

**THE PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA**

COMMITTEE OF SENATORS' INTERESTS

**Review of Arrangements for the
Registration of Senators' Interests**

Report 2/1995

June 1995

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Senator V Bourne	(AD) NSW
Senator D Brownhill	(NPA) NSW
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Senator M Colston	(ALP) QLD
Senator J McKiernan	(ALP) WA
Senator M Reid	(LP) ACT

Committee Secretary:

Mr John Vander Wyk
Registrar of Senators' Interests

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COMMITTEE OF SENATORS' INTERESTS
Standing Order 22A

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

(Adopted 17 March 1994, amended 24 August 1994)

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

1 Registration of Senators' Interests

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

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

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

(2) That any Senator who:

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

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

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

Registrable interests

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

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

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

Register and Registrar of Senators' Interests

4. That:

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

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

Declaration of interest in debate and other proceedings

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

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

Interpretation

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

REPORT

REVIEW OF ARRANGEMENTS FOR THE REGISTRATION OF SENATORS' INTERESTS

Introduction

The Committee of Senators' Interests at a meeting on 7 March 1995 approved the conduct of a review of the scheme for the registration of Senators' interests. The purpose of the review was to determine whether any changes were required to the scheme established by the Senate for the registration of Senators' interests, including the form and content of the register of interests.

The Senate adopted resolutions establishing a register of Senators' interests and the Committee of Senators' Interests on 17 March 1994. The committee's review thus took place after twelve months' experience of the scheme.

A letter from the chair of the committee on 8 March 1995 invited Senators to provide comments and suggestions (see attachment). A follow-up letter was sent on 28 March. Four written and two oral responses were received. The committee has also taken account of other comments it has received in the course of the past year. The issues raised were considered at a meeting of the committee on 19 June 1995.

The lack of a greater response to the review leads the committee to conclude that, broadly speaking, Senators are reasonably satisfied with the form and content of the register of Senators' interests (leaving aside issues of support for or opposition to the registration scheme itself).

The committee's decisions and recommendations to the Senate arising from the review follow.

Interpretation of the Senate's resolution

The letter from the chair of the committee invited Senators' views on a number of interim decisions by the committee on the interpretation of the Senate's resolution. Taking into account comments received from Senators, the committee confirmed the following decisions:

- . That the operative date for registration of interests is the date of the Senate resolution, namely 17 March 1994, and that it is a matter for decision by individual Senators as to the extent that interests held or benefits received prior to that date are disclosed.
- . That 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 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.

- . That 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.
- . That a donation to an organisation under subparagraph 3(m) does not include membership subscriptions.
- . That if a Senator does not have a spouse or dependent children, that Senator is not required to lodge a signed copy of Form B. That is, the Senator is not required to lodge a 'nil return'.
- . That the names of a Senator's spouse and dependent children need not be disclosed.
- . That joint interests with a former spouse which continue to be held, need be disclosed 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.

The 28 day reporting period

Representations were made that the 28 day reporting period for the notification of interests and alterations to those interests was too onerous, particularly in relation to alterations which occurred during an election period, but also in relation to the declaration of gifts under paragraph 3(m) of the Senate resolution and the declaration of benefits from frequent flyer schemes under paragraph 3(l).

The committee is aware that the administrative requirements of the scheme for the registration of Senators' interests may at times cause inconvenience.

However, on balance, it determined that the benefit of the uniform application of the 28 day reporting requirement to all of the provisions of the Senate resolution outweighs the benefit of varying the requirement to suit particular circumstances, not least because different reporting deadlines could create confusion.

The number of alterations received from individual Senators since the register began also indicates that it would be premature at this stage to recommend any alterations to the reporting period. In the period from the tabling of Senators' initial statements of interests on 9 June 1994 to 8 June 1995, a total of 56 alterations to Form A (the form for Senators) and 25 to Form B (relating to a spouse and dependent children) have been provided to the Registrar of Senators' Interests. The total of alterations notified represents an average of one per Senator. The highest number provided by an individual Senator was eight in the year. Forty-one Senators did not notify any alterations. The figures indicate that for most Senators the administrative burden involved in complying with the scheme cannot be regarded as excessive.

The committee will keep this issue under review.

Membership of, and financial contributions to, organisations

The committee received some representations that the reporting requirements under paragraph 3(m) of the Senate resolution were onerous: Senators were members of, or gave donations to, many organisations by virtue of being a Senator, and the contribution level of \$100 a year was considered too small to warrant consideration of a possible conflict of interest.

The relevant provision in the House of Representatives scheme for registration of Members' interests differs from that for Senators in that it does not refer to officeholders or financial contributions. The provision requires a Member to declare:

- (m) membership of any organisation where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise.

The committee does not favour this formulation because it applies to a specific situation the general requirement already set out in paragraph 3(n) of the Senate resolution. However, the committee agrees that the amount of donation above which disclosure is required should be set at a higher level, and therefore recommends as follows:

Recommendation

That the threshold value for notification of donations in paragraph 3(m) in relation to any organisation be amended to read '\$200 or more'.

Gifts from other than official sources

Paragraph 3(k) currently requires that gifts from other than official sources be registered if their value exceeds \$100. The equivalent House of Representatives threshold is \$200. To provide a more realistic threshold than that currently applicable, and to maintain consistency on threshold amounts within the Senate resolution the committee recommends that paragraph 3(k) be amended so that only gifts with a minimum value of \$200 are required to be registered.

Recommendation

That the value of gifts from other than official sources in paragraph 3(k) required to be registered be amended to read '\$200 or more'.

Travel benefits resulting from frequent flyer schemes

Another matter on which the committee received representations was its determination of 7 March 1995 concerning benefits received from frequent flyer schemes. The representations were either to the effect that frequent flyer benefits should not come within the terms of the Senate resolution or that the requirement to report each benefit received within 28 days was onerous and a longer reporting period should be provided.

