

THE PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA

THE SENATE

COMMITTEE OF SENATORS' INTERESTS

Report 1/2001

ANNUAL REPORT — 2000

March 2001

© Parliament of the Commonwealth of Australia 2001

ISSN 1322-2783

This document was produced from camera-ready copy prepared by the Committee of Senators' Interests, and printed by the Senate Printing Unit, Parliament House, Canberra.

CONTENTS

Committee membership	ii
Senate resolution establishing the committee	iii
Senate resolution requiring declarations of interest	v
Senate resolution for declarations of gifts	ix
Report for 2000	1
Appendices	6

MEMBERS OF THE COMMITTEE – 39TH PARLIAMENT

Senator K Denman	(ALP)	TAS	Chair
Senator the Hon D Brownhill	(NPA)	NSW	Deputy Chair (until 8 June 2000)
Senator G Brandis	(LP)	QLD	Deputy Chair (from 8 June 2000, and Deputy Chair from 7 September 2000)
Senator the Hon E Abetz	(LP)	TAS	
Senator L Allison	(AD)	VIC	
Senator G Buckland	(ALP)	SA	(from 4 October 2000)
Senator J Collins	(ALP)	VIC	
Senator R Lightfoot	(LP)	WA	(from 6 November 2000)
Senator the Hon I Macdonald	(LP)	QLD	(until 6 November 2000)
Senator J McLucas	(ALP)	QLD	
Senator S Mackay	(ALP)	TAS	(until 4 October 2000)

Committee Secretary:

Mr Peter O’Keeffe
 Registrar of Senators' Interests
 Department of the Senate
 Parliament House
 CANBERRA ACT 2600

Telephone: (02) 6277 3399
 Fax: (02) 6277 3199
 Email: Peter.OKeeffe@aph.gov.au

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)

THE SENATE

REGISTRATION OF SENATORS' INTERESTS

1. Registration of Senators' Interests

- (1) 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:
- (a) the senator's registrable interests; and
 - (b) the registrable interests of which the senator is aware:
 - (i) of the senator's spouse or partner, and
 - (ii) 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) 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. Registrable interests of spouses or partners and dependants

Statements of the registrable interests of a senator's spouse or partner 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.

3. Registrable interests

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 or partner 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 partner, 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 partner 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 \$200 or more where received from other than official sources, provided that a gift received by a senator, the senator's spouse or partner 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 office holder of or financial contributor donating \$200 or more 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.

4. Register and Registrar of Senators' Interests

- (1) 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.
- (2) 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.
- (3) 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 6 months any notification by a senator of alteration of those interests.
- (4) 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.
- (5) That part of the Register of Senators' Interests relating to spouses or partners and dependent children shall remain confidential to the Committee of Senators' Interests as provided for in paragraph 2.

5. Declaration of interest in debate and other proceedings

- (1) 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 or partner; 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.

- (2) For the purposes of subparagraph (1), in proceedings on a bill a declaration of a relevant interest shall be made:
 - (a) when a senator first speaks in debate on any stage of consideration of the bill; and
 - (b) when a senator first votes in a division at any stage of the consideration of the bill; and
 - (c) when a senator speaks or votes in a division on an amendment to the bill which raises an issue not included in an earlier declaration of interest during proceedings on the bill.

6. Interpretation

For the purposes of paragraphs 1 to 5 of this resolution ‘partner’ means a person who is living with another person in a *bona fide* domestic relationship.

(17 March 1994 J.1421, amended 21 June 1995 J.3473, 13 May 1998 J.3753, 22 November 1999 J.2008)

THE SENATE

REGISTRATION OF GIFTS TO THE SENATE AND THE PARLIAMENT

The Senate resolution of 26 August 1997 for the declaration of gifts:

- (1) (a) Any senator, including any Senate officer-holder and any senator who is a leader or a member of a parliamentary delegation, who in any capacity receives any gift which is intended by the donor to be a gift to the Senate or the Parliament must, as soon as practical, place the gift in the custody of the Registrar of Senators' Interests and declare receipt of the gift to the Registrar.
- (b) A gift is to be taken as intended to be a gift to the Senate or the Parliament where:
 - (i) the donor expressly states that the gift is to the Senate or to the Parliament; or
 - (ii) the identity of the donor, the nature of the occasion, or the intrinsic significance or value of the gift is such that it is reasonable to assume that the gift was intended for the Senate or the Parliament.
- (ba) In the absence of express intent, it will not be assumed that a gift was intended for the Senate or the Parliament where the gift has a value below the following thresholds:
 - (i) \$500 when given by an official government source; or
 - (ii) \$200 when given by a private person or non-government body on any occasion when the senator is present in his or her capacity as a senator, Senate office-holder or delegation leader or member.
- (bb) In the absence of express intent, it will not be assumed that a gift was intended for the Senate or the Parliament merely because the gift has a value above those thresholds.
- (c) The Registrar of Senators' Interests is to maintain a public Register of Gifts to the Senate and the Parliament.
- (d) The Committee of Senators' Interests is to recommend to the President whether, and how, the gift is to be used or displayed in Parliament House, including in the office of any senator, or used or displayed on loan elsewhere, including in a museum, library, gallery, court building, government building, government office or other place.
- (e) Where a gift given to a senator is intended to be for the Parliament, the President is to consult with the Speaker prior to agreeing to a recommendation of the committee as to its use, display or loan.
- (f) Where the President disagrees with a recommendation of the committee, the President is to report the disagreement to the Senate, which may determine the use, display or loan of the gift in question.

- (g) In making recommendations the committee is to take into account the intention of the Senate that gifts are to be used, displayed or loaned in a way which:
 - (i) reflects proper respect for the intentions of the donor and the dignity of the Senate or the Parliament;
 - (ii) recognises the interest of the public in gifts to the Senate or the Parliament; and
 - (iii) takes account of practical issues including space, custody, preservation and propriety in the use, display or loan of such gifts.
 - (h) Where a senator is uncertain of the nature of a gift the senator may request advice from the committee.
 - (i) Where a senator disagrees with the advice of the committee the senator is to report the disagreement to the Senate, which may determine the nature of the gift and its use, display or loan, if any.
 - (j) In paragraph (1) a reference to a gift to the Parliament includes a gift given to a senator for the House of Representatives.
- (2) This resolution applies to a gift received by the spouse, family member or staff member of a senator on any occasion when the senator is present in his or her capacity as a senator, Senate office-holder or delegation leader or member, as if the gift had been received by the senator.
- (3) The committee:
- (a) is empowered to consider any matter placed before it pursuant to this resolution, and for the purposes of this resolution the committee has the powers provided in the resolution of 17 March 1994 establishing the committee; and
 - (b) may make, and must as soon as practicable thereafter table, procedural rules to facilitate the operation of this resolution.
- (4) Any senator who:
- (a) knowingly fails to tender and declare a gift that is taken to be a gift to the Senate or the Parliament as required by this resolution; or
 - (b) knowingly fails to return to the Registrar a gift which it was agreed or determined the senator might use or display; or
 - (c) knowingly provides false or misleading information to the Registrar or the committee,

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

(26 August 1997 J.117, amended 8 December 1999 J.2212)

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 seventh annual report of the committee.
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 public 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. The committee met twice in 2000, on 8 March 2000 and 7 September 2000. A copy of the minutes of each meeting is in appendix 1.
5. The committee's terms of reference require it to report on a number of matters. The committee reports on these matters as at 31 December 2000.

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

6. The committee reported to the Senate on 9 June 1994 its determinations in relation to the form of senators' statements of interests, arrangements for the compilation and maintenance of the register and on the conditions of access to the register. The Register continues to be maintained and accessed on this basis.
7. Since it was established in 1994 the committee has provided senators with some guidance on how interests should best be registered. A summary of this guidance is in appendix 2.

8. In its First Report (June 1994) the committee resolved that, to assist senators, the Registrar of Senators' Interests should write to each senator at least twice a year about the need to notify relevant changes to declarations. The Registrar wrote to senators as required.
9. On 28 June 2000 the committee tabled the first of its regular six monthly updates of Notifications of Alterations of Interests (4 December 1999 to 22 June 2000).
10. On 7 December 2000 the committee tabled the second of its six monthly updates of Notifications of Alterations of Interests (23 June 2000 to 4 December 2000).
11. During the year, there were 25 requests for public access to the Register.

Register of Gifts to the Senate and the Parliament

12. Under the Senate resolution of 26 August 1997, senators must declare receipt of gifts received by them but intended for the parliamentary institution. On 7 December 2000 the committee tabled the latest update of the register of such gifts (3 December 1999 to 4 December 2000).

Proposals by senators and others as to the form and content of the register Submissions made in relation to the registering or declaring of interests

13. There were no such proposals or submissions to the committee during the year under review.

Registration of interests by other classes of persons

14. During the year the committee made no recommendations about such registration, but continues to keep the question under review.

Committee website

15. On 28 August 2000 a website for the committee was established. The website address is http://wopablue.parl.net/senate/committee/interests_ctte/index.htm
16. The site contains information about the committee's work under the relevant resolutions of the Senate. A copy of the index to the website is in Appendix 4.

