

The Senate

Committee of Senators' Interests

Annual report — 2019

Report No. 1 of 2020

February 2020

Commonwealth of Australia 2020

978-1-76093-031-8

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MEMBERS OF THE COMMITTEE

Senator C Bilyk (**Chair**) (Tasmania)

Senator R Ciccone (Victoria)

Senator S Lines (Western Australia)

Senator M O'Sullivan (Western Australia)

Senator D Smith (Western Australia)

Senator A Urquhart (Tasmania)

Senator D Van (Victoria)

Senator L Waters (Queensland)

Contact:

Registrar of Senators' Interests and Committee Secretary

Parliament House

CANBERRA ACT 2600

(02) 6277 3020

senators.interests@aph.gov.au

www.aph.gov.au/Parliamentary_Business/Committees/Senate/Senators_Interests

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Introduction

The Committee of Senators' Interests, established under standing order 22A, provides this report on its operations for the period 1 January 2019 to 31 December 2019. The report also provides background information on the requirements for the registration of interests and qualifications, and the role of the committee.

Registration of interests

On 17 March 1994, the Senate adopted the [Senators' Interests Resolutions](#). The resolutions act as a safeguard against conflicts of interest and the perception of such conflicts, and enhance transparency in relation to the exercise of their public duties, by requiring senators to lodge statements of registrable interests which are then publically disclosed on the [Register of Senators' Interests](#).

Registrable interests range from assets and liabilities, interests in trusts and partnerships, directorships, gifts, sponsored travel and hospitality, and certain relationships with organisations. Senators may also choose to declare interests that would not, on their face, appear to engage any of the listed registrable interests.¹ This is a matter for the judgement of individual senators.

From its inception, the committee has stressed that it is the responsibility of individual senators to interpret the resolutions and determine which of their interests fall within its terms, rather than relying on external advice about what 'should' or 'should not' be declared. This reflects the unique status of members of Parliament as elected officials, responsible primarily to the electors and to the House to which they have been elected.

The committee has adopted [Explanatory Notes](#) to guide senators in meeting the requirements of the regime. It is to the resolutions, forms and explanatory notes, and to any other commentary by the committee, that senators should turn for assistance in determining how the disclosure regime applies to their own particular circumstances. Any senator may request from the committee clarification of any aspect or raise any matter relating to the form and content of the Register. The committee may respond to such requests by providing individual guidance, by amending the Explanatory Notes or by proposing amendments to the Senators' Interests Resolutions.

During the reporting period, the committee did not receive any submissions from senators or directions from the Senate in relation to the senators' interests requirements.

¹ The final item on the list of registrable interests is "any other interests where a conflict with a senator's public duty could foreseeably arise or be seen to arise".

Requirements

A senator's statement of registrable interests includes a public statement of their personal interests and a confidential statement of the interests (of which they are aware) of their spouses or partners and dependent children.

Each senator must provide their statement within 28 days of making and subscribing an oath or affirmation of allegiance, and within 28 days after the first meeting of the Senate after 1 July first occurring after a general election. Senators must also notify any alteration in these interests within 35 days of the alteration occurring.

Statements of registrable interests must accord with the Senators' Interests Resolutions and should be in the [form](#) determined by the committee.

The statements are kept on the public Register of Senators' Interests which since 2011 has been available online on the [committee's web pages](#).

Statements of the registrable interests of a senator's spouse or partner and of any dependent children are confidential, except where the committee considers that a conflict of interest arises, at which time the committee may table the declaration. To date the committee has not had cause to consider taking this action.

The forms, explanatory notes and other relevant documents have been compiled into a handbook for senators. All of these documents are published on the committee's web pages.

Register of Senators' Interests

Senators' statements of registrable interests are published to the Register of Senators' Interests, in accordance with the following procedures:

- statements are published under each senator's name
- statements are published without any watermarking or redaction
- notifications of alterations are added to the relevant senator's published statement, and
- the Register is updated at least weekly with any alteration forms received.

Six-monthly compilation volumes of statements and alterations are also tabled in the Senate and published online. In 2019, two volumes were tabled and published:

- 1 July 2018 to 31 December 2018, published in January, and
- 1 January 2019 to 30 June 2019 – published in July.

The committee requires the Registrar of Senators' Interests to write to senators, at least twice a year, to remind them of their obligations under the resolutions. This occurred in June and December 2019.

This 2019 reporting period included the opening of the 46th Parliament and as required, following the receipt of statements from all senators, the Register of Senators Interests for the 46th Parliament was tabled in the Senate (as well as published online).

