



THE PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA

THE SENATE

COMMITTEE OF SENATORS' INTERESTS

Report 1/2000

ANNUAL REPORT — 1999

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MEMBERS OF THE COMMITTEE – 39TH PARLIAMENT

Senator K Denman	(ALP)	TAS	Chair
Senator the Hon D Brownhill	(NPA)	NSW	Deputy Chair
Senator the Hon E Abetz	(LP)	TAS	
Senator L Allison	(AD)	VIC	
Senator J Collins	(ALP)	VIC	
Senator S Hutchins	(ALP)	NSW	(until 9 August 1999)
Senator the Hon I Macdonald	(LP)	QLD	
Senator J McLucas	(ALP)	QLD	(from 9 August 1999)
Senator S Mackay	(ALP)	TAS	

Committee Secretary:

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COMMITTEE OF SENATORS' INTERESTS
Standing Order 22A

22A. (1) A Committee of Senators' Interests shall be appointed at the commencement of each parliament:

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

- (9) The committee shall, as soon as practicable after 31 December in each year, prepare and table in the Senate a report on its operations during that year, and shall also have power to report from time to time.

(adopted 17 March 1994, amended 24 August 1994)

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 officeholder 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 (referred to below) 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 sixth 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 three times in 1999, on 13 May, 24 June and 30 November 1999. A copy of the minutes of each meeting is appended.
5. The committee's terms of reference require it to report on a number of matters. The committee reports on these matters as follows as at 31 December 1999.

Overview

6. Under the Senate resolution of 17 March 1994, the identification of potential conflicts of interests is in the form of declarations of pecuniary and other relevant interests. These are declared in writing and publicly registered, and where relevant, orally declared during Senate proceedings. The Senate procedure is based on a prior assumption of trust, in a sense a code of honour – neither the Senate nor the committee conducts any prior validation, by way of inquiry or examination, of the interests that are or are not declared in the Register. However, Senate procedures provide for very serious penalties for deliberate omissions from, or falsifications of, the Register. Precedents have also shown that very serious political consequences may

flow from *ex post facto* concerns about the completeness or integrity of senators' declarations.

7. During 1999, the registration process operated generally satisfactorily. Occasionally pecuniary interests were not declared in as timely a manner as possible to ensure that the Register remained up to date. The committee takes this opportunity to remind senators to declare interests and notify alterations to interests within 28 days of their acquisition or change, as required by the Senate resolution.
8. After some initial confusion it appears that senators take seriously their duty to make oral declarations of any pertinent pecuniary or other interests during legislative debates and votes. This now tends to be done smoothly and quickly as the need arises without prompting or politicking.
9. The Senate resolution provides thresholds and guidance in relation to gifts. Gifts (other than minor tokens of appreciation) can be signs of friendship or intimations of indebtedness. In political life, both of these can be problematic and the proper and prompt declaration of gifts is a very significant aspect of the Senate resolution. There is no indication of the acceptance of inappropriate personal or other gifts or the non-declaration of gifts. The acceptance of gifts (including hospitality) is, however, always a matter requiring great caution. Such care is not inconsistent with the usual norms of courtesy.
10. Finally, the committee, and on its instructions, the committee secretariat and the Registrar, takes seriously its duty to do all it can to inform senators of their obligations under the Senate resolution, guide them in meeting those obligations and urge them to do so in as timely, accurate and transparent a way as possible. Beyond that it is for the Senate to be, and to remain, satisfied that, at a time when allegations of conflict of interest, abuse of office and breach of trust abound in other political systems, these faults are not manifest in the Senate.

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

11. 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.
12. Since it was established in 1994 the committee has provided senators with some guidance on its approach to how interests should best be registered. A summary of this guidance is in appendix 2.
13. 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 alterations. A sample of this correspondence is in appendix 3.
14. On 28 June 1999 the committee tabled the first of its regular six monthly updates of Notifications of Alterations of Interests (4 December 1998 to 24 June 1999).

15. On 1 July 1999 the term of office commenced of those senators elected at the general election on 3 October 1998. Their declarations of interests, and the existing or altered declarations of current senators, constituting the full Register of Senators' Interests, were tabled by the committee on 23 September 1999.
16. On 6 December 1999 the committee tabled the second of its six monthly updates of Notifications of Alterations of Interests (18 September 1998 to 3 December 1999).
17. During the year, there were 21 requests for access to the Register and 174 pages of extracts were photocopied for those inspecting the Register.

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

17. There were no such proposals or submissions to the Committee during the year under review.

Registration of interests by other classes of persons

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

Other matters

19. On 26 August 1997, the Senate adopted rules for the declaration by senators of gifts presented to them but actually intended or assumed to be for the Senate or the Parliament. The Senate resolution provides for the Registrar of Senators' Interests to record declarations in a public register in accordance with rules and procedures made by the committee. On 12 March 1998, the committee tabled procedural rules in relation to the Register.
20. An anomaly in the gifts resolution meant that any gift received by a senator above the thresholds of \$200 or \$500 (from a private or official donor, respectively) was deemed to be a gift to the Senate regardless of the circumstances or the donor's intent. This was an unintended outcome.
21. On 8 December 1999 the Senate, on the recommendation of the committee, agreed to amend the gifts resolution, first, so that in the absence of express donor intent no gift below those thresholds would be deemed to be an institutional gift, and secondly, so that, in the absence of express donor intent, the mere fact that a gift was above those thresholds would not alone define the nature of the gift.
22. An explanatory paper, the text of the amended resolution and the committee chair's statement to the Senate are in appendix 4.