Other matters

17. On 6 September 2000 there was debate in the Senate in relation to advice circulated to senators by the Registrar of Senators' Interests. The advice concerned acceptance of corporate hospitality and gifts at the Sydney Olympic Games. In the light of that debate, on 7 September 2000 the committee decided that, when it was necessary to send significant advice to all senators about the Senate resolution, it would be signed by the committee chair.
18. During the year written guidance was given to individual senators' on the interpretation of the Senate resolution in relation to gifts, trusts, confidentiality and declarations. Copies of these advices are in Appendices 5 to 10. For information and reference statements to the Senate by the chair about the declaration scheme are in appendices 11 to 12.
19. Senators must declare their use of frequent flyer points accrued from official travel. The Department of Finance and Administration, which administers parliamentarians' travelling entitlements, receives returns from senators indicating such use. Both this year and last year, the question was raised whether senators should continue to declare use of frequent flyer points in the Register. The committee reconsidered the matter. It remains the committee's view that, as a matter of caution and best practice, senators should continue to declare their use of frequent flyer points, pending government finalisation of measures to ensure full use of, and accountability for, frequent flyer points accrued by parliamentarians on official travel.

(Kay Denman)
Chair

March 2001

APPENDICES

1.	Minutes of meetings of the Committee of Senators' Interests, dated 8 March 2000 and 7 September 2000	5
2.	A summary of committee guidance for senators making declarations	9
3.	Explanatory Notes and forms for making declarations of interests and alterations	15
4.	Index to the Committee's Website	37
5.	Advice in relation to the distinction between gifts and hospitality	39
6.	Advice in relation to the declaration of gifts and hospitality	42
7.	Advice in relation to the declaration of trusteeships holding shares	47
8.	Advice in relation to declaring the monetary values of registrable interests	48
9.	Advice in relation to the declaration of government assistance	50
10.	Advice in relation to the confidentiality of spouse or partner declarations	52
11.	Statement to the Senate by the Committee Chair, 14 March 2000	57
12.	Statement to the Senate by the Committee Chair, 28 June 2000	59
13.	Form for declaring gifts to the Parliament	60

MINUTES OF PROCEEDINGS 2000/1

WEDNESDAY 8 MARCH 2000

1. MEETING

The Committee met in private session at 5.15pm in Committee Room 1S6.

2. ATTENDANCE

Senator K Denman **Chair**
Senator the Hon E Abetz
Senator L Allison

3. APOLOGIES

Senator the Hon D Brownhill
Senator J Collins
Senator the Hon Ian Macdonald
Senator S Mackay
Senator J McLucas

4. MINUTES OF LAST MEETING ON 30 NOVEMBER 1999

Senator Abetz moved, and the Committee **agreed**, unanimously, that the minutes of the last meeting on 30 November 1999 be confirmed.

5. BUSINESS ARISING

There was no business arising.

6. CONSIDERATION OF DRAFT ANNUAL REPORT FOR 1999

The Committee considered the chair's draft annual report for 1999 as circulated on 24 February 2000. Senator Abetz moved, and the Committee **agreed**, unanimously, to adopt the report.

7. ADJOURNMENT

The Committee adjourned at 5.20pm.

Confirmed:

Kay Denman
Chair

MINUTES OF PROCEEDINGS 2000/2

THURSDAY 7 SEPTEMBER 2000

1. MEETING

The Committee met in private session at 5.30pm in Committee Room 1S6. The meeting was suspended at 5.45pm while senators attended a division in the Senate. The committee resumed in private session at 5.55pm in the Chamber lobby.

2. ATTENDANCE

Senator K Denman **Chair**
Senator the Hon E Abetz
Senator L Allison
Senator G Brandis
Senator J Collins
Senator S Mackay
Senator J McLucas

3. APOLOGIES

Senator the Hon Ian Macdonald

4. NEW MEMBER

The chair, on behalf of the committee, welcomed Senator Brandis.

5. MINUTES OF LAST MEETING ON 8 MARCH 2000

Senator Abetz moved, and the Committee **agreed**, unanimously, that the minutes of the last meeting on 8 March 2000 be confirmed.

6. BUSINESS ARISING

There was no business arising.

7. APPOINTMENT OF A DEPUTY CHAIR

The chair appointed Senator Brandis as deputy chair of the committee.

8. ISSUES ARISING FROM THE SYDNEY OLYMPIC GAMES

In the light of debate in the Senate on 6 September 2000, the committee considered issues arising from the Sydney Olympic Games and the treatment of corporate gifts and hospitality. The chair outlined proposals for the committee to consider in relation to the provision and circulation of advice by the Registrar of Senators' Interests, to the effect that when it was considered necessary to send significant advice to all senators' about the Senate resolution, it would be signed by the committee chair. Senator Abetz moved, and the committee **agreed**, unanimously, to adopt the proposals.

9. CONSIDERATION OF LOCATION A GIFT TO THE SENATE

The committee considered a paper from the Registrar of Senators' Interests on the location of a gift (a small bronze vessel) given to Senator Sue West, Deputy President of the Senate, and expressly stated by the donor, the All China Youth Federation, to be a gift to the Senate. Senator Abetz moved, and the committee **agreed**, unanimously, to recommend to the President that Senator West may hold the item on display in her office while she remained a senator.

10. ADJOURNMENT

The Committee adjourned at 6.05pm.

Confirmed:

Kay Denman
Chair

**SOME GUIDANCE FOR SENATORS FROM THE
REPORTS OF THE COMMITTEE OF SENATORS' INTERESTS**

FIRST REPORT, JUNE 1994

Page 2

The committee advises that while it may, from time to time, provide guidance on the interpretation of particular matters set out in the resolution, final decisions on the appropriate interpretation of the resolution must be the responsibility of individual senators.

Appendix 2, Page 1

If a senator does not have a spouse or dependent children, Form B does not need to be completed or lodged.

Appendix 2, Page 2

No form can cover all possible circumstances and senators should consequently bear in mind the purpose and spirit of the return in deciding which matters should be registered.

The committee's views are for the guidance of senators. In the end, each senator must make his or her own decision as to interests which fall within the terms of the resolution.

Only the senator concerned, the committee and the Registrar of Senators' Interests will have access to the individual files for each senator.

Notification of alterations of interests declared on Form A will become public from the date of receipt.

The responsibility for notifying alterations to a statement of interests is, under the terms of the Senate's resolution, that of each senator. To assist senators, the Registrar of Senators' Interests will, at least twice a year, issue a reminder notice.

Appendix 2, Page 2-3

A new statement must be provided by senators who have been re-elected, and by all senators after a double dissolution. The new statement should include details of benefits received since the last notification of alterations of interests, and interests as at the date of making and subscribing an oath or affirmation of allegiance.

Appendix 2, Page 3

New senators should declare any benefits received which fall within the terms of the Senate's resolution from the date of their election or choice as a senator, and other interests from the date of making and subscribing an oath or affirmation of allegiance.

A senator's statement of interests will be removed from the register from the date that the senator ceases to be a senator. The public will, however, continue to have access to statements of past senators which have been tabled in the Senate through the Table Office.

Appendix 4, Minutes 1994/1, Page 3

It is not part of the role of the Registrar to advise senators on the interests to be registered. The intent of the Senate is to place on senators the responsibility to interpret the resolution and to determine which of their interests fall within its terms.

Minutes 1994/2 , Page 2

Senators appointed to casual vacancies, and other new senators or senators-elect, are to be advised at the first available opportunity of their obligations under the resolution of the Senate.

In the case of a senator whose term continues in a new Parliament, the resolution of the Senate requires that the senator's statement of interests as at the date of the new Parliament should again be tabled. The senator is not obliged to submit a new statement of interests.

Newly-elected senators are to register any benefits received from the date of their election, and other interests from the date of making and subscribing an oath or affirmation of allegiance.

A copy of a statement of senator's interests must be collected in person or sent by post. The committee does not permit the Registrar to fax copies.

REPORT 1/1995, MARCH 1995

Page 2

The committee determined that notifications of alterations of interests would be tabled each year towards the end of the winter and summer sittings.

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 phone.

Page 3

In respect of the interpretation of the resolution 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.

REPORT 2/1995, JUNE 1995

Page 1

Travel or hospitality benefits received by a senator from an organisation or group which has invited the senator to speak at a gathering such as a function or a seminar, and for which travel or hospitality is necessary in order to fulfil the engagement, are registrable interests and should be declared in accordance with subparagraph 3(1) of the Senate's resolution.

Page 2

Being an office holder of an organisation under subparagraph 3(m) does not include being a patron of an organisation.

A donation in excess of the threshold set by the resolution needs to be reported in respect of any organisation, regardless of whether the senator, a spouse or dependent children, are members.

A donation to an organisation under subparagraph 3(m) does not include membership subscriptions.

If a senator does not have a spouse or dependent children, that senator is not required to lodge a signed copy of Form B. The senator is not required to lodge a 'nil return'.

The names of a senator's spouse and dependent children need not be disclosed.

Joint interests with a former spouse which continue to be held, need be disclosed only on Form A, relating to a senator's interests. The interest could be declared as a joint interest, or half-share, or other appropriate description.

Page 4

It is necessary to notify additional travel undertaken by a senator, a senator's spouse or dependent children utilising frequent flyer points accrued from official travel.

Additional travel undertaken by a spouse or dependent children utilising a senator's frequent flyer points or points earned directly from entitlements granted by the Remuneration Tribunal to spouses and dependent children, need to be registered by the senator on Form A of the Register of Senators' Interests.

Senators should register each benefit received under a frequent flyer scheme within the 28 days required by the Senate resolution for the registration of interests and the notification of alterations of those interests.