Register of Senators' Qualifications

In February 2019, the Parliament amended the *Commonwealth Electoral Act 1918* to require all candidates for election to provide the Australian Electoral Commission (AEC) with information regarding their eligibility under section 44 of the Constitution to stand as a candidate. The AEC is required to provide the information that was lodged by the successful candidates for tabling in the Senate.

Subsequently, on 3 April 2019, the Senate agreed to a resolution establishing a Register of Senators' Qualifications relating to sections 44 and 45 of the Constitution. The resolution is published on the [committee webpages](#) and also set out in Appendix 1 of this report.

Requirements

The requirements for the registration of senators' qualifications under sections 44 and 45 of the Constitution are set out in the resolution referred to above. For the 46th Parliament there are three 'categories' of senators and related requirements:

- Continuing senators: For senators continuing a current six year term, their entry on the Register is comprised of their Citizenship Statement made during the 45th Parliament.²
- Senators elected in 2019: These senators are required to provide, within 28 days of the commencement of the 46th Parliament, a statement attesting to the accuracy of the material they provided to the AEC, along with any supplementary material they may wish to provide.
- Senators appointed to fill casual vacancies: Senators' appointed to fill casual vacancies are required, within 28 days of being sworn-in, to complete a Qualifications Form (which is similar to the form which candidates are required to provide to the AEC).

The Register of Senators' Qualifications comprises all of the statements set out above. Senators in all categories are required to update their information if they become aware of any inaccuracies.

² The Register of Senators' Qualifications for subsequent parliaments will not contain any Citizenship Statements, as senators currently serving a six year term who stand for re-election will be required to submit the qualifications form to the AEC at that next election.

Register of Senators' Qualifications

The [Register of Senators' Qualifications](#) is published online and maintained in the same manner as the Register of Senators' Interests.

The qualifications checklists provided by the AEC were tabled in the Senate on 2 July 2019. The Register of Senators' Qualifications for the 46th Parliament was published on 1 August 2019. No supplementary material has been received in this reporting period.

Activities

During the reporting period, the committee received no requests in relation to the form and content of the Register of Senators' Interests, or the Register of Gifts to the Senate or the Parliament which is also administered by the committee. Similarly, no requests or submissions were made to the committee in relation to the Register of Senators' Qualifications.

Assistance was provided to senators by the Registrar in response to a range of routine inquiries, particularly from new senators as is expected at the start of a new parliament.

Online forms

As noted in previous reports, the committee had approved the development of an online system for senators to submit their statements of registrable interests and alterations. The system was implemented in June 2019 in time for the commencement of the 46th Parliament. The overwhelming majority of senators completed their statements using the new system and continue to use the system to submit their alteration forms. A small number of senators submitted their statements directly with the Registrar, a method which remained available as an option while senators became familiar with the new system.

Enhancement of the Register of Senators Interests

During the reporting period the committee agreed to a proposal to enhance the transparency of the Register of Senators Interests, by developing a searchable database component to the Register that will enable the Register as a whole to be searched and results reviewed and compiled. In its [Report 2 of 2019](#), the committee recommended that the Senate endorse the enhancement of the Register to create this facility. The Senate adopted the recommendation of this report on 13 November 2019. The database will be developed by the Department of Parliamentary Services in 2020, in consultation with the committee and the Registrar.

Catryna Bilyk
Chair

February 2020

Appendix 1

Register of Senators' Qualifications relating to sections 44 and 45 of the Constitution

- (1) The Registrar of Senators' Interests shall, in accordance with procedures determined by the Standing Committee of Senators' Interests, maintain a Register of senators' qualifications (the Register), comprising material:
 - (a) provided by senators elected or appointed during the 45th Parliament, and entered into the Register of Senators' Interests as 'Statements in relation to citizenship';
 - (b) tabled on behalf of the Australian Electoral Commission in accordance with s.181B of Part XIV of the *Commonwealth Electoral Act 1918* in respect of elected senators;
 - (c) provided by senators appointed to fill casual vacancies, in a disclosure form prescribed by the Standing Committee of Senators' Interests; and
 - (d) provided by senators in accordance with the obligation to provide an attestation, supplementary information, or a statement under paragraphs (5), (6), (7) or (8).
- (2) Other than as provided for in this order, the Standing Committee of Senators' Interests has the same powers and functions in relation to the Register as it does in relation to the Register of Senators' Interests.
- (3) The Registrar shall publish the Register and any supplementary information as soon as practicable after a senator has provided documents to the Registrar, or after tabling of documents on behalf of the Australian Electoral Commission.
- (4) The Registrar shall remove information from the published copy of the Register when a senator ceases to hold office as a senator.