23. The committee also considered, and agreed upon, administrative procedures for dealing with declarations of gifts. These are in appendix 5.
24. The Second Report of 1999 of the Procedure Committee (October 1999) recommended, in effect, that, where applicable, the interests of a senator's same sex partner should be declared in the Register. The Procedure Committee proposed wording for an amendment to the senators' interests resolution. The Senators' Interests Committee was not consulted about the proposal. In the event, on 22 November 1999, the Senate agreed to an alternative form of wording for the proposed amendment. This included in the resolution an obligation to declare the interests of a partner. A partner was defined as a person living with another person in a *bona fide* domestic relationship. The committee amended its declaration forms and explanatory notes accordingly and copies of these are in appendix 6.
25. During the year, advice was prepared on the interpretation of the Senate resolution in relation to the confidential Form B of the Register. This is in appendix 7.
26. During the year, advice was prepared on the application of the Senate resolution to any senator who had made negative gearing arrangements with their assets. This is in appendix 8.
27. Senators must declare the benefits received from frequent flyer points accrued from official travel. The Department of Finance and Administration, which administers parliamentarians' travelling entitlements, receives returns from senators indicating the use of frequent flyer points. The question was raised whether senators should continue to declare frequent flyer points benefits in the Register. The committee considered that, as a matter of caution and best-practice, senators should continue to do so, pending government finalisation of measures to ensure full use of, and accountability for, frequent flyer points. A paper explaining the position is in appendix 9.

(Kay Denman)
Chair

March 2000

APPENDICIES

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MINUTES OF PROCEEDINGS 1999/1

THURSDAY 13 MAY 1999

1. MEETING

The Committee met in private session at 10.10am in Committee Room 1S2.

2. ATTENDANCE

Senator K Denman
Senator the Hon D Brownhill
Senator the Hon E Abetz
Senator L Allison
Senator J Collins
Senator the Hon I Macdonald
Senator S Mackay

Chair
Deputy Chair

3. APOLOGIES

Senator S Hutchins

4. MINUTES OF LAST MEETING ON 7 DECEMBER 1999

Senator Brownhill moved, and the Committee **agreed**, unanimously, that the minutes of the last meeting be confirmed.

5. BUSINESS ARISING

There was no business arising.

6. DRAFT ANNUAL REPORT FOR 1998

The Committee considered the draft annual report for 1998. Senator Abetz moved, and it was **agreed**, unanimously, that the draft be approved subject to a minor change of wording on pages 33-34.

7. ADMINISTRATIVE PROCEDURES FOR REGISTRATION OF GIFTS TO THE SENATE

The Committee considered administrative procedures for registration of gifts to the Senate. Senator Mackay moved, and the Committee **agreed**, unanimously, to adopt the procedures.

The Committee also considered the Senate resolution of 26 August 1997 for the registration of gifts to the Senate.

It was **agreed** that for every gift in excess of \$500 (from an official source) or \$200 (from a private source) to be automatically deemed intended for the Senate was probably an unintended consequence of the wording of the resolution.

It was **agreed** that the secretary should redraft the resolution to link the financial thresholds with the special circumstances of the receipt of a gift where the donor has not expressed any specific intention.

It was **agreed** that, if the draft was informally agreed to by all committee members, the chair should give notice of motion in the Senate to amend the resolution.

8. PROPOSAL TO PLACE THE PUBLIC REGISTER OF SENATORS' INTERESTS ON-LINE

The Committee considered placing the Register on-line. Senator Collins, moved, and it was **agreed**, unanimously, to defer further consideration of the matter until another meeting.

9. ADJOURNMENT

The committee adjourned at 10.25am.

Confirmed:

Kay Denman
Chair

MINUTES OF PROCEEDINGS 1999/2

THURSDAY 24 JUNE 1999

1. MEETING

The Committee met in private session at 5.02pm in Committee Room 1S2.

2. ATTENDANCE

Senator K Denman
Senator the Hon D Brownhill
Senator the Hon E Abetz
Senator L Allison
Senator J Collins
Senator the Hon I Macdonald
Senator S Mackay

Chair
Deputy Chair

3. APOLOGIES

Senator S Hutchins

4. MINUTES OF LAST MEETING ON 12 MAY 1999

Senator Allison moved, and the Committee **agreed**, unanimously, that the minutes of the last meeting be confirmed.

5. BUSINESS ARISING

There was no business arising.

6. PROPOSAL TO AMEND THE RESOLUTION OF THE SENATE CONCERNING THE DECLARATION OF GIFTS TO THE SENATE

The Committee considered a draft modification to the Senate resolution for the declaration of gifts. It was **agreed**, unanimously, that the secretary should redraft, for the Committee's consideration, the draft modification to add a paragraph to this effect: that the mere fact that a gift was worth more than \$200 or \$500 (depending on the identity of the donor) did not mean that gift was a gift for the Senate.

7. ADJOURNMENT

The committee adjourned at 5.40pm.