REPORT 1/1996, JUNE 1996

Page 2

Travel resulting from the use of frequent flyer points constitutes sponsored travel and therefore should be registered.

Additional travel undertaken by a spouse or dependent children utilising a senator's frequent flyer points would need to be declared by the senator.

Minutes 1995/2, page 2

The following requirements apply to benefits received from frequent flyer schemes:

- a) it is necessary to notify additional travel undertaken by a senator, a senator's spouse or dependent children utilising frequent flyer points accrued from official travel by the senator;
- b) frequent flyer benefits received by a spouse or dependent children utilising a senator's frequent flyer points or points earned directly from entitlements granted by the Remuneration Tribunal to spouses and dependent children are to be registered by the senator on Form A of the Register of Senators' Interests; and
- c) additional travel undertaken utilising frequent flyer points accrued from official travel is to be registered within 28 days after each particular flight.

**INFORMATION ABOUT THE REGISTER OF SENATORS' INTERESTS
FROM REPORTS OF THE COMMITTEE OF SENATORS' INTERESTS**

First Report, June 1994

The Conditions of Public Access for the Register are as follows:

- (1) Public access to the register is by appointment, generally between the hours of 10.00am and 12.00 noon and 2.00pm and 4.00pm, Monday to Friday (public holidays excepted). Access is to be supervised.
- (2) Access is to the whole register.
- (3) Inquirers can make notes. A photocopy of a Senator's statement may be supplied if requested. In all cases, a photocopy will be supplied only of a Senator's complete statement, and not extracts. A copy of a statement must be collected in person or can be sent by post in response to a written request.

Note: If the amount of photocopying involved becomes excessive, the committee reserves the right to levy a charge for the provision of photocopies.

- (4) The following access records will be maintained: name of inquirer (and organisation, if relevant), date and time of inspection, and total number of pages photocopied.
- (5) Details from the register (eg advice as to whether a particular Senator has or has not declared a particular interest or notified a particular alteration) will not be provided over the telephone.

Notifications of alterations of interests declared in Form A will become public from date of receipt.

Notifications of alterations of interests declared on Form A will be tabled at least every six months (towards the end of the winter and summer sittings – Report 1/1995, March 1995).

Access to the Register available for public inspection will continue during and after an election until such time as a new register is tabled.

A Senator's statement of interests will be removed from the register from the date that the Senator ceases to be a Senator. The public will, however, continue to have access to statements of past Senators which have been tabled in the Senate through the Table Office.

A copy of a statement of a Senator's interests must be collected in person or sent by post, and the committee would not permit the registrar to fax copies.



1999

THE SENATE

Register of Senators' Interests

EXPLANATORY NOTES

for

Statement

of

Registrable Interests

STATEMENT OF REGISTRABLE INTERESTS EXPLANATORY NOTES

General

The purpose of the Statement of Registrable Interests form is to place on the public record Senators' interests which may conflict, or may be seen to conflict, with their public duty. Matters which Senators are required to register are set out in a resolution of the Senate of 17 March 1994, as amended on 21 June 1995, 13 May 1998 and 22 November 1999.

No form can cover all possible circumstances and Senators should consequently bear in mind the purpose and spirit of the return in deciding which matters should be registered.

The Register of Senators' Interests is kept in two parts. The registrable interests of a Senator are declared on Form A, and comprise that part of the Register available for public inspection. The registrable interests, **of which the Senator is aware**, of a Senator's spouse or partner or dependent children, are declared on Form B, and comprise that part of the Register which is **NOT** available for public inspection and which shall remain confidential to the Committee of Senators' Interests unless the committee considers that a conflict of interest arises, at which time the committee may table the declaration.

Note the need to include, under all headings on Form B, interests, to the extent to which the Senator is aware of them, of the Senator's spouse or partner and any children who are wholly or mainly dependent on the Senator for support.

For the purposes of the registration requirements 'dependent children' means dependent children under 16 years of age or dependent full-time students under 25 years of age. 'Partner' means a person who is living with another person in a *bona fide* domestic relationship (paragraph 6, Senate resolution, 17 March 1994 as amended on 22 November 1999).

When interests are held jointly with a spouse or partner, former spouse or partner, or dependent children the interests need be included only as interests of the Senator with an appropriate notation such as 'jointly owned with (former) spouse or partner'.

Where interests could be included under more than one heading, it is suggested they need be included only under the most specific heading unless two aspects need to be disclosed (e.g. real estate, plus a mortgage liability on that real estate).

Note that any alteration to a Senator's registrable interests **MUST** be notified to the Registrar of Senators' Interests within 28 days of the change occurring (paragraph 1(2)(b)).

1. Shareholdings in public and private companies (including holding companies) indicating the name of the company or companies.

- Notify any relevant interest in any shares (as defined in the *Companies Act 1981*) including equitable as well as legal interests, whether held directly or indirectly, which enables a Senator, the Senator's spouse or partner or dependent children to exercise control over the right to vote or dispose of those shares.
- This includes shares held by a family or business trust, a nominee company or a partnership where a Senator, the Senator's spouse or partner or dependent children (or two or more of the Senator, the Senator's spouse or partner, or a dependent child or dependent children acting together) are able to exercise control over the right to vote or dispose of those shares.
- The committee has determined that it is not necessary to notify shareholdings held as an executor or trustee of a deceased estate where the Senator, the Senator's spouse or partner or dependent children are not beneficiaries of that estate.
- Where interests are held in a private holding company (i.e. a proprietary company formed for the purpose of investing in subsidiary companies) all such subsidiary companies, and any subsidiary companies held by those subsidiary companies, should be named.
- Where shareholdings held amount to a controlling interest in a company it is necessary to register any shareholdings held by that company in another company or other companies.

2. Family and business trusts and nominee companies:

- (i) in which a beneficial interest is held, indicating the name of the trust, the nature of its operation and beneficial interest, and
- (ii) in which the Senator, the Senator's spouse or partner, 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 partner or dependent children), indicating the name of the trust, the nature of its operation and the beneficiary of the trust.

- Note that both beneficial interests and trustee responsibilities (except as trustee of a deceased estate where neither the Senator, the Senator's spouse or partner nor dependent children are beneficiaries of the estate) should be specified.
 - In respect of shareholdings held by a family or business trust or nominee company, see the note under '1. Shareholdings,' etc.
- 3. Real estate, including the location (suburb or area only) and the purpose for which it is owned.**
- 'Location'—There is no need to specify street address—general location (e.g. suburb or area, and State or Territory) is adequate.
 - 'Purpose for which owned'—Specify whether property is used as a residence, as a holiday home, as a farm, or is held for investment or other business purposes.
 - It is not necessary to notify legal title to real estate held as an executor or trustee of a deceased estate where the Senator, the Senator's spouse or partner or dependent children are not beneficiaries of that estate.
- 4. Registered directorships of companies.**
- Indicate the name of the company and the activities of the company.
- 5. Partnerships indicating the nature of the interests and the activities of the partnership.**
- Under 'nature of the interests' specify level of current involvement in partnership (e.g. 'financial (sleeping partner)', 'consultant').
 - Specify the purpose or operations of the partnership (e.g. investment, consultancy).
- 6. Liabilities, indicating the nature of the liability and the creditor concerned.**
- Include all liabilities in excess of \$5 000 (e.g. mortgages, hire-purchase and lease arrangements, personal loans, overdrafts and contingent liabilities).
 - Liabilities incurred on a department store account need not be disclosed.

- Liabilities incurred on a credit card need not be disclosed unless the credit card has been used to obtain a cash advance in excess of \$5000 and the advance is outstanding for a period in excess of 60 days.
- Include trading accounts of a nature which might be sensitive to implications of conflict of interest.

7. The nature of any bonds, debentures and like investments.

- 'Investments' means all investments, including placement of moneys, which attract interest or other benefits.

8. Savings or investment accounts, indicating their nature and the name of the bank or other institutions concerned.

- Ordinary, non-interest-bearing cheque accounts should not be included, but savings accounts and investment accounts of the Senator, the Senator's spouse or partner and dependent children should be included.

9. The nature of any other assets (excluding household and personal effects) each valued at more than \$5000.

- List all personal possessions of value other than ordinary household or personal effects.
- Motor vehicles for personal use need not be included.
- Collections need not be included.
- Items which might be listed under more specific headings (e.g. investments, gifts received,) need not be included here.
- Private life assurance and superannuation should be included but parliamentary superannuation under a State or the Commonwealth scheme need not be included.
- As a general rule of thumb, items of under \$5 000 in value may not require inclusion under this heading unless they are of a nature which might be sensitive to implications of conflict of interest.

10. The nature of any other substantial sources of income.

- The Senator's own salary and allowances as a Senator need not be included.
- Include the source of a spouse's or partner's income from employment or a business undertaking and the source of any income of the Senator, the Senator's spouse or partner or dependent children from investments, annuity arrangements, pensions or under governmental assistance schemes (but not including family allowances). There is no need to show the actual amount received. A simple reference to 'income from investments set out above' is sufficient for investment income.
- Note that no minimum income is specified as notifiable and Senators will need to use their discretion in this regard. As a general rule of thumb, income of less than \$5 000 per annum need not be notified unless, in the judgment of the Senator, it might be sensitive to implications of conflict of interest.

11. 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 \$200 or more where received from other than official sources, provided that a gift received by a Senator, the Senator's spouse or partner 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.