At its meeting on 7 March the committee determined that it was necessary to notify additional travel undertaken by a Senator, a Senator's spouse or dependent children utilising frequent flyer points accrued from official travel. After considering legal advice from the Attorney-General's Department, the committee took the view that travel resulting from the use of frequent flyer points constituted sponsored travel under paragraph 3(l) and therefore was required to be registered.

The committee has reaffirmed its original determination. It has also addressed the matter of frequent flyer benefits received by a spouse and dependent children.

It has determined that 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. As frequent flyer benefits for spouses and dependent children are derived from official entitlements, the committee took the view that the utilisation of such benefits should be declared by Senators on the form for the registration of their interests, rather than the form for spouses and dependent children, as the latter is not made public.

The committee also reaffirmed that 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.

Other matters

The committee did not receive representations on the arrangements for the registration of the interests, of which the Senator is aware, of a Senator's spouse and dependent children. Nor did it receive any comments or proposals on issues relating to the compilation of, and access to, the register of Senators' interests.

In the absence of proposals other than those canvassed in the preceding, the committee concludes that the scheme for the registration of Senators' interests is operating satisfactorily and, at this stage, does not require major amendment.

The committee commends to the Senate the two recommendations relating to the threshold for disclosure of those interests set out in paragraphs 3(k) and (m) of the resolution of 17 March 1994.

Nick Minchin
Chair

21 June 1995



ATTACHMENT

AUSTRALIAN SENATE

COMMITTEE OF SENATORS' INTERESTS

8 March 1995

Dear Senator

REGISTER OF SENATORS' INTERESTS

1 Review of scheme for registration of interests

The Committee of Senators' Interests is conducting a review of the operation of the Register of Senators' Interests. The purpose of the review is to determine whether any changes are required to the scheme established by the Senate for the registration of Senators' interests, including the form and content of the register. Matters under review include:

- (1) whether the list of registrable interests set out in the resolution of 17 March 1994 (see copy attached) requires amendment and, if so, what amendments are required;
- (2) whether there needs to be clearer identification of particular matters set out in the list of registrable interests and, if so, what clarification is required;
- (3) the arrangements set out in the resolution for the registration of the interests, of which the Senator is aware, of the Senator's spouse and any dependent children; and
- (4) the requirement set out in the resolution of 17 March 1994 for alterations in interests to be registered within 28 days of the alteration occurring.

2

The review will assist the committee to determine whether any changes should be recommended to the Senate, and to improve the explanatory notes it prepares for the guidance of Senators. Accordingly, I would welcome your comments or suggestions on any of the matters set out above or on any other aspect of the operation of the scheme for the registration of Senators' interests.

2 Interim decisions included in review

The committee has made interim decisions on several matters on which comment is also invited. The interim decisions were:

That the operative date for registration of interests is the date of the Senate resolution, namely 17 March 1994, and that it is a matter for decision by individual Senators as to the extent that interests held or benefits received prior to that date are disclosed.

That 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 which travel or hospitality is necessary in order to fulfil the engagement, are registrable interests and should be declared in accordance with subparagraph 3(l) of the Senate's resolution.

That being an officeholder of an organisation under subparagraph 3(m) does not include being a patron of an organisation.

That a donation to an organisation of more than \$100 under subparagraph 3(m) does not include membership subscriptions.

The committee agreed that subparagraph 3(m) of the Senate's resolution needed clarification, and that it should be considered further with a view to recommending to the Senate that it be amended. One particular matter to be considered further is whether donations of more than \$100 to all organisations need to be disclosed or only donations of more than \$100 to organisations of which the Senator or Senator's spouse is a member.

That if a Senator does not have a spouse or dependent children, that Senator is not required to lodge a signed copy of Form B. That is, the Senator is not required to lodge a 'nil return'.

That the names of a Senator's spouse and dependent children need not be disclosed.

That 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 whatever description is deemed appropriate.

3 Additional travel utilising frequent flyer points

At a meeting on 7 March 1995 the committee considered the issue of travel utilising frequent flyer points.

The committee determined that 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. After considering legal advice from the Attorney-General's Department, the committee took the view that travel resulting from the use of frequent flyer points constituted sponsored travel and therefore should be registered.

The committee resolved that initially it would ask Senators to register within 28 days after each particular flight additional travel undertaken utilising frequent flyer points accrued from official travel by a Senator. Additional travel undertaken by a spouse or dependent children utilising a Senator's frequent flyer points would also need to be registered by the Senator.

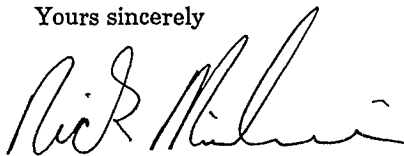
The committee agreed to consider this approach further after any input from Senators received in the course of the review of the scheme for the registration of Senators' interests.

An alternative approach considered by the committee, but not endorsed at this stage, would require Senators to make a general declaration to the effect that from time to time they intend to utilise frequent flyer points from a particular airline or airlines in accordance with the conditions set by the Minister for Administrative Services, and every six months or each year to lodge a return detailing particular flights taken.

The committee would welcome your views on either approach, or any other matter relating to the registration of travel resulting from the use of frequent flyer points accrued from official travel.

Your comments or suggestions on any of the above matters should be sent to the Registrar of Senators' Interests, John Vander Wyk, to reach him no later than Friday, 21 April 1995. If you wish to inspect the Register of Senators' Interests, this can be done in Mr Vander Wyk's office, and he can provide a copy of your statement of interests to date, if required.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nick Minchin', written in a cursive style.

Nick Minchin
Chair