Confirmed:

Kay Denman
Chair

MINUTES OF PROCEEDINGS 1999/3

TUESDAY 30 NOVEMBER 1999

1. MEETING

The Committee met in private session at 5.31pm in Committee Room 1S2.

2. ATTENDANCE

Senator K Denman
Senator the Hon D Brownhill
Senator the Hon E Abetz
Senator L Allison
Senator J McLucas

Chair
Deputy Chair

3. APOLOGIES

Senator J Collins
Senator the Hon I Macdonald
Senator S Mackay

4. MINUTES OF LAST MEETING ON 24 JUNE 1999

Senator Brownhill moved, and the Committee **agreed**, unanimously, that the minutes of the last meeting be confirmed.

5. BUSINESS ARISING

There was no business arising.

6. PROPOSED CHANGES TO THE DECLARATION OF INTERESTS FORMS AND THE RELATED EXPLANATORY NOTES

The Committee considered the proposed changes to the declaration of interests forms and the related explanatory notes. Senator Allison moved, and the Committee **agreed**, unanimously, that the forms and notes, as modified to include references to partners, be the forms determined by the Committee for senators registration of interests.

7. PROPOSAL TO AMEND THE RESOLUTION OF THE SENATE CONCERNING THE DECLARATION OF GIFTS TO THE SENATE

The Committee considered a draft modification to the Senate resolution for the declaration of gifts and a related paper. Senator Abetz proposed, and the Committee **agreed**, unanimously, that the Chair should propose to the Senate that the gifts resolution be amended in terms of the draft modification circulated to ensure that the mere fact that a gift was worth more than \$200 or \$500 (the sum depending on the classification of the donor) did not mean that the gift was automatically a gift for the Senate.

8. ADJOURNMENT

The committee adjourned at 6.01pm.

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 officeholder 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.

1 June 1998
999

ALL SENATORS

Dear Senator

DECLARATIONS OF ALTERATIONS TO SENATORS' INTERESTS

In its First Report (June 1994), the committee of Senators' Interests arranged for the Registrar of Senators' Interest to issue a twice yearly reminder notice to senators about the need to monitor and declare relevant alterations in their statements of interests.

I am, therefore, writing to remind you that under the Senate resolution of 17 March 1994 senators must notify alterations in their interests within 28 days of the alteration occurring.

Alterations should be recorded on Form A and/or Form B (for spouses and dependant children).

May I draw your particular attention to the paragraph in the committee's Explanatory Notes which states:

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.

On 29 June 1998, and pursuant to the Senate resolution, it is proposed to table the second of the twice-yearly Registers of Alterations to Senators' Interests containing changes notified by senators between 22 November 1997 and 26 June 1998.

Please let me know if I can assist you in relation to the Register. Any matters raised with me would be on a confidential basis.

Yours sincerely

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

 (02) 6277 3399
Fax: (02) 6277 3199

26 May 1999
2127

ALL SENATORS

Dear Senator

Register of Gifts to the Senate

I write to remind you of the Senate resolution of 26 August 1997 that gifts given to senators but intended or deemed to be gifts to the Senate as an institution must be declared within 10 days of receipt and placed in the custody of the Registrar of Senators' Interests. (Their return to senators for the purpose of temporary display/loan may be arranged.)

Under the resolution, gifts are intended for the Senate if the donor expressly states this intention or if the donor, the occasion or the gift are such that this intention may reasonably be assumed. A gift is deemed to be for the Senate if the Australian value of the gift exceeds \$500 (for an official gift from a government) or \$200 (for a gift from a private or non-government source).

On 12 March 1998, the Committee of Senators' Interests, which oversees the Register of Gifts, issued rules, guidelines and forms to assist senators to observe the requirements of the resolution. Copies can be obtained from the Table Office or from me.

May I draw your particular attention to paragraph 21 in the document which states:

It should be borne in mind by all senators that as a matter of history, culture and practice, and while respecting the traditions of other countries, Australia does not favour or encourage political gift giving or political gift receiving. There are, however, occasions of significance which governments, parliamentarians, parliamentary institutions or others may wish to mark by giving a gift to another Parliament. The Senate resolution and the procedural rules are designed to accommodate such occasions.

Please let me know if I can assist you with any matter concerning the Register of Gifts.

Yours sincerely

Peter O'Keeffe
Clerk Assistant (Corporate Management)
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Ca.Corporate.Sen@aph.gov.au

2261

July 1999

ALL SENATORS

Dear Senator

Register of Senators' Interests

It may be helpful for senators if I clarify matters in relation to declaring senators' interests after 30 June 1999.

Territory Senators

Senators who were elected in October 1998 to represent the ACT or the Northern Territory **were sworn in** on 10 November 1998 and provided declarations of interests after that. They have the same obligations as before ie to notify alterations to interests within 4 weeks of alterations occurring. Such senators **may** make a completely new, full declaration of interests at any time **if they wish**. There is no obligation to do so - their current declarations stand.

Continuing Senators

Senators who were **not** required to stand for **re-election** in October 1998 (continuing senators) have the same obligations as before ie to notify alterations to interests within 4 weeks of alterations occurring. Such senators **may** make a completely new, full declaration of interests at any time **if they wish**. There is no obligation to do so - their current declarations stand.

