

REPORT 2/2006

REVIEW OF ARRANGEMENTS FOR REGISTRATION OF SENATORS' INTERESTS

The Committee of Senators' Interests reports to the Senate pursuant to standing order 22A(1).

Background

On 15 September 2003, the Senate agreed to changes to the resolutions relating to senators' interests and the declaration of gifts that had been recommended by this committee in its second report of 2002.¹ One of the changes was that senators be required to lodge a full statement of interests within 28 days after the first meeting of the Senate after 1 July first occurring after a general election. Previously, senators had been required to lodge a full statement at the beginning of their six year term. The change therefore required all senators to lodge a full statement approximately once every three years following the swearing in of each new Senate.

A general election was held in October 2004 and senators elected at that election began their terms on 1 July 2005. The first meeting of the Senate after that date was 9 August and full statements from all senators were therefore due within 28 days of that date. This was the first occasion since the resolutions were adopted in 1994 that all 76 senators were required to lodge full statements. Consequently, in October 2005, the committee agreed that it was an appropriate time to review the registration requirements, particularly given the large number of new senators who were sworn on 9 August and were encountering the registration requirements for the first time.

The committee decided to survey all senators on their experience in complying with the resolutions and invited comment on the ease of use of the forms, the usefulness of the explanatory notes or on any other matter connected with completing the statements of interests or providing notifications of alterations of interests within the specified timeframe. The committee indicated that it did not propose to publish individual responses and it also provided a survey form with some specific questions to facilitate senators' responses. Thirty senators (or 40% of the total) responded, most using the survey form provided. Compared with the very small proportion of senators who had responded to the committee's first review of arrangements in 1995 (6.5%), the committee considered that the level of response was gratifying and provided a reasonable basis for considering any changes. ***It should be emphasised, however, that the survey responses did not disclose any significant problems with either the requirements of the system or its administration.***

A summary of the survey results is at Appendix 1.

¹ *Journals of the Senate*, 15 September 2003, pp. 2365-67.

Changes to the forms

In light of responses to the survey, the committee agreed to make minor changes to the forms for registration of interests. Among the changes are the inclusion of examples to illustrate categories of registrable interests, and the inclusion of some additional information on Form B (concerning the interests of a senator's spouse, partner or dependent children).

Pursuant to Registration of Interests resolution 1(1), the committee has determined new forms which are included at Appendix 2. These forms have been published on the committee's website and take effect immediately.

Explanatory Notes

The committee has also made some changes to its explanatory notes. These changes do not alter the interpretation of the resolutions as previously determined by the committee. Rather, they provide supplementary information on a small number of topics which are discussed further below.

The revised explanatory notes are included at Appendix 3.

Self-managed superannuation funds

One of the topics on which the committee has supplemented its explanatory notes is in relation to self-managed superannuation funds. The need for clarification was raised with the committee by an individual senator and the committee agreed that, given the variety of superannuation arrangements now employed by senators and their spouses or partners, it was timely to focus on this issue. Following deliberation, the committee confirmed that self-managed superannuation funds should be registered as an asset under item 9 ('the nature of any other assets (excluding household and personal effects) each valued at more than \$7,500'). Furthermore, the committee agreed that the shareholdings of a self-managed superannuation fund should be registered under item 1 ('shareholdings in public and private companies (including holding companies) indicating the name of the company or companies'), consistent with the requirement to register shares held by a family or business trust, a nominee company or partnership ***in the circumstances that the owner of the self-managed fund is able to exercise control over a right to vote or dispose of those shares*** (emphasis added).

The committee has amended its explanatory notes accordingly.

Shareholdings in public and private companies

The committee has had the issue of registration of shareholdings in public and private companies under review for some time, as reported in its 2005 annual report (Report 1/2006). The committee's views were sought by the Procedure Committee, in connection with its inquiry into the issue of the adequacy and appropriateness of the register of senators' interests, on a proposal to alter the timeframe for notifying changes in shareholdings from 28 to 60 days. The committee responded to the Procedure Committee that it found no sound case for altering the existing timeframe

but undertook to consider the matter further in the context of its consideration of responses to the survey.

The committee received only one substantive comment on the issue of the timeframe for registering changes in shareholdings, suggesting that few senators are affected by the perceived difficulty of compliance with the timeframe. Nevertheless, the committee appreciates the difficulties faced by some senators in complying with the resolution that requires notification of any alteration of interests within 28 days **of the alteration occurring** and, in accordance with its undertaking to the Procedure Committee, has considered the matter further.

The difficulties appear to be two-fold. First, senators who deal directly through a stockbroker but who live in outlying regions or travel frequently on Senate business may not receive timely notification of the registrable trade simply because they do not have timely access to their personal mail. Secondly, senators who use a third party financial agent or product may receive only periodic reports of the registrable transactions which have been undertaken on behalf of the senator by the third party financial agent or product.

The committee also recognises that in the twelve years since the resolutions were agreed to there have been profound changes in the investment environment, partly as a result of the growth in superannuation funds and, so far as the impact on senators is concerned, the closure of the old parliamentary superannuation scheme to new members. Increasingly, senators and their spouses or partners will face a wide range of options for managing their superannuation and other financial affairs, and the committee recognises that some degree of additional flexibility is desirable to ensure that the compliance regime remains workable.

The committee therefore recommends that the timeframe for notification of alterations of interests be extended from 28 to 35 days. This would ensure that those senators whose investments are managed by a financial agent have sufficient time to be informed of any changes in their investments and to notify the Registrar accordingly. It also takes into account the peripatetic nature of senators' work which results in the vast majority of them spending extended periods away from their home bases. By applying to all alterations of interests, not just shareholdings, the proposed timeframe also meets the committee's earlier concern in respect of the Procedure Committee's proposal, that there should not be different timeframes applying to different classes of interests.

The terms of the resolutions as proposed to be amended are in Appendix 5.

On an unrelated matter, the committee also observes that not all individual acts of share trading are notifiable *per se*. Only those which result in the acquisition of shares in a new company or the disposal of a senator's total holdings in a particular company are notifiable. Where a senator acquires additional shares in a company or disposes of some but not all of that senator's shares in a company, such transactions go to the number or value of shares held and senators are not required to disclose those details. The committee has expanded its explanatory notes accordingly.

Administrative procedures

The committee received valuable feedback in the survey responses on the Registrar's administration of the Register and has made some minor revisions to its administrative procedures accordingly. Administrative procedures for the compilation and maintenance of the Register are at Appendix 4.

Conclusion and recommendation

The committee draws senators' attention to the revised forms, explanatory notes and administrative procedures for the registration of senators' interests which are contained in Appendices 2, 3 and 4.

The committee recommends that Senators' Interests Resolutions 1(1) and 1(2)(b) be amended in the terms set out in Appendix 5.

A handwritten signature in black ink, appearing to read 'Ruth Webber', is written in a cursive style. The signature is positioned above the printed name and title.

Ruth Webber
Chair