- Note that gifts received by Senators and their families from family members or personal friends in a purely personal capacity need not be disclosed unless the Senator judges an appearance of a conflict of interest may be seen to exist.
- Senators, when first elected, should include any relevant gifts received from the date of their election. Senators re-elected should include any relevant gifts not previously notified to the Registrar.

12. Any sponsored travel or hospitality received where the value of the sponsorship or hospitality exceeds \$200.

- 'Sponsored travel' means any free, upgraded or concessional travel undertaken by the Senator, the Senator's spouse or partner or dependent children sponsored wholly or partly by any person, organisation, business or interest group or foreign government or its representative. It does not include concessional travel entitlements generally available to the public. Nor does it include the travel entitlements received by a Senator, the Senator's spouse or partner or dependent children under any determination of the Remuneration Tribunal or travel undertaken as a member of an official parliamentary delegation. The purpose for which the travel was undertaken should be shown.
- Benefits from frequent flyer points accrued from official travel should be notified. Frequent flyer benefits received by a spouse or partner or dependent child from any official travel should be declared by the Senator on Form A.
- 'Hospitality' refers to free or concessional accommodation provided to the Senator, the Senator's spouse or partner or dependent children wholly or partly by any person, organisation, business or interest group or foreign government or its representative. It includes the provision of free or concessional meals provided as part of an accommodation arrangement but does not include hospitality provided in a purely social way by friends or colleagues. There is no need to include entertainment received in common with significant numbers of other Senators or other persons, such as a reception or dinner hosted by a High Commissioner or Ambassador.
- In all cases in deciding whether travel or hospitality should be included in a return, a Senator should exercise his or her judgment having regard to any appearance of conflict of interest that may arise.
- Senators, when first elected, should include any relevant sponsored travel or hospitality received from the date of their election. Senators re-elected should include any relevant sponsored travel or hospitality not previously notified to the Registrar.

13 Being an officeholder of, or financial contributor donating \$200 or more in any single calendar year to, any organisation.

- Membership of organisations should be disclosed where the Senator, the Senator's spouse or partner or a dependent child is an officeholder (excluding being a patron).
- The names of any organisations to which the Senator, the Senator's spouse or partner or a dependent child contributes \$200 or more in any single calendar year (excluding membership subscriptions) should also be listed.

14. Any other interests where a conflict of interest with a Senator's public duties could foreseeably arise or be seen to arise.

- List any other interest which, in the opinion of the Senator, holds the potential for a real or apparent conflict of interest with a Senator's public duties to arise.

Last issued March 1997. Amended November 1999.

This document was produced from camera-ready copy prepared by the Committee of Senators' Interests, and printed by the Senate Printing Unit, Parliament House, Canberra.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

REGISTER OF SENATORS' INTERESTS

STATEMENT OF REGISTRABLE INTERESTS

FORM A – SENATORS

Notes

- (1) It is suggested that the accompanying Explanatory Notes be read before the return is completed.
- (2) The information you are required to provide is contained in the order of the Senate of 17 March 1994 relating to the registration of Senators' interests. The information is to be provided in two parts. This form, **Form A**, is to be used to provide a Senators' own registrable interests. **Form B** is to be used to provide the registrable interests, *of which the Senator is aware*, of the Senator's spouse or partner and any children who are wholly or mainly dependent on the Senator for support.
- (3) Form A will be available for public inspection under conditions determined by the Committee of Senators' Interests. Form B will remain confidential to the Committee of Senators' Interests except where the committee considers that a conflict of interest arises, when the committee may table the form.
- (4) Both forms must be completed and signed, and together form your statement of interests.
- (5) If there is insufficient space on this form for the information you are required to provide, you may attach additional papers for that purpose. Each paper attached to this form should be signed personally by you and dated.

Surname:

Other Names:

State/Territory:

1. SHAREHOLDINGS IN PUBLIC AND PRIVATE COMPANIES (INCLUDING HOLDING COMPANIES) INDICATING THE NAME OF THE COMPANY OR COMPANIES

Self	Name of company – (including holding and subsidiary companies if applicable)

2. 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

Self	Name of trust/nominee company	Nature of its operation	Beneficial interest

- (ii) in which the Senator, the Senator's spouse or partner, 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 partner or dependent children), indicating the name of the trust, the nature of its operation and the beneficiary of the trust

Self	Name of trust/nominee company	Nature of its operation	Beneficiary of the trust

3. REAL ESTATE, INCLUDING THE LOCATION (SUBURB OR AREA ONLY) AND THE PURPOSE FOR WHICH IT IS OWNED

Self	Location	Purpose for which owned

4. REGISTERED DIRECTORSHIPS OF COMPANIES

Self	Name of company	Activities of company

5. PARTNERSHIPS, INDICATING THE NATURE OF THE INTERESTS AND THE ACTIVITIES OF THE PARTNERSHIP

Self	Name	Nature of interest	Activities of partnership

6. LIABILITIES, INDICATING THE NATURE OF THE LIABILITY AND THE CREDITOR CONCERNED

Self	Nature of liability	Creditor

7. THE NATURE OF ANY BONDS, DEBENTURES AND LIKE INVESTMENTS

Self	Type of investment	Body in which investment is held

8. SAVING OR INVESTMENT ACCOUNTS, INDICATING THEIR NATURE AND THE NAME OF THE BANK OR OTHER INSTITUTIONS CONCERNED

Self	Nature of account	Name of bank/institution

9. THE NATURE OF ANY OTHER ASSETS (EXCLUDING HOUSEHOLD AND PERSONAL EFFECTS) EACH VALUED AT MORE THAN \$5000

Self	Nature of any other assets

10. THE NATURE OF ANY OTHER SUBSTANTIAL SOURCES OF INCOME

Self	Nature of income

11. 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 \$200 OR MORE WHERE RECEIVED FROM OTHER THAN OFFICIAL SOURCES, provided that a gift received by a Senator, the Senator's spouse or partner 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.

Self	Details of gifts

12. ANY SPONSORED TRAVEL OR HOSPITALITY RECEIVED WHERE THE VALUE OF THE SPONSORSHIP OR HOSPITALITY EXCEEDS \$200

Self	Details of travel/hospitality

13. BEING AN OFFICE HOLDER OF OR FINANCIAL CONTRIBUTOR DONATING \$200 OR MORE IN ANY SINGLE CALENDAR YEAR TO ANY ORGANISATION

Self	Name of organisation

14. ANY OTHER INTERESTS WHERE A CONFLICT OF INTEREST WITH A SENATOR'S PUBLIC DUTIES COULD FORESEEABLY ARISE OR BE SEEN TO ARISE

Self	Nature of interest

Signature

Date

CONFIDENTIAL

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

REGISTER OF SENATORS' INTERESTS

STATEMENT OF REGISTRABLE INTERESTS

FORM B – SPOUSES OR PARTNERS AND DEPENDENT CHILDREN

Notes

- (6) It is suggested that the accompanying Explanatory Notes be read before the return is completed.
- (7) The information you are required to provide is contained in the order of the Senate of 17 March 1994 relating to the registration of Senators' interests. The information is to be provided in two parts. This form, **Form B**, is to be used to provide the registrable interests, *of which the Senator is aware*, of the Senator's spouse or partner and any children who are wholly or mainly dependent on the Senator for support. **Form A** is to be used to provide a Senators' own registrable interests.
- (8) Form A will be available for public inspection under conditions determined by the Committee of Senators' Interests. Form B will remain confidential to the Committee of Senators' Interests except where the committee considers that a conflict of interest arises, when the committee may table the form.
- (9) Both forms must be completed and signed, and together form your statement of interests.
- (10) If there is insufficient space on this form for the information you are required to provide, you may attach additional papers for that purpose. Each paper attached to this form should be signed personally by you and dated.

Surname: Other Names:

State/Territory:

1. SHAREHOLDINGS IN PUBLIC AND PRIVATE COMPANIES (INCLUDING HOLDING COMPANIES) INDICATING THE NAME OF THE COMPANY OR COMPANIES

Spouse or partner	Name of company – (including holding and subsidiary companies if applicable)
Dependent children	

2. 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

Spouse or partner	Name of trust/nominee company	Nature of its operation	Beneficial interest
Dependent children			

- (ii) in which the Senator, the Senator's spouse or partner, 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 partner or dependent children), indicating the name of the trust, the nature of its operation and the beneficiary of the trust

Spouse or partner	Name of trust/nominee company	Nature of its operation	Beneficiary of the trust
Dependent children			

3. REAL ESTATE, INCLUDING THE LOCATION (SUBURB OR AREA ONLY) AND THE PURPOSE FOR WHICH IT IS OWNED

Spouse or partner	Location	Purpose for which owned
Dependent children		

4. REGISTERED DIRECTORSHIPS OF COMPANIES

Spouse or partner	Name of company	Activities of company
Dependent children		

5. PARTNERSHIPS, INDICATING THE NATURE OF THE INTERESTS AND THE ACTIVITIES OF THE PARTNERSHIP

Spouse or partner	Name	Nature of interest	Activities of partnership
Dependent children			

6. LIABILITIES, INDICATING THE NATURE OF THE LIABILITY AND THE CREDITOR CONCERNED

	Nature of liability	Creditor
Spouse or partner		
Dependent children		

7. THE NATURE OF ANY BONDS, DEBENTURES AND LIKE INVESTMENTS

	Type of investment	Body in which investment is held
Spouse or partner		
Dependent children		

8. SAVING OR INVESTMENT ACCOUNTS, INDICATING THEIR NATURE AND THE NAME OF THE BANK OR OTHER INSTITUTIONS CONCERNED

	Nature of account	Name of bank/institution
Spouse or partner		
Dependent children		

9. THE NATURE OF ANY OTHER ASSETS (EXCLUDING HOUSEHOLD AND PERSONAL EFFECTS) EACH VALUED AT MORE THAN \$5000

Spouse or partner	Nature of any other assets
Dependent children	

10. THE NATURE OF ANY OTHER SUBSTANTIAL SOURCES OF INCOME

Spouse or partner	Nature of income
Dependent children	

11. 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 \$200 OR MORE WHERE RECEIVED FROM OTHER THAN OFFICIAL SOURCES, provided that a gift received by a Senator, the Senator's spouse or partner 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.