Re-elected Senators

Senators who **were required** to stand for **re-election** in October 1998 (re-elected senators) will be sworn in again on 9 August 1999. They **then** have an obligation to make a new, full, declaration of interests within 4 weeks of being sworn in. Closer to the time, I will write to all such senators with forms and more information.

Such re-elected senators who make a new, full, declaration **now**, would have to **remake** the declaration **after** being sworn in, to comply with the Senate resolution.

New Senators

Senators elected for the first time in October 1998 (**new senators**) will also be sworn in on 9 August 1999. They **then** have an obligation to make a full, declaration of interests within 4 weeks of being sworn in. Closer to the time, I will write to all such senators with forms and more information.

Please contact me if you need any further information or clarification at this stage.

Yours sincerely

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

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November 1999
999

ALL SENATORS

Dear Senator

DECLARATIONS OF ALTERATIONS TO SENATORS' INTERESTS

In its First Report (June 1994), the Committee of Senators' Interests arranged for the Registrar of Senators' Interests to issue a twice yearly reminder notice to senators about the need to monitor and declare relevant alterations in their statements of interests. I am, therefore, writing to remind you that under the Senate resolution of 17 March 1994 senators must notify alterations in their interests within 28 days of the alteration occurring.

The resolution also provides that, notwithstanding the lodgement of a declaration or alteration, a senator must orally declare any relevant interest when first speaking in a debate and when first voting in that debate (relevant interest includes that of a spouse or dependent child, when the interest is known to the senator).

Notice of alterations should be recorded on Form A and/or Form B (for spouses and dependant children).

May I draw your particular attention to the paragraph in the committee's Explanatory Notes which states:

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.

On 6 December 1999, and pursuant to the Senate resolution, it is proposed to table the second of the twice-yearly Registers of Alterations to Senators' Interests containing changes notified by senators between 24 September 1999 and 3 December 1999. If you have any outstanding declarations of alterations which you wish to have included in the Register, would you please forward them to me by Friday 3 December 1999.

Please let me know if I can assist you in relation to the Register. Any matters raised with me would be on a confidential basis.

Yours sincerely

Peter O'Keeffe
Clerk Assistant (Corporate Management)

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

November 1999
2127

ALL SENATORS

Dear Senator

Register of Gifts to the Senate

I write to remind you of the Senate resolution of 26 August 1997 that gifts given to senators but intended or deemed to be gifts to the Senate as an institution must be declared within 10 days of receipt and placed in the custody of the Registrar of Senators' Interests. (Their return to senators for the purpose of temporary display/loan may be arranged.)

Under the resolution, gifts are intended for the Senate if the donor expressly states this intention or if the donor, the occasion or the gift are such that this intention may reasonably be assumed. A gift is deemed to be for the Senate if the Australian value of the gift exceeds \$500 (for an official gift from a government) or \$200 (for a gift from a private or non-government source).

On 12 March 1998, the Committee of Senators' Interests, which oversees the Register of Gifts, issued rules, guidelines and forms to assist senators to observe the requirements of the resolution. Copies can be obtained from the Table Office or from me.

May I draw your particular attention to paragraph 21 in the document which states:

It should be borne in mind by all senators that as a matter of history, culture and practice, and while respecting the traditions of other countries, Australia does not favour or encourage political gift giving or political gift receiving. There are, however, occasions of significance which governments, parliamentarians, parliamentary institutions or others may wish to mark by giving a gift to another Parliament. The Senate resolution and the procedural rules are designed to accommodate such occasions.

Please let me know if I can assist you with any matter concerning the Register of Gifts.

Yours sincerely

Peter O'Keeffe
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Ca.Corporate.Sen@aph.gov.au

2244

25 November 1999

Gifts to the Senate

1. The current Senate resolution requires gifts to be declared as gifts to the Senate rather than the senator if the donor says so, or the circumstances reasonably suggest that intent, or the gift is worth more than \$200 (private donor) or \$500 (government donor).
2. This means that any gift above those limits *automatically* becomes a gift to the Senate regardless of the circumstances – an unintended outcome.
3. A draft amendment was prepared to the effect that a gift should be declared as a gift to the Senate if the donor says so, or the circumstances reasonably suggest that intent. The amendment *deletes* the provision that *automatically* made a \$200 or \$500 gift, a gift to the Senate. However, to avoid doubt and minimise the collection and curation of not significant items, the amendment provided that, in the absence of express donor intent, gifts of *less than* \$200 or \$500 would *not* be treated as gifts to the Senate. The amendment also *adds* a provision that the mere fact that a gift has a value above those thresholds would not mean that the gift was for the Senate. It was a matter of judgment for the recipient acting in accordance with the spirit and intention of the resolution.
4. It might be said that for some gifts of less than \$200 or \$500 the circumstances might suggest a gift to the Senate rather than to the senator and the gift should be so declared. Otherwise, being under \$200 or \$500 it would not be declared in either the register of interests or the register of gifts. It might also be said that senators should not be in receipt of or retain gifts of more than \$200 or \$500 and that these should automatically be surrendered.

