22A which established the Committee of Senators' Interests. The committee was given the responsibility of overseeing the registration requirements. It met on three occasions in 1994, on 24 March, 30 May and 8 November. Paragraph (3) of the standing order was amended on 24 August 1994 to provide for the chair to be elected from one of the committee members nominated by the Leader of the Opposition in the Senate. A new chair was elected on 8 November 1994.
- 5 The resolution on the registration of Senators' interests and the terms of Standing Order 22A, as amended, are reproduced at the beginning of this report.
- 6 The committee's terms of reference require it to address four matters. The committee reports on these as at 31 December 1994, as follows.

Arrangements for the compilation, maintenance and accessibility of the Register of Senators' Interests

- 7 In its report of 9 June 1994 the committee advised the Senate of its determinations in relation to the form of Senators' statements of interests, the arrangements for the compilation and maintenance of the register and the conditions of access to the register. Full details of the determinations are to be found in Appendixes 2 and 3 of that report.
- 8 In relation to Senators' statements of interests the committee determined that Senators would be required to complete two forms - Form A for the Senator and, as applicable, Form B for the Senator's spouse and dependent children. Copies of Form A, the form on which Senators register their own interests, and any notifications of alterations to those interests, comprise the register available for public inspection and the register which is tabled in the Senate. The first Register of Senators' Interests was tabled on 9 June 1994.
- 9 The Senate resolution of 17 March 1994 requires that notifications of alterations of Senators' interests be tabled every six months. The committee determined that notifications of alterations of interests would be tabled each year towards the end of the winter and summer sittings. The alterations notified in the six months after the tabling of the register were tabled on 7 December 1994.
- 10 In relation to conditions of access to the register available for public inspection, the committee determined that the register would consist of each Senator's initial statement of interests followed by notifications of alterations of interests in date order. The register could be inspected between 10 am and 12 noon and 2 pm and 4 pm on work days. A photocopy of a Senator's statement would be supplied if requested, but in all cases the photocopy would be of the Senator's complete statement and not an extract. A photocopy of a statement would also be supplied in response to a written request. Details from the register would not be provided over the telephone.
- 11 In the period from 9 June to 31 December, 43 notifications of alterations of interests were received, 30 relating to interests notified by Senators and 13 relating to interests of a spouse and dependent children.
- 12 There were six requests for access to the register. A reason for the low rate of requests may be that the register was tabled in complete form in June, and all notifications of alterations of interests were tabled in December, with copies of both sets of documents being available to the public after tabling.

Proposals by Senators and others as to the form and content of the register

- 13 The committee received no formal proposal for alteration of the form or content of the register.

Submissions made in relation to the registering or declaring of interests

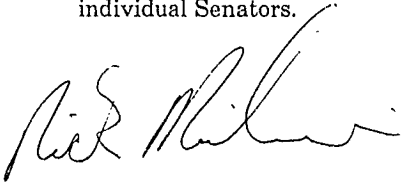
- 14 The committee received no submissions in relation to the registration or declaration of interests.

Registration of interests by other classes of persons

- 15 The committee gave preliminary consideration to this issue. It is to consider the matter further in 1995.

Other matters

- 16 In its June report the committee advised that it proposed to review the scheme for the registration of Senators' interests in the latter part of 1994. This review was subsequently postponed to the first half of 1995. The committee will invite Senators to make submissions in relation to the form and content of the register and the registration and declaration of interests. The committee will report to the Senate on the results of its review.
- 17 The committee provided guidance to Senators registering interests in the form of explanatory notes on the categories of registrable interests determined by the Senate. These did not, and could not, cover every situation relevant to the declaration of interests. At its second meeting, on 30 May, the committee considered several matters raised informally by Senators concerning the interpretation of the Senate's resolution on the registration of interests. The committee's interim view of the issues raised is set out in the minutes of the meeting, which are appended to the June report. The committee will consider these matters further in the context of the review to be conducted in 1995.
- 18 In respect of the interpretation of the resolution, however, the committee draws to the attention of Senators that while it may provide guidance from time to time on the interpretation of particular provisions, in the final analysis decisions on an appropriate interpretation must remain the responsibility of individual Senators.



Nick Minchin
Chair

9 March 1995