Spouse or partner	Details of gifts
Dependent children	

12. ANY SPONSORED TRAVEL OR HOSPITALITY RECEIVED WHERE THE VALUE OF THE SPONSORSHIP OR HOSPITALITY EXCEEDS \$200

Spouse or partner	Details of travel/hospitality
Dependent children	

13. BEING AN OFFICE HOLDER OF OR FINANCIAL CONTRIBUTOR DONATING \$200 OR MORE IN ANY SINGLE CALENDAR YEAR TO ANY ORGANISATION

Spouse or partner	Name of organisation
Dependent children	

14. ANY OTHER INTERESTS WHERE A CONFLICT OF INTEREST WITH A SENATOR'S PUBLIC DUTIES COULD FORESEEABLY ARISE OR BE SEEN TO ARISE

Spouse or partner	Nature of interest
Dependent children	

Senator's
Signature

Date

THE SENATE
REGISTER OF SENATORS' INTERESTS
NOTIFICATION OF ALTERATION OF INTERESTS DECLARED

FORM A – SENATORS

Name: _____

State/Territory: _____

The following alteration of interests is notified:

ADDITION

Item	Details

DELETION

Item	Details

Signature _____

Date _____

CONFIDENTIAL

FORM B

THE SENATE

REGISTER OF SENATORS' INTERESTS

NOTIFICATION OF ALTERATION OF INTERESTS DECLARED

FORM B – SPOUSES OR PARTNERS AND DEPENDENT CHILDREN

Name: _____

State/Territory: _____

The following alteration of interests is notified:

ADDITION

Item	Details
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

DELETION

Item	Details
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Senator's
Signature _____

Date _____

Parliament of Australia

Senate
[Parliament Home](#)
[Home](#)
[Committees](#)
[Search](#)


Committee of Senators' Interests

Welcome to the on-line pages of the Senate Standing Committee of the 39th Parliament of Australia on Senators' Interests.

► Senate Resolutions on Senator's Interests

Senate Resolution on declaration and registration of Senators' Interests

Senate Resolution establishing the Committee of Senators' Interests

Senate Resolution for the registration of Gifts to the Senate and the Parliament (PDF)

Explanatory Notes for Statement of Registrable Interests (PDF)

Procedural Rules for the declaration and preservation of gifts received by senators for the Senate and the Parliament (PDF)

► Register of Senators' Interests

Register of Senators' Interests 23 September 1999

Register of Alterations to Senators' Interests, 28 June 2000

► Forms for Statements of Registrable Interests and Alterations of Interests

- Statement of Registrable Interests

Form A - Senators (PDF)

Form B - Spouses or Partners and Dependent Children (PDF)

- Notification of Alteration of Interest Declared

Form A - Senators (PDF)

Form B - Spouses or Partners and Dependent Children (PDF)

► Media Releases

► Current Inquiries

► Reports

► Membership

► How to contribute to the work of this Committee

For further information

Secretary and Registrar of Senators' Interests: Peter O'Keeffe

The Senate
Parliament House
Canberra ACT 2600
AUSTRALIA

Telephone: (02) 6277 3399
Fax: (02) 6277 3199
Email: peter.okceffe@aph.gov.au

[Parliament Home](#) [Home](#) [Committees](#) [Search](#) 

Comments to: web.senate@aph.gov.au
Last reviewed 3 August 2000 by the Senate Web Administrator
© Commonwealth of Australia

2569

This is a written statement of oral advice about the distinction between gifts and hospitality under the Senate resolution on declaring interests.

Resolution

The resolution provides that senators must declare gifts worth more \$500 when received from official sources such as governments or their representatives, and worth more than \$200 when received from other than official sources.

Where sponsored travel or hospitality exceeds \$200 it must be declared in accordance with the resolution.

Explanatory notes

The explanatory notes issued by the Committee of Senators' Interests indicates that gifts received in a purely personal capacity need not be declared unless an appearance of conflict of interest may exist which should be disclosed.

The notes also indicate that sponsored travel means free, upgraded or concessional travel sponsored wholly or partly by any person or organisation.

The notes state that hospitality refers to free or concessional accommodation and free or concessional meals, but not accommodation provided in a purely social way involving friends or colleagues.

How might these categories be distinguished for the purposes of declaring interests and benefits?

Gifts

In common understanding gifts tend to be things – books, bottles, artefacts, jewellery etc. Tickets to events would tend to be viewed as gifts as would air travel tickets. Such a thing would tend to be viewed as a gift even if some part of the price of the thing remained to be paid. Thus, a gift tends to be a thing directly given, even if full enjoyment of it requires some indirect action by the recipient such as attending a ticketed event.

Sponsored travel

Sponsored travel would tend to involve some direct facilitation by the sponsor and not merely the giving of a thing like tickets. An example of sponsored travel is removal to first class seats from an economy class seat on a flight one was already ticketed for, but without further charge. In common understanding, such an upgrade would tend not to be viewed as a gift in a strict sense. However, the giving of a first class ticket in the first instance would tend to be viewed as a gift.

Hospitality

Hospitality would tend to be the provision of free accommodation or the upgrading from one level of purchased accommodation amenity to a higher level but without further charge.

The provision of free meals, alcohol or entertainment, without the accompaniment of free overnight accommodation, would tend to be viewed in common understanding as hospitality. In other words, in common understanding, the provision of free accommodation is not an essential element of a hospitality arrangement.

Hospitality would tend to connote some element of direct organisation as distinct from the giving of things like tickets or tokens. Giving tickets or tokens would tend to connote a gift, however, even if they would entitle the recipient to receive, say, accommodation in the form of a package holiday or the right to enter venues, attend functions and consume services at the venues.

Attending an otherwise ticketed event, without actual tickets but at the invitation of a host who welcomes or otherwise receives the person, would tend to be viewed as hospitality rather than a gift. This is usually the case with ministers who seldom merely attend a ticketed event, unannounced as it were, but who are usually welcomed by the host who has offered the invitation to attend.

Similarly, the provision of a meal with wine would tend to be hospitality whereas giving a bottle of wine to take to the meal would tend to constitute a gift.

Declarations and other principles

The Senate resolution on declaration of senators' interests deals solely with declaring interests, including declaring during the course of debate or votes in the Senate. The resolution is silent on what interests it may or may not be appropriate for senators to have or accept from an ethical or political point of view.

Thus there is no requirement, under the Senate resolution *per se*, to avoid, divest, blind trust, value, surrender or pay the Commonwealth for, any benefits or interests received whether or not declared in the Register. Accurate declaration in accordance with the spirit and intention of the Senate resolution is all that is required.

Therefore, under the Senate declaration scheme it is not essential for precise definitions to be drawn between what may constitute a gift and what may constitute hospitality. This is because no different consequence or treatment arises from the category into which one assigns what one has received, as long as it is declared.

In this sense, the Senate scheme differs from the Commonwealth scheme observed by ministers in both Houses of the Parliament. Under it, certain gifts received by ministers in the course of their duties must be surrendered to the Commonwealth unless the balance of their value is paid to the Commonwealth. Here the distinction between what constitutes a gift and what constitutes hospitality is obviously of greater importance than is the case with the Senate resolution.

Please let me know if you require further advice on any of this.

Yours sincerely

Peter O’Keeffe
Clerk Assistant (Corporate Management)
Registrar of Senators’ Interests

(02) 6277 3399
Fax (02) 6277 3199
Peter.Okeeffe@aph.gov.au

2519b

Sponsorship, hospitality and gifts during the Sydney Olympics

Senate resolutions affect senators' acceptance of travel, hospitality or gifts in connection with the Sydney Olympics.

Sponsored travel and hospitality

The resolution of 17 March 1994 requires senators to declare in the register of senators' interests sponsored travel and hospitality received by them or their spouse, partner or dependent children, and valued at more than \$200.

Travel includes all forms. Hospitality includes accommodation, meals, entertainment etc. These benefits must be declared within 28 days of receipt. The sponsor's name, the source of the hospitality and the purpose of the travel should be declared. The value need not be shown.

Gifts

Gifts to a senator

The Senate resolution requires senators to declare in the register of senators' interests gifts received by them or their spouses, partners or dependent children, and valued at more than \$500 from official sources (ie government) and more than \$200 from unofficial sources (ie non-government).

Gifts include all forms, given in any circumstances, except from family or friends acting in a purely personal capacity. Even then, there should be disclosure if the particular circumstances may cause an appearance of conflict of interest.

Gifts must be declared within 28 days of receipt. The donor's name and the occasion should be declared. The value need not be shown.

Gifts to the Senate or the Parliament

The Senate resolution of 26 August 1997 (amended on 8 December 1999) requires senators to declare in the register of gifts, and deposit with the Registrar of Gifts, gifts intended for the Senate (or the Parliament) as an institution.