5. Here is some analysis.

- (i) It is wrong in principle that, regardless of the circumstances, the value of the gift determines its nature. Its nature is determined by the donor's express or implied intent. (Value may throw light on intent.)
- (ii) Express intent gives rise to no difficulties. Implied intent will *always* be a matter of debate open to different interpretations.
- (iii) The declaration, registration, official storage and curation of not significant gifts under \$200 or \$500, whose status is, *by definition* debateable, will give rise to costs and disputation. This may impact adversely on the registration scheme itself. There is already potential for disputation about the valuation of gifts. This would be compounded by potential disputation about the nature of not significant gifts.
- (iv) A gift of more than \$200 or \$500 is reasonably viewed as entering the realms of significant. It must either be declared in the register of interests or the register of gifts. If declared in the register of interests, a senator should be prepared to justify its personal retention by demonstrating that there was neither express nor implied intent that the gift was really for the institution. The declaration of the gift as a personal interest acts as an ethical safeguard. If declared in the register for gifts (because of express or implied intent), the gift is by definition one that is significant justifying the expense of official collection, storage and curation.
- (v) Three examples may clarify this.

First, at a reception a delegation leader receives a gold plated prestige fountain pen, worth about \$200, from a private company. There is no statement of intent that it be for the Senate. It would be difficult to imply such an intent for such an item in such circumstances. The senator declares the pen in the register of interests. He or she has complied with their obligations under the resolution. Not to do so would be a breach of the Senate's requirements. (It would always be difficult to find an implied intent for 'personal' items. However, in keeping with Australia's cultural stance on such

matters, officials should have taken every care to avoid the presentation of expensive gifts.)

Secondly, at an overseas meeting with parliamentarians a senator on a delegation receives from a presiding officer a cut glass plate depicting the host country's Parliament. There is no statement of intent. It *could* be implied that the gift was for the Senate. However, it is certainly worth less than \$500. The senator retains it and declares it on his or her declaration of interests. He or she would have complied with their obligations under the proposed change to the resolution. Without that change, a potential dispute arises that the circumstances did indeed imply that the plate was for the institution *regardless of its value*. This dispute cannot be definitively resolved without considerable embarrassment to the donor. It is arguable that this is not a reasonable approach given that fact, and the cost implications of collecting, storing and curating such not significant items.

Thirdly, a senator leading a trade delegation of Australian business people to lobby overseas, receives from the host country's minister a gift of a gold dagger. It is clearly worth some thousands of dollars. There is no expression of intent that it be for the Senate. There is nothing in the circumstances to suggest that such intent should be implied. The senator decides to retain the gift and declare it in his or her declaration of personal interests. The Senate's requirements would have been complied with. However, retention of such a gift may be controversial and it may reflect a failure of political judgement, notwithstanding adherence to the Senate's resolution. It may equally reflect a failure by Australian government officials to take all steps necessary to prevent the donation of such gifts given the strong Australian culture and ethical stance of avoiding the potential problems involved in political gifts. In the exercise of his or her political judgement which is informed by the spirit and intent of the resolution, the senator decides instead to donate the dagger to the Australian Museum. This is likely to eliminate the possibility of controversy and reinforce parliamentarians and officials in their stance of discouraging political gift giving of this kind.

It should be repeated, as the Committee itself has said, that culturally and ethically Australia is not a political gift giving or political gift receiving polity, and all

concerned, from presiding officers to relevant government officials, should actively discourage the exchange of any but small tokens of friendship, reflective of that culture and ethical stance. No other attitude will minimise the risks of impropriety in relation to gifts to the Parliament or parliamentarians. (There are, of course, major occasions, like the opening of new Parliament buildings, where significant official gifts are sometimes given to cement relations, in circumstances where there can be no doubt that the gift is of an institutional nature not amenable to any consideration of impropriety.)

6. It is both reasonable, practicable and ethical *to define out* of the category of Senate gifts not significant items, ie those of less than \$200 or \$500 (in the absence of express intent). Equally, the fact that a gift is above \$200 or \$500 should not, *for that reason alone*, imply that the gift was for the Senate. Often, such an implication could be artificial or wrong. However, where clearly very valuable gifts are to be retained, albeit declared in the register of personal interests, the most careful judgement should be exercised by the senator receiving them.
7. If agreed, the proposed modification of the Senate resolution should be accompanied by a restatement of the Committee's view that political gift giving and receiving should be actively discouraged, apart from the exchange of small tokens of friendship where the gesture, not the value, expresses what needs to be expressed about mutual friendship and appreciation.

Peter O'Keeffe
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Registrar of Senators' Interests

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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

Extract from Journals of the Senate No. 93 dated 8 December 1999

20. SENATORS' INTERESTS – STANDING COMMITTEE – VARIATION OF RESOLUTION

Senator O'Brien, at the request of the Chair of the Standing Committee of Senators' Interests (Senator Denman) and pursuant to notice of motion not objected to as a formal motion, moved—That the Senate resolution of 26 August 1997 relating to the declaration of gifts intended for the Senate be modified as follows:

Omit paragraph (1)(b), substitute:

- (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.

Question put and passed.

Senator O'BRIEN (Tasmania) (3.38p.m.)—On behalf of Senator Denman, I give notice that, on Wednesday, 8 December, she will move:

That the Senate resolution of 26 August 1997 relating to the declaration of gifts intended for the Senate be modified as follows:

Omit paragraph (1)(b), substitute:

- (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.

On behalf of Senator Denman, I seek leave to incorporate in *Hansard* an explanation of the notice of motion I have given on her behalf.