Requirement to provide statements and supplementary information

- (5) Within 28 days of making and subscribing an oath or affirmation in accordance with section 42 of the Constitution, each elected senator shall provide to the Registrar a statement attesting to the Senate the accuracy and completeness of the material provided to, and tabled on behalf of, the Australian Electoral Commission in respect of the senator's last nomination for election in accordance with Part XIV of the *Commonwealth Electoral Act 1918*.
- (6) In making an attestation in accordance with paragraph (5), a senator may provide supplementary material. Supplementary material may augment, explain, or correct earlier information, but must not result in removal from the Register of material that was previously entered on the Register.
- (7) Within 28 days of making and subscribing an oath or affirmation in accordance with section 42 of the Constitution, each senator appointed to fill a casual vacancy shall provide to the Registrar a statement disclosing qualifications related to sections 44 and 45 of the Constitution.
- (8) If a senator becomes aware that information they have attested to, in accordance with paragraphs (5) or (7), or subsequently provided in accordance with paragraph (6), can no longer be regarded as accurate, the senator shall provide supplementary material to the Registrar as soon as practicable, but no later than 28 days, after the senator becomes aware of the inaccuracy. Such supplementary material does not cause earlier material to be removed from the Register.
- (9) The Standing Committee of Senators' Interests shall prescribe a form or forms for the purposes of paragraphs (5), (6), (7) or (8), which shall be consistent with the disclosure requirements in Part XIV of the *Commonwealth Electoral Act 1918*.

Consideration of possible disqualification matters

- (10) The Senate will deal with any question concerning a senator's qualification under the Constitution only in accordance with the following procedures, and not otherwise.
- (11) If a senator becomes aware of circumstances that give rise to a possible disqualification under sections 44 or 45, arising from facts not disclosed either on the Register during the immediate preceding Parliament, or in accordance with Part XIV of the *Commonwealth Electoral Act 1918*, the senator may provide a statement of those circumstances to the President. Any material redacted from the material entered onto the Register, including redactions from documents tabled on behalf of the Australian Electoral Commission is taken not to have been disclosed.
- (12) If, and only if, a matter satisfies the conditions in paragraph (11), the President shall, as soon as practicable, report the matter to the Senate, and the senator who raised the matter may give notice of a motion to refer the matter to the Standing Committee of Senators' Interests for inquiry and report.
- (13) Before reporting on such a matter, the Standing Committee of Senators' Interests shall provide a reasonable opportunity for a senator affected by the reference to respond to the allegations, to the evidence before the committee, and to any recommendation the committee proposes to make.
- (14) If, on the evidence before it, the Standing Committee of Senators' Interests considers that there is sufficient doubt about a senator's qualifications, then the committee may recommend that the matter be referred to the Court of Disputed Returns under section 376 of the *Commonwealth Electoral Act 1918*; however, the Standing Committee of Senators' Interests shall not make such a recommendation unless it determines that the question arises from facts not disclosed either on the Register during the immediate preceding Parliament, or in accordance with Part XIV of the *Commonwealth Electoral Act 1918*.
- (15) When a question respecting a senator's qualification turns solely upon the interpretation or application of foreign citizenship law, the Standing Committee of Senators' Interests shall not recommend that the question be referred to the Court of Disputed Returns unless the committee has taken evidence from experts in the relevant foreign law and the committee considers there is a sufficient possibility that the senator is or was a foreign citizen under the relevant foreign law at the relevant time.

Referral to Court of Disputed Returns

- (16) Notwithstanding anything contained in the standing orders or any other resolution, no senator may move a motion to refer any question to the Court of Disputed Returns under section 376 of the *Commonwealth Electoral Act 1918* unless the Standing Committee of Senators' Interests has considered whether the matter be so referred and reported to the Senate. After the committee has made such a report, a senator may, without notice, move to refer the matter to the Court of Disputed Returns.

False statements or omissions regarded as contempt

- (17) Any senator who:
 - (a) knowingly fails to provide the material required by this resolution to the Registrar within the required timeframe; or
 - (b) knowingly fails to correct an inaccuracy in any material within the required timeframe; or
 - (c) knowingly provides false or misleading information to the Registrar;shall be guilty of a serious contempt of the Senate and shall be dealt with by the Senate accordingly.
- (18) A question of whether any senator has committed such a serious contempt shall first be referred to the Standing Committee of Privileges for inquiry and report.
- (19) This order is of continuing effect.

(Agreed 3 April 2019)