This arises where such an intention is expressly stated by the donor. It also arises where the donor, the occasion, and the value or nature of the gift make it reasonable to assume such intention if none was expressed.

Except for express intent, such an assumption will not be made where the gift is valued below \$500 (from a government source) or below \$200 (from a non-government source). Except for express intent, gifts of greater value are not, per se, assumed to be institutional unless the donor, the occasion and the value make the assumption reasonable.

The resolution applies to gifts received by senators or their spouses, partners or dependent children. Gifts must be declared and placed in the custody of the Registrar of Gifts as soon as possible. The President of the Senate decides how such gifts are to be used or displayed.

Other requirements

Oral declarations

Relevant interests must be orally declared during Senate debates and prior to votes on legislation (including in committees).

An interest is a pecuniary or other interest like hospitality or a gift, which would normally also be declared in writing in the Register. A relevant interest is one which may be affected by the Senate proceedings in question or which, whether affected or not, may influence the senator's behaviour.

Prime Minister's requirements

The Senate resolutions apply in addition to, and are not affected by, any request for declaration or divestment which the Prime Minister may make of senators in their capacity as ministers or parliamentary secretaries.

Rationale for the Senate resolutions

The Senate resolution about declaration of senators' interests is about "declaring" interests in writing and orally. It is predicated on the existence of the conflict which may arise between the private interests of office-holders and their public duty in such offices.

The risk that private interest may influence the performance of public duty is a fact of human nature. The risk creates the conflict. Actual influence or personal benefit need not occur for there to be a risk and hence a conflict of interest. The risk may reasonably persist well beyond the date of receipt of a benefit like hospitality or a gift.

The Senate resolution addresses this dilemma by requiring public declaration of senators' interests – in effect public declaration of the risk.

This public declaration is intended to create such awareness, context and transparency that it is assumed, unless shown otherwise, that a senator's public duty in decision-making is performed objectively in the public, not private, interest.

Because the Senate scheme is a declaration scheme, the Senate resolution is silent on whether or what interests should or should not be held in any circumstances. It does not proscribe the holding of any particular interests in any particular role. It neither condones nor condemns the holding of interests. It requires only their proper declaration.

The resolution contains no direction on the propriety of accepting sponsorships, hospitality or gifts. In deciding whether to accept such benefits, senators must look beyond the Senate resolution to the political culture and public expectations of the times which determine ethical standards.

The nature and purpose of sponsorship, hospitality and gifts

Ethics is concerned with the science of ideal human character, and principles are formulated accordingly. For ethicists, the words sponsorship, hospitality and gift have modern meanings quite different from even 30 years ago when a sponsor was a selfless benefactor, hospitality was gratuitous kindness to strangers and a gift could mean a bribe.

Today, sponsorship is often a powerful form of product advertising. Hospitality may often mean travel, food, alcohol, accommodation or entertainment given ostensibly for free but often for the mutually understood purpose of establishing a relationship or obtaining a different return. A gift may often create a sense of indebtedness, and be so intended.

Thus, outside the constricted domain of genuine human affection, little is given unconditionally or for free. All transactions have a purpose, moral or otherwise. Hence, behaviour based on ideal human characteristics, with powerful moral purposes, can undergo change for purposes that may be inimical to that ideal.

Offers of sponsorship, hospitality and gifts are not made to senators randomly or in any private capacity. They are made because the person holds the office of Australian Senator.

Thus the decision to accept such personal benefits is a live ethical issue for senators in the particular context of the Sydney Olympics.

Application of these considerations to the Sydney Olympics

The Sydney Olympics are an event of major significance in contemporary Australia. They will concentrate the nation's attention and enthusiasm intensely. They will be an occasion of spectacle and drama at which most Australians would wish to participate – if they could afford to, or if the opportunity to do so was carefully facilitated and provided for free.

As an event of international significance, the Sydney Olympics will also be a forum for business, diplomatic and political exchanges. The Commonwealth Government has made arrangements to use this forum, at Commonwealth expense, through the purchase of corporate boxes at various avenues.

The expenditure of public money for the sole purpose of the personal entertainment of ministers would not be in the public interest. It would almost certainly be unconstitutional under section 48 and 51 (xxxvi) of the Constitution, and the *Parliamentary Entitlements Act 1990*. The intent behind, and the planned use of, the Commonwealth's corporate boxes must be, primarily, Commonwealth business.

Such business will include opportunity for business, diplomatic and political discussions by Commonwealth ministers with persons whom the Commonwealth seeks to inform, educate and influence against the congenial backdrop of the Sydney Olympics in which the success of Australia as a nation (however measured) and of its democratic governments, including current governments, is on display.

Thus, the offer of sponsorship, hospitality and gifts, from the Commonwealth Government, will have the moral purpose, mutually understood, of advancing the public interest of Australia through those whose business, diplomatic or political roles, in the judgement of the Commonwealth government, may contribute materially to that public interest. Any other purpose would, in my opinion, be unlawful.

Some may see the offer of personal benefits during the Sydney Olympics as an opportunity to gain the acquaintanceship, the ear or even the indebtedness of influential public policy decision-makers, like senators, but outside the cautious and responsible environment of formal lobbying.

Senators (and members of the House of Representatives) will be offered free sponsorship, hospitality and gifts at the Sydney Olympics by various non-government organisations, principally corporations. Packages of such benefits have been prepared, and some parliamentarians have been carefully chosen to receive them.

Identical principles to those set out above can be applied to analyse the nature and purpose of some offers of sponsorship, hospitality and gifts to senators (and members).

The offer of sponsorship, hospitality or gifts from corporations may be said to have the purpose, mutually understood, of advancing the private interests of the corporation through those senators (and members) whose political or parliamentary roles may, in the judgement of the corporation, contribute materially to those private interests.

A corporation's disavowal of such a purpose, and a parliamentarian's insistence on being untouchable, may not totally remove negative perceptions of these kinds of benefits.

Whether a senator wishes to be exposed to this and its attendant risks, is a matter of personal political judgement. The correctness or otherwise of the judgement may become the subject of political controversy in the light of public expectations of, and media comment on, what is appropriate behaviour in these circumstances.

Widespread acceptance by senators of sponsorship, hospitality and gifts from corporations may have significant implications for the objective development of public policy in the national interest, and for public perceptions of that policy.

Some senators have a personal standard and practice of always politely refusing offers of free sponsorship, hospitality and gifts, thereby avoiding the dangers and compromises they may provoke.

Summary

The Senate resolutions require only written and oral declaration of interests such as sponsorship, hospitality and gifts. They are silent on the question whether a senator should accept such personal benefits. The answer is a matter of personal judgement about ethical behaviour. Because personal benefits are not given unconditionally, the wrong answer may cause political controversy and undermine public confidence in the office of senator.

A prudent course for an office-holder to follow may be to decline any gift or other personal benefit offered because the person holds the office of Australian Senator (or, indeed, Commonwealth minister) **if** such acceptance could reasonably be seen to undermine their integrity or compromise their objectivity in taking decisions in the national interest.

Peter O’Keeffe
Clerk Assistant (Corporate Management)
Registrar of Senators’ Interests

 (02) 6277 3399
Fax: (02) 6277 3199
Peter.OKeeffe@aph.gov.au

2568

This is advice about the application of the Senate resolution to trusteeships holding shares in which the trustee has no beneficial interest because the shares are held exclusively for beneficiaries of a deceased family estate.

Under the Senate resolution on interests of 17 March 1994 senators are required to declare

- 3(a) shareholdings in public and private companies...
- 3(b) family and business trusteeships...
 - (ii) in which the Senator ... 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 partner or dependent children) ...

The relevant guidelines issued by the Committee of Senators' Interests to assist Senators in applying the Senate resolution (Explanatory Notes, 1999) state

Note that both beneficial interests and trustee responsibilities (except as a trustee of a deceased estate where neither the Senator, the Senator's spouse or partner nor dependent children are beneficiaries of the estate) should be specified.

The guidelines also provide

The committee has determined that it is not necessary to notify shareholdings held as an executor or trustee of a deceased estate where the Senator, the Senator's spouse or partner or dependent children are not beneficiaries of that estate.

There is, therefore, no requirement that a senator declare his or her joint trusteeship of, or shares held by, a trust, where the trust holds the shares on behalf of a deceased estate in which the senator and his or her family have no beneficial interest.

Please let me know if you require any further advice about the Register of Senators' Interests.

Peter O'Keeffe
Clerk Assistant (Corporate Management)
Registrar of Senators' Interests

(02) 6277 3399
 Fax (02) 6277 3199
Peter.Keefe@aph.gov.au

2563

This is a written statement of oral advice in relation to how monetary values of registrable interests or benefits should be declared.

There is no requirement under the Senate resolution to declare the monetary values of any interests or benefits. This is the case whether declaring shareholdings, trust interests, real estate, liabilities, savings, assets, income, gifts, hospitality or any of the matters listed in the Senate resolution.

The Senate resolution provides certain thresholds for the declaration of assets (if valued at more than \$5000), gifts (over \$500 if from official, and over \$200 if from private, donors), hospitality etc (if over \$200) and donations (over \$200 per annum to any single body).

The Explanatory Notes issued by the Committee and tabled in the Senate provide additional guidance in other areas, for example, liabilities (if over \$5000) and other income (if over \$5000 per annum), subject to a senator's judgement about any conflict of interest implications of liabilities or income less than that.