Leave granted.

The explanation read as follows—

The Senate resolution of 26 August 1997 requires senators to declare gifts received by them but intended for the Senate or the Parliament as an institution.

A gift is intended for the institution if the donor expressly said so, the whole nature of the occasion and the gift makes it reasonable to assume so, or the gift is worth more than \$200 or \$500 depending on the private or public nature of the donor.

The last test has the consequence of transforming every gift worth more than \$200 or \$500 into a gift to the Senate.

Under the Senators' Interests resolution, such gifts must be declared in the Register of Senators' Interests. It is, however, unintended, impractical and unnecessary that they automatically become institutional gifts merely because of their value, and regardless of the donor's intent or circumstances.

At its meeting on 30 November 1999, the Committee of Senators' Interests agreed to recommend that the Senate modify the gifts resolution. The effect would be that, in the absence of express intent from the donor, or other compelling circumstances, it would not be assumed that the value of a gift alone would automatically make it a gift to the Senate.

The proposed modification would also ensure that a gift below the \$200 or \$500 thresholds would be assumed not to be an institutional gift unless the donor clearly expressed such an intent.

The proposed modification does not in any way dilute the declaration obligations in relation to senators' interests.

The Committee recommends that the Senate make the proposed change to the gifts resolution.

28 April 1999
1164

ALL MEMBERS OF THE COMMITTEE OF SENATORS' INTERESTS

Dear Senator

REGISTER OF GIFTS TO THE SENATE

The Senate resolution about declaring gifts intended for the Senate (26 August 1997) provides for the Committee to advise the President how each gift should be preserved.

Paragraph (1)(d) states:

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.

In practice, registrable gifts are not frequently received, gifts of very high value and exhibition potential even less so.

It is likely, therefore, that most gifts may be most effectively used or displayed in the office of the recipient senator, with perhaps a periodic public exhibition of selected gifts organised by the President through the Registrar and the Joint House Department.

However, the Committee must meet to make a recommendation about each declared gift, whatever its nature or value.

May I suggest the following expeditious way of dealing with this.

1. Where a gift is declared, the Registrar, after inspecting it, and in taking custody of it, may, if appropriate, leave it in the initial possession of the recipient senator at their Parliament House office. The senator would sign a temporary undertaking to safeguard the gift.
2. If appropriate, the Registrar would seek the advice of the Joint House Department on how best the gift might be preserved, and used, displayed or loaned.

3. The Registrar would notify all Committee members of the gift, its temporary location and the advice of the Joint House Department. The Registrar would, as soon as practicable, advise the Committee on an appropriate recommendation it might make to the President about how and where the gift should be kept.
4. With such a recommendation generally the only item of business, a Committee meeting would be convened on a sitting day, meeting in the chamber lobby for example, with all members notified of the agenda.
5. Unless a member of the Committee disagreed with what was proposed in the advice, it may be that only the chair, the deputy chair (or nominee) and one other senator (to make a quorum) would attend. Of course, whatever the circumstances, any member could also attend. (Formal decisions cannot be taken while the Senate sits unless all members are present, **or** at least a government and non-government senator and a quorum are present and the decision is unanimous)
6. If controversy or disagreement of any kind emerged at this meeting about the recommendation, another full deliberative meeting of the committee would be convened. Otherwise the chair would convey the agreed recommendation to the President and facilitate her consideration and implementation of it.

At all times, the expedited procedures described above would give way to full, deliberative meetings if any member had any concerns about the location etc of any gift.

I suggest this approach would facilitate quick meetings and decisions about small or usual gifts, and more deliberative meetings about other gifts.

These are merely proposals designed to simplify administration of the Senate's resolution.

Note that under the Procedural Rules any senator granted the right to use or display a gift, must give a written undertaking to return it upon request of the President or when they cease to be a senator. It would be the Registrar's responsibility to obtain and file undertakings and reclaim gifts for relocation as required.

Unless these proposals cause concern, the chair proposes to convene a "quick meeting" during the next sitting week, (notified, to all members in due course) to adopt them as the Committee's *modus operandi*.

Yours sincerely

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

 (02) 6277 3399
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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.

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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 _____

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 _____

2376

29 November 1999

Registration of spouse's or partner's interests

This is advice about the interpretation of the Senate resolution in relation to Form B of the Register of Senators' Interests.

The Senators' Interests resolution (as amended up to 22 November 1999) requires each senator to make a statement of the registrable interests, of which the senator is aware, of the senator's spouse or partner, in a form approved by the Committee of Senators' Interests (Form B).

This statement is maintained as a separate part of the Register of Senators' Interests. It is confidential to the Committee of Senators' Interests. If the Committee considers that a conflict of interest arises for the senator in relation to the spouse's or partner's declared or undeclared interests, the Committee may decide to table the Form B declaration in the Senate.

If a senator knowingly fails to provide a statement of the registrable interests of a spouse or partner by the appropriate date, he or she shall be guilty of a serious contempt of the Senate. Before action is taken, an actual finding of contempt must first be made by the Privileges Committee.

If a senator does not have a spouse or partner there is no requirement to make a declaration. The resolution requires a statement of *registrable interests* – if there is no spouse or partner there are no registrable interests.

