

Members' qualifications

Resolution adopted 4 April 2019

Register of Members' qualifications relating to sections 44 and 45 of the Constitution

- (1) The Registrar of Members' Interests shall, in accordance with procedures determined by the Committee of Privileges and Members' Interests (the committee), maintain a Register of Members' qualifications, comprising material:
 - (a) 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 Members; and
 - (b) provided by Members in accordance with the obligation to provide an attestation or supplementary information under paragraphs (5), (6) or (7) of this resolution.
- (2) Other than as provided for in this resolution, the committee has the same powers and functions in relation to the Register as it does in relation to the Register of Members' Interests.
- (3) The Registrar shall publish the Register and any supplementary information as soon as practicable after a Member 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 Member ceases to hold office as a Member of the House of Representatives.

Requirement to provide statements and supplementary information

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

Consideration of possible disqualification matters

- (9) The House of Representatives will deal with any question concerning a Member's qualification under the Constitution only in accordance with the following procedures, and not otherwise.

- (10) If a Member becomes aware of circumstances that give rise to a possible disqualification under sections 44 or 45, arising from facts not disclosed in accordance with Part XIV of the Commonwealth Electoral Act, the Member may provide a statement of those circumstances to the Speaker. 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.
- (11) If, and only if, a matter satisfies the conditions in paragraph (10), the Speaker shall, as soon as practicable, report the matter to the House, and the Member who raised the matter may move, without notice, a motion referring the matter to the committee for inquiry and report.
- (12) Before reporting on such a matter, the committee shall provide a reasonable opportunity for a Member affected by the reference to respond to the allegations, to the evidence before the committee, and to any recommendation the committee proposes to make.
- (13) If, on the evidence before it, the committee considers that there is sufficient doubt about a Member'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; however, the committee shall not make such a recommendation unless it determines that the question arises from facts not disclosed in accordance with Part XIV of the Commonwealth Electoral Act.
- (14) When a question respecting a Member's qualification turns solely upon the interpretation or application of foreign citizenship law, the committee 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 Member was a foreign citizen under the relevant foreign law at the relevant time.

Referral to Court of Disputed Returns

- (15) Notwithstanding anything contained in the standing orders or any other resolution, no Member may move a motion to refer any question to the Court of Disputed Returns under section 376 of the Commonwealth Electoral Act unless the committee has considered whether the matter be so referred and reported to the House of Representatives. After the committee has made such a report, a Member may, without notice, move to refer the matter to the Court of Disputed Returns.

False statements or omissions regarded as contempt

- (16) Any Member 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 House of Representatives and shall be dealt with by the House accordingly.
- (17) A question of whether any Member has committed such a serious contempt shall first be referred to the committee for inquiry and report.