Where an interest or benefit is declared it is assumed that the senator has declared it because

- there may be a conflict of interest which is dealt with under the resolution by means of the senator's declaration; and/or
- the relevant interest or benefit is required to be declared under the express terms of the Senate resolution and the Committee's explanatory notes.

As a matter of practice, some senators declare certain interests or benefits out of an abundance of caution and without concern to determine exact monetary valuations for declaration purposes.

There is nothing in either the Senate resolution or the Explanatory Notes to preclude the declaration of monetary values. However, issues of valuation are not easy to resolve, the Senate resolution, by its terms, acknowledges the significance of personal privacy in relation to monetary values and issues of personal safety and security should also be considered. (Analogously, for obvious reasons there is no requirement to declare the actual address, rather than the general location, of any real property.)

Please let me know if I can assist you further in relation to the Register.

Yours sincerely

Peter O'Keeffe
Clerk Assistant (Corporate Management)
Registrar of Senators' Interests

 (02) 6277 3399
Fax: (02) 6277 3199
Peter.OKeeffe@aph.gov.au

2448

This is written advice about the nature and effects of certain government assistance.

GST direct assistance certificate

A 1999 Cabinet decision provides for the ATO to give a \$200 direct assistance certificate to businesses which register for the ABN and the GST. The purpose is to assist with implementation of the GST through purchase of GST goods and services from ATO contracted suppliers.

I am providing you with information about any effect the certificate may have on the Register of Senators' Interests because I have provided similar advice to others.

Under the Senate resolution of 17 March 1994, gifts, including vouchers or money, must be declared in the Register if worth more than \$500 (from an official source) or \$200 (from a private source). On the face of it, a senator who, as a partner or principal in a business, receives a \$200 ATO certificate, is under no obligation to declare it. A desire for transparency rather than prudence might suggest declaring it. If the senator receives a number of ATO certificates in respect of a number of partnerships or businesses, prudently he or she should declare them if their cumulative value exceeds \$500.

However, the nature of the certificate may be such that a senator should not, for constitutional reasons redeem it. Subsection 44(v) of the Constitution relevantly provides that any person who has a direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth (other than as a particular category of company shareholder) shall be incapable of sitting as a senator (or member). Section 45 relevantly provides that if a senator (or member) becomes subject to such a disability their place shall thereupon become vacant.

Concern arises from the question whether acceptance of a certificate may constitute an agreement between the ATO and the certificate holder where the consideration is \$200 on one side and, on the other, willingness to cooperate in implementation of the GST.

In *Re Webster* (1975) CLR 270, the High Court held that the purpose of subsection 44(v) was to prevent the Crown from having inappropriate influence over a parliamentarian through an agreement the person had with the Crown. The court held that the provision applies only to executory contracts under which something remains to be done. To fall within subsection 44(v) the agreement has to be something more than a casual or transient one. It must rather have a currency for a substantial period of time and must be one under which the Crown could conceivably influence the contractor in relation to parliamentary affairs.

On the face of it, there appears to be no agreement between the ATO and the recipient of the certificate. There appears to be merely a small and gratuitous facilitation by government of

the implementation of a government policy. Even if there is such agreement, it has no term, continuance or duration within the terms of the High Court's decision.

It would appear, therefore, that the law as set out in *Re Webster* is clear and unambiguous and, since the High Court is generally reluctant to overrule its previous decisions, likely to stand. On this basis it would be reasonable to conclude that there is virtually no risk of disqualification from redemption of a GST direct assistance certificate.

However, the matter is not so settled. A court may find there was an agreement for \$200 of goods or services between the ATO and the certificate holder on the basis referred to above. Without such agreement, the certificate holder has no remedy if a GST goods and services supplier, retained by the ATO to redeem certificates, refuses to honour a certificate. Further, *Re Webster* has been the subject of criticism because of the very narrow construction which Barwick CJ placed on subsection 44(v).

Finally, although the Australian Government Solicitor is inclined to think that the High Court is unlikely to overrule or distinguish *Re Webster* so as to bring about the disqualification of a parliamentarian for taking advantage of a GST direct assistance certificate, he also believes the legal position is far from certain. That uncertainty reinforces the need for parliamentarians, prior to redeeming a certificate, to obtain their own legal advice if concerned about their position.

My advice is based on a consideration of the range of issues bearing on this matter, including in particular the low monetary value of the certificate and the potential consequences of a less cautious view.

In keeping with the spirit and intent of the Register, I would advise senators to declare at least their redemption of more than one certificate.

However, out of caution in relation to the Constitution, I would advise senators against redeeming any certificates.

Peter O'Keeffe
Clerk Assistant (Corporate Management)
Registrar of Senators' Interests

 (02) 6277 3399
Fax: (02) 6277 3199
Peter.OKeeffe@aph.gov.au

2509b

**Confidentiality and parliamentary privilege for spouse or partner
declarations of interests**

This is written advice about the effect of a *subpoena*, if one were issued, by a court for copies of the declaration of interests made by a senator to the Committee of Senators' Interests in relation to his spouse or partner.

The Senate resolution of 17 March 1994 provides in paragraph 1 that within 28 days of being sworn in:

...each senator shall provide to the Registrar of Senators' Interests a statement of:

...

(b) the registrable interests of which the senator is aware:

(i) of the senator's spouse or partner...

...

...and shall also notify any alteration of those interests to the Registrar within 28 days of that alteration occurring.

Paragraph 2 of the resolution provides that:

Statements of the registrable interests of a senator's spouse or partner...submitted in accordance with paragraph 1...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.

The conflict of interest referred to is a conflict of interest between the senator's public duty as a senator and his pecuniary and other interests, including the interests of a spouse or partner so far as they are known to the senator.

Subparagraphs 4(2) to 4(5) of the resolution provide that:

- (2) 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 the committee from time to time.
- (3) 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 6 months any notification by a senator of alteration of those interests.

- (4) 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.
- (5) That part of the Register of Senators' Interests relating to spouses or partners ...shall remain confidential to the Committee of Senators' Interests as provided for in paragraph 2.

Bearing in mind the obligation to declare interests imposed by paragraph 1 of the resolution, a senator's declaration of interests in relation to his or her spouse or partner may be said to have been prepared for submission, and submitted, to the Committee of Senators' Interests in accordance with the directions of the Senate as contained in the resolution and that resolution also directs that the declaration shall remain confidential to the committee.

Such confidential declarations are protected from court ordered disclosure by section 16 of the *Parliamentary Privileges Act 1987* (the Act).

Paragraph 16 (4) (a) of the Act provides that:

A court or tribunal shall not:

- (a) require to be produced, or admit into evidence, a document that has been prepared for the purpose of submission, and submitted, to a House or a committee and has been directed by a House or a committee to be treated as evidence taken in camera, or admit evidence relating to such a document.

On the face of it, therefore, disclosure of the confidential spouse or partner declaration held by the Registrar under the procedures of the Committee of Senators' Interests cannot be compelled by a court.

However, a party determined to obtain a confidential spouse or partner declaration may argue:

- (a) that the spouse declaration is not prepared for submission to a committee but prepared for submission to the Registrar of Senators' Interests, an officer appointed by the President of the Senate under subparagraph 4(1) of the Senate resolution; therefore, paragraph 16(4)(a) of the Act does not extend to protect such a document since it is prepared for submission, and submitted, to a parliamentary official, not a committee; and
- (b) that the spouse declaration has not been "directed by a House or a committee to be treated as evidence taken in camera":
 - (i) since the expression "evidence taken in camera" is not used in paragraph 2 of the Senate resolution, which refers only to declarations remaining "confidential" to the committee except where the committee considers a conflict of interest arises; and
 - (ii) since there is no direction by the House or a committee that declarations of interests are *evidence* taken in camera or are to be treated as *evidence* taken in camera.

On the first point, subparagraph 4(2) of the Senate resolution makes it clear that the Registrar, who is also by definition, secretary to the Committee of Senators' Interests (subparagraph 4(1)), maintains the register in the form, and in accordance with the procedures, determined by the Committee of Senators' Interests. It is clear that when acting as Registrar in accordance with these procedures, the Registrar is thereby acting for and on behalf of the Committee for the receipt and registration of declarations of interests.

The committee's responsibility, through its chair, for tabling the Register and alterations to it, for tabling spouse or partner declarations in the event of a conflict of interest and in regulating access to the Register, reinforces this proprietary role of the committee in relation to senators' declarations.

Thus, the Registrar's acceptance and registration of a declaration from a senator does not alter the nature of that transaction as one in which a senator prepares for the purpose of submission, and submits, to the Committee of Senators' Interests, his or her spouse or partner declaration.

On the second point, a reasonable and proper interpretation of paragraph 16(4)(a) of the Act does not require that there be, in relation to a particular document (or class of documents) a direction in the express terms of the protection provided for in the paragraph. Thus, it is not a requirement that a House or a committee resolution must expressly refer to the document as "directed...to be treated as evidence taken in camera". It is enough that the document be, first, evidentiary in nature, and secondly, that the House or a committee, by resolution, direct, in clear and unambiguous words, that it be protected from disclosure. Such words may be, for example, "in camera evidence" or "confidential", or "secret" and achieve the effect of being a direction within the meaning of paragraph 16(4)(a) of the Act.

In the case of a senator's spouse or partner declaration, the declaration is unambiguously *evidence* of the pecuniary and other interests of the senator's spouse or partner. It is open to the Committee of Senators' Interests to decide whether this is *evidence* of a conflict of interest which might require the declaration to be disclosed.

The reference in the Senate resolution to confidentiality (paragraph 2 and subparagraph 4(5)) is a clear and unambiguous formula directing that the declaration is not to be disclosed and it thereby attracts the protection of paragraph 16(4)(a) of the Act.

In any event, were a senator's confidential spouse or partner declaration to be obtained by, or provided to, a party to any proceedings in a court, subsection 16(3) of the Act would prevent its use in court.

That subsection provides that:

In proceedings in any court or tribunal, it is not lawful for evidence to be tendered or received, questions asked or statements, submissions or comments made, concerning proceedings in Parliament, by way of, or for the purpose of:

- (a) questioning or relying on the truth, motive, intention or good faith of anything forming part of those proceedings in Parliament;
- (b) otherwise questioning or establishing the credibility, motive, intention or good faith of any person; or

- (c) drawing, or inviting the drawing of, inferences or conclusions wholly or partly from anything forming part of those proceedings in Parliament.

Thus, in court proceedings it is not lawful to tender or receive evidence concerning proceedings in Parliament, for the purpose of questioning those proceedings in Parliament or questioning the credibility or good faith of any person or drawing inferences or conclusions from anything forming part of those proceedings.

Subsection 16(2) of the Act defines proceedings in Parliament in a very comprehensive way. It provides that:

“proceedings in Parliament” means all words spoken and acts done in the course of, or for purposes of or incidental to, the transacting of the business of a House or of a committee, and, without limiting the generality of the foregoing, includes:

- (a) the giving of evidence before a House or a committee, and evidence so given;
- (b) the presentation or submission of a document to a House or a committee;
- (c) the preparation of a document for purposes of or incidental to the transacting of any such business; and
- (d) the formulation, making or publication of a document, including a report, by or pursuant to an order of a House or a committee and the document so formulated, made or published.

A senator’s spouse or partner declaration would constitute proceedings in Parliament under each of these paragraphs (a), (b), (c) and (d). It is evidence given to the Committee of Senators’ Interests of pecuniary and other interests. It is a document prepared and submitted to a committee. It is a document prepared for the purposes of or incidental to the transacting of any business of the House since it is considered necessary by the House itself to require declaration and registration of all relevant interests to address the implications of conflicts of interests arising during such proceedings. Finally, it is a document formulated pursuant to an order of a House, namely paragraph 1 of the Senate resolution which requires that senators must declare their interests and those of their spouses or partners so far as known of them.

In summary, therefore, a senator’s spouse or partner declaration enjoys absolute parliamentary privilege. Its production cannot be ordered by a court or a tribunal. If somehow it were made available, it may not be used by a court or tribunal in any proceedings.

Were the Committee of Senators’ Interests to consider that a conflict of interest arose in relation to the contents of a spouse or partner declaration, the Committee could table the declaration. However, as a document tabled in, and for the purposes of, parliamentary proceedings, the declaration would continue to enjoy the absolute parliamentary privilege which it attracted as a confidential spouse or partner declaration.

I thought it appropriate to set out these considerations as they have not previously arisen in this way in relation to the Register of Senators' Interests.

Please let me know if you require any further advice on this matter.

Peter O'Keeffe
Clerk Assistant (Corporate Management)
Registrar of Senators' Interests

 (02) 6277 3399
Fax: (02) 6277 3199
Peter.OKeeffe@aph.gov.au

**STATEMENT TO THE SENATE BY THE COMMITTEE CHAIR
14 MARCH 2000**

[Senator DENMAN](#) (Tasmania) (3.56 p.m.) —Pursuant to standing order [22A](#), I present the annual report of the Committee of Senators' Interests for 1999.
Ordered that the report be printed.

[Senator DENMAN](#) —I seek leave to make a short statement.
Leave granted.

[Senator DENMAN](#) —I thank the Senate. The report I have tabled contains a brief summary of the issues dealt with by the committee in 1999. The register of senators' interests generated little controversy during the year. The purpose of the register is to identify conflicts of interest. As senators we have public duties. As citizens we, or those closest to us, have pecuniary and other interests. Conflicts of interest arise when performance of public duty would have an effect on promoting a private interest. As senators we resolve the conflict by declaring it. Then our performance of public duties can be assessed in the light of our private interests. That declaration is in the register where pecuniary and other interests are recorded and also during debates and votes when we declare interests while actually influencing or participating in legislative decision making.

Because of their great personal decision making power ministers are, in addition, expected not to take executive decisions if they have a conflict of interest. Before the ministerial decision is taken the conflict must be ended, either by resigning from the public duty or by divesting oneself of the private interest. The two must not coexist where personal executive powers are concerned. These principles now appear to be universally agreed in the Senate, as is the recognition that it is the personal responsibility of each senator to make appropriate declarations in accordance with the letter and spirit of the Senate resolutions.

I want to draw again senators' attention to the absence of an essential complement to the register of interests. This is an agreed code of conduct for parliamentarians, to which I referred on 9 December 1998. A code of conduct is not an instant remedy for those aspects of political behaviour which may have led many in the community to feel less than satisfied with their elected representatives. However, statements of values and codes of ethics do represent vital statements of expected standards against which elected representatives can be more fairly measured.

Values and codes challenge both the prejudices of the critical and the habits of the criticised. They embody points of reference, which map out the limits of acceptable political behaviour. They become powerful moral and political restraints and incentives. As such, they cannot but improve political performance and, hence, the public interest. There is an inexorable link between political ethics, political performance and public interest.

I have taken the liberty of putting these remarks on the record in this context because I believe the Register of Senators' Interests—pragmatic and generally effective though it is—is only half of the ethical framework for our professional lives as elected representatives. It is now almost five years since 21 June 1995 when the Presiding Officers tabled for consideration draft ethical principles for ministers, senators and members. These were the recommendations of an informal working group set up on 25 June 1992. No action has been taken by the parliament since. As a parliament, however, we enacted only last year specific laws which put in place world's best practice values and codes for the Australian Public Service and the new Australian Parliamentary Service. Our legislative intent was to articulate the standards we expect of our public administration and provide mechanisms to ensure the highest standards are met. I believe we should require no less of ourselves as elected representatives. I believe we should continue to consider the development of an appropriate code for the parliament itself. Those of us who are conscientious elected representatives—and that is the majority of us—have nothing to fear from such a code and much to gain in articulating our standards and expecting universal adherence to them. A time when there is little or no controversy about the behaviour of senators, members or ministers may perhaps be the best and only window of opportunity to achieve an effective bipartisan code.

**STATEMENT TO THE SENATE BY THE COMMITTEE CHAIR
28 JUNE 2000**

[Senator DENMAN](#) (Tasmania) (4.35 p.m.) —In accordance with the order of the Senate of 17 March 1999, I table a copy of the register of senators' interests containing notifications of alterations to the register since December 1999. I seek leave to make a short statement. Leave granted.

[Senator DENMAN](#) —I thank the Senate. I have tabled the first of two annual updates of the alterations of interests declared by senators. They are intended to ensure transparency in the matter of conflicts of interests. It is a fact of political and commercial life and a principle of ethical behaviour that a conflict of interest can exist without a person doing anything wrong or taking any unfair advantage. But for important decision-makers such conflicts must be resolved. The Senate scheme for addressing conflicts of interest between public duty and private interests, while arising from a resolution of the Senate, is based on the integrity of each individual senator. Senators declare pecuniary and other interests in the register as a demonstration of the transparency which they consider is essential for public representatives taking legislative decisions on behalf of the nation. The declaration of relevant interests during debate reinforces that commitment. These approaches to transparency are the Senate's method of resolving most conflicts of interest. The fact of the private interests and their potential to be affected by public decisions are declared; nothing is hidden. The relevant decision maker invites the Senate and the public to accept that having declared the private interests they nevertheless have the capacity and integrity to act objectively in the public interest.

Other more stringent schemes may tend to have other consequences for the main work of the legislators. They may tend to disqualify senators from participating in their legislative duties and thus disenfranchise the people who elect them to participate in those duties. Such standards of exclusion are applicable in executive, judicial and commercial areas where serious personal conflicts may arise and normally result in the decision maker withdrawing from decision making processes. Experience has shown that the political consequences of controversies affecting the register of senators' interests are serious.

But the effectiveness of the scheme as a way to create transparency and reduce the adverse consequences of conflicts of interests is entirely in the hands of senators. It is a function of their personal integrity, supported by the effective administration of their records. In that sense, the scheme is stringent and demanding on all senators to ensure that pecuniary and other private interests are declared in a timely way. Senators do appear to be very conscious of this and act accordingly.

THE SENATE

REGISTER OF GIFTS TO THE SENATE AND THE PARLIAMENT

SENATOR'S DECLARATION OF RECEIPT OF A GIFT INTENDED OR
ASSUMED TO BE FOR THE SENATE OR THE PARLIAMENT**Senator's name:****State/Territory:****Gift received by:**(Self or spouse or
family member or
staff member)**Donor:**

(Name and position)

Occasion:(date, place and
circumstances of
donation)**Description of gift:**

.....

The gift is taken to be a gift to the Senate (or the Parliament) because:(for example, there was a statement of intention by the donor or the donor, the occasion
or the nature of gift make it reasonable to assume this intention)

.....

Senator's signature: _____ **Date:** ____/____/____