If a senator has a spouse or partner but is wholly unaware of any registrable interest of that person, there is no requirement to make a declaration. The resolution requires a statement of the registrable interests, *of which the senator is aware*, of the spouse or partner – if the senator is aware of none there are no registrable interests.

As a matter of common practice or experience, and given the meaning of registrable interests, it would be somewhat unlikely that a senator would be wholly unaware of a single registrable interest of his or her spouse or partner. Knowledge of any registrable interest obliges the senator to make a declaration of that interest on Form B.

Form B is examined by the Registrar of Senators' Interests and seen by another member of the Senate department staff who supports the Registry and the Committee.

No Form B has been examined or tabled by the Committee since inception of the declaration scheme in 1994. This is because no sufficiently persuasive suspicion of a conflict of interest has been raised in relation to any senator's Form B.

Form B does not require the name or sex of a spouse or partner to be declared. It is signed by the senator as his or her declaration about his or her knowledge of the other's registrable interests.

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

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2379
30 November 1999

Members of the Committee of Senators' Interests

Declaration of interests in negative gearing arrangements

This advice relates to the application of the March 1994 Senators' Interests resolution to any senator who had made negative gearing arrangements with their assets.

The resolution requires senators to declare their registrable interests in writing in the Register of Senators' Interests. Whether declared in writing or not, senators are also required to declare any relevant interests during a debate or a division.

Under a negative gearing arrangement a person enters into a liability to acquire an investment where the deductible loss exceeds the revenue thus generating a taxable loss.

Where a negative gearing arrangement involves creation of a liability in excess of \$5000, the nature of that liability and the name of the creditor should be declared in writing in the Register of Senators' Interests (paragraph 3 (f) of the resolution).

Such an arrangement should also be declared if it constitutes "any other interests where a conflict of interest with a senator's public duties could foreseeably arise or be seen to arise" (paragraph 3 (n) of the resolution).

Such an arrangement should also be *orally* declared during a debate or a division on legislation relating to negative gearing.

The fact that one's affairs are so arranged would be a relevant interest in relation to such legislation because there is a conflict of interest between a personal interest in negative

gearing and a public duty to debate and vote on the merits of legislation regardless of personal interest.

Under the Senate's procedures such a conflict is resolved in the first instance by declaring it orally if one participates in a relevant debate or division.

Peter O'Keeffe
Clerk Assistant (Corporate Management)

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DECLARATION OF FREQUENT FLYER POINTS

In November 1994, the then Minister for Administrative Services issued guidelines under which frequent flyer points accrued by parliamentarians in the course of official travel could be used to enhance or extend travel entitlements for themselves or their families.

In June 1995 and again in June 1996, the committee advised senators that such “additional” travel utilising FFPs undertaken by them or their families should be declared in the Register as a benefit.

In July 1996, the then Minister for Administrative Services announced that in future FFPs accrued in the course of official travel should not be used other than to defray the costs of other *official* travel. Thus, FFPs should not be used to provide “additional” travel entitlements or benefits.

Effective management of FFPs is a government priority. The Department of Finance and Administration (DoFA) which administers parliamentarians’ travelling entitlements (TA), regularly receives from parliamentarians returns indicating the FFPs they have redeemed on official travel.

However, it is not mandatory to lodge such a return and DoFA reform and administration of TA is still in transition.

A way for the committee to approach this issue would be to make no change to the expectation that FFPs be declared and review the matter when DoFA TA administration systems are firmly established and making FFP returns to DoFA is a government requirement. A temporary retention of the *status quo* will avoid confusion over a transitional period, reinforce the sensitivity attaching to FFPs, reduce or remove the likelihood of private misuse of FFPs, increase the likelihood of voluntary returns to DoFA and facilitate the eventual exclusive and comprehensive use of FFPs to defray the cost to budget of official travel.

Bearing in mind the transitional nature of affairs at present, I **recommend** that the committee make no change to its current advice to declare FFPs, but keep the issue under review.

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

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THE SENATE**EXPLANATORY NOTES****DECLARATION OF GIFTS RECEIVED BY SENATORS FOR THE SENATE AND THE PARLIAMENT**

1. On 26 August 1997, the Senate adopted new rules for the declaration by senators of gifts presented to them but actually intended or assumed to be for the Senate or the Parliament.
2. The new rules apply to all senators. However, they will mostly affect senate office-holders (for example, the President or the Deputy President) and senators who are leaders or members of parliamentary delegations travelling overseas.
3. It should be borne in mind by all senators that as a matter of history, culture and practice, and while respecting the traditions of other countries, Australia does not favour or encourage political gift giving or political gift receiving. There are, however, occasions of significance which governments, parliamentarians, parliamentary institutions or others may wish to mark by giving a gift to another Parliament. The Senate resolution and the procedural rules are designed to accommodate such occasions.
4. Any senator who receives a gift actually intended for the Senate (or the Parliament) must declare it to the Registrar within 10 days of receipt. A form is available for this.
5. The declaration will be placed in a Register of Gifts to the Senate and the Parliament.
6. If a senator's spouse, family member or staff member receives such a gift it is taken to be a gift received by the senator, who must declare it.
7. A gift is taken to be intended for the Senate (or the Parliament) if:
 - (a) the donor expressly states this intent, orally or in writing; or

- (b) the donor, the occasion or the nature of the gift is such that it would be reasonable to assume the gift to be institutional rather than personal.
8. Where there is no expression of intent and the Australian value of the gift is less than \$500 in the case of a gift from a government, or less than \$200 in the case of a gift from a private person or non-government source, it will not be assumed that the gift was institutional.
 9. 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.
 10. The Committee of Senators' Interest will recommend to the President how the gift is to be used or displayed in Parliament House, including in the office of a senator, or loaned for use or display elsewhere, for example in a museum or library etc. The Senate can also determine how a gift is to be displayed or loaned.
 11. In taking such decisions, the President or the Senate are guided by the intention of the Senate that gifts are to be used, displayed or loaned in a way that:
 - (a) reflects respect for the donor and the dignity of the Senate; and
 - (b) recognises the public interest in institutional gifts; and
 - (c) takes account of practical issues such as space, safety, preservation etc.
 12. It is considered to be a serious contempt of the Senate to fail to declare and surrender an institutional gift in accordance with the Senate resolution.

Committee of Senators' Interests

March 1998, revised March 2000

PROCEDURAL RULES

DECLARATION AND PRESERVATION OF GIFTS RECEIVED BY SENATORS FOR THE SENATE AND THE PARLIAMENT

In accordance with the resolution of the Senate of 26 August 1997 about the declaration of gifts received by senators but intended for the Senate or the Parliament, the Committee of Senators' Interests has made the following procedural rules to facilitate the operation of the resolution.

Compilation of the Register

1. A senator who receives a gift intended for the Senate (or the Parliament) is to declare receipt of it to the Registrar of Senators' Interests by completing and signing the approved form. To preserve both an audit and an historical record of such institutional gifts, the form is to be completed in full. The form is to be returned to the registrar within 10 days of receipt of the gift.
2. The gift must be, as soon as possible, be placed in the custody of the Registrar of Senators' Interests until the President (or the Senate) on the recommendation of the committee, determines how the gift is to be used, displayed or loaned.
3. Where a Senator's spouse, family member or staff member receives such a gift on an occasion when the senator is present in his or her capacity as a senator, the senator is to declare receipt of the gift on the approved form as if it had been received by the senator. Paragraph 2 applies equally to such a gift.
4. Declarations of receipt of gifts will be placed in the *Register of Gifts to the Senate and the Parliament* in alphabetical order under the name of the senator receiving the gift.
5. The Register will also contain a chronological list of gifts received with the name of the recipient senator, the name of the donor, and a description of the gift and its current location.

Maintenance of the Register

6. The original copy of a senator's declaration of receipt of a gift to the Senate (or the Parliament) will be kept on a registry file. A clear copy, date stamped with the registry stamp, will be placed on the Register.
7. Declarations will become public from the date of receipt.

8. New declarations will be tabled in the Senate within six months of receipt, preferably in June and December.
9. The Registrar will write to the Parliamentary Relations Office (PRO) at least twice a year to remind PRO officers assisting senators on delegations and travelling abroad of the requirements of the Senate resolution. Senate officers who accompany senators overseas must familiarise themselves with the terms of the resolution and these procedural rules.
10. A declaration will remain on the register as long as the gift remains in the possession, custody or control of the Senate (or the Parliament). However, declarations in the name of senators who are former members of the Senate will be held in a volume of the register separate from the volume holding declarations of serving senators.
11. A signed statement by the Registrar of the current location of the declared gift will be displayed in the Register with each senator's declaration of receipt of a gift.
12. Superseded statements of location will be retained on file with the original copy of the declaration.

Conditions of public access to the register

13. Public access to the register is by appointment, generally between the hours of 10.00 am and 12.00 noon and 2.00 pm and 4.00 pm, Monday to Friday (public holidays excepted). Access is to be supervised.
14. Access is to the whole register including statements of location.
15. Inquirers may make notes. A photocopy may be supplied if requested. In all cases, a photocopy will be supplied only of a senator's complete declaration and not extracts. A copy of a declaration 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.
16. 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.
17. Details from the register will not be provided over the telephone.

Preservation of gifts declared in the register

18. Before recommending to the President whether and how, a gift is to be used or displayed in Parliament House or used or displayed on loan elsewhere, the committee will, if appropriate, seek the advice of the Joint House Department on how best the gift might be physically preserved, and used, displayed or loaned.
19. A person or body (including a senator) to whom the President (or the Senate) grants the right to use or display a gift will give an undertaking to observe the appropriate duty of care and return the gift on request of the President to the custody of the Registrar.
20. When a senator who is using or displaying a gift ceases to be a senator, he or she must return the gift to the Registrar.

Explanatory notes

19. To assist senators the committee has prepared Explanatory Notes. These are for the guidance of senators and are not meant to be exhaustive. Particular attention is drawn to the following statement in the notes:

It should be borne in mind by all senators that as a matter of history, culture and practice, and while respecting the traditions of other countries, Australia does not favour or encourage political gift giving or political gift receiving. There are, however, occasions of significance which governments, parliamentarians, parliamentary institutions or others may wish to mark by giving a gift to another Parliament. The Senate resolution and the procedural rules are designed to accommodate such occasions.

22. It is for senators receiving gifts to bear in mind the requirements of the resolution and these rules and declare and surrender gifts that are intended to be institutional rather than personal.

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:

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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: